

## 2016 No. 226

### SOCIAL SECURITY

#### The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

*Made* - - - -

*5th May 2016*

*Laid before Parliament*

*10th May 2016*

*Coming into operation in accordance with regulation 1*

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 38 and 48(1) and (2) of and paragraphs 1(1) and (2)(b), 3(1)(a) to (c), 4(1)(a), and 5(1), (2)(c) and (d) and (3)(a) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015<sup>(a)</sup>.

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

### PART 1

#### Introductory

#### Citation and commencement

1. These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 and come into operation immediately after the coming into operation of the Universal Credit Regulations.

#### Interpretation

2.—(1) In these Regulations—

“the Claims and Payments Regulations 1987” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(b)</sup>;

▶<sup>1</sup>“the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016<sup>(c)</sup>;▶

“the Jobseekers Order 1995” means the Jobseekers (Northern Ireland) Order 1995<sup>(d)</sup>;

“the JSA Regulations 1996” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996<sup>(e)</sup>;

“the Social Security Order 1998” means the Social Security (Northern Ireland) Order 1998<sup>(a)</sup>;

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(a) S.I. 2015/2006 (N.I. 1); for the meaning of “prescribed” and “Regulations” see Article 5

(b) S.R. 1987 No. 465

(c) S.R. 2016 No. 221

(d) S.I. 1995/2705 (N.I. 15)

(e) S.R. 1996 No. 198

“the Housing Benefit Regulations” means the Housing Benefit Regulations (Northern Ireland) 2006**(b)**;

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**(c)**;

“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007**(d)**;

“the ESA Regulations 2008” means the Employment and Support Allowance Regulations (Northern Ireland) 2008**(e)**;

“the ESA (Transitional Provisions) Regulations 2010” means the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010**(f)**;

“the Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016**(g)**;

“the Order” means the Welfare Reform (Northern Ireland) Order 2015;

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016**(h)**;

“Appeal Tribunal” has the same meaning as in Article 39 of the Social Security Order 1998;

“assessment period” has the same meaning as in regulation 22 of the Universal Credit Regulations;

“capital” has the same meaning as in Part 6 of the Universal Credit Regulations;

►<sup>2</sup>“childcare costs element” has the same meaning as in the Universal Credit Regulations;◀

“Commissioner” has the same meaning as in the Social Security Order 1998;

“couple” has the same meaning as it has in Article 45 of the Order;

“claimant” in relation to an employment and support allowance or a jobseeker’s allowance, has the same meaning as in Part 1 of the 2007 Act and the Jobseekers Order 1995 (as it applies apart from the amendments made by Part 1 of Schedule 12 to the Order that remove references to an income-based jobseeker’s allowance) respectively and, in relation to universal credit, has the same meaning as in Part 1 of the Order;

►<sup>3</sup>“deadline day” has the meaning in regulation 45;

“earned income” has the meaning in Chapter 2 of Part 6 of the Universal Credit Regulations;◀

“existing benefit” means income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit and child tax credit and working tax credit under the Tax Credits Act 2002**(i)** but see also ►<sup>4</sup>paragraph (3) and◀ regulation 26(2);

►<sup>5</sup>“final deadline” has the meaning in regulation 47;

“HMRC” means Her Majesty’s Revenue and Customs;◀

“housing benefit” means housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“income-based jobseeker’s allowance” has the same meaning as in Article 3(4) of the Jobseekers Order 1995;

“income-related employment and support allowance” means an income-related allowance under section 1(7) in Part 1 of the 2007 Act;

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- (a) S.I. 1998/1506 (N.I. 10)
  - (b) S.R. 2006 No. 405
  - (c) S.R. 2006 No. 406
  - (d) 2007 c. 2 (N.I.)
  - (e) S.R. 2008 No. 280
  - (f) S.R. 2010 No. 312
  - (g) S.R. 2016 No. 220
  - (h) S.R. 2016 No. 216
  - (i) 2002 c. 21

“income support” means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

▶<sup>6</sup>“indicative UC amount” has the meaning in regulation 55;◀

“joint-claim jobseeker’s allowance” means old style JSA, entitlement to which arises by virtue of Article 3(2B) of the Jobseekers Order 1995(a);

“joint claimants” in relation to universal credit has the same meaning as in Part 2 of the Order;

▶<sup>7</sup>“migration day” has the meaning in regulation 50;

“migration notice” has the meaning in regulation 45;◀

“new claimant partner” has the meaning given in regulation 5;

“new style ESA” means an allowance under Part 1 of the 2007 Act as amended by Schedule 3, and Part 1 of Schedule 12, to the Order to remove references to an income-related allowance;

“new style JSA” means an allowance under the Jobseekers Order 1995 as amended by Part 1 of Schedule 12, to the Order to remove references to an income-based allowance;

▶<sup>8</sup>“notified person” has the meaning in regulation 45;◀

“old style ESA” means an employment and support allowance under Part 1 of the 2007 Act as that Part has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the Order that remove references to an income-related allowance;

“old style JSA” means a jobseeker’s allowance under the Jobseekers Order 1995 as that Order has effect apart from the amendments made by Part 1 of Schedule 12 to the Order that remove references to an income-based allowance;

“partner” in relation to a person (“A”) means a person who forms part of a couple with A(b);

“personal independence payment” means an allowance under Part 5 of the Order;

▶<sup>9</sup>“qualifying age for state pension credit” has the meaning given by section 1(6) of the State Pension Credit Act (Northern Ireland) 2002(c); ◀

▶<sup>10</sup>“qualifying claim” has the meaning in regulation 49;◀

▶<sup>11</sup>“qualifying young person” has the same meaning as in the Universal Credit Regulations, but see also regulation 29;◀

▶<sup>12</sup>“severe disability premium” means the premium in relation to an employment and support allowance under paragraph 6 of Schedule 4 to the ESA Regulations 2008 or, as the case maybe, the corresponding premium in relation to income support, old style JSA or housing benefit;◀

“specified accommodation” means accommodation to which one or more of sub-paragraphs (2) to (5) of paragraph 4 of Schedule 1 to the Universal Credit Regulations applies;

▶<sup>13</sup>“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;◀

“tax credit” (including “child tax credit” and “working tax credit”), “tax credits” and “tax year” have the same meaning as in the Tax Credits Act 2002.

▶<sup>14</sup>“temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 4A of Schedule 1 to the Universal Credit Regulations.◀

▶<sup>15</sup>“total legacy amount” has the meaning in Regulation 54;

“transitional capital disregard” has the meaning in Regulation 52;

“transitional element” has the meaning in Regulation 53.◀

(2) For the purposes of these Regulations—

(a) the date on which a claim for universal credit is made is to be determined in accordance with regulation 9 of the Claims and Payments Regulations;

(a) Subsection (2B) was inserted by paragraph 3(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and repealed by Part 1 of Schedule 12 to the Order

(b) See Article 46 of the 2015 Order for the meaning of “couple”

(c) 2002 c 14 (N.I.)

- (b) where a couple is treated, in accordance with regulation 8(8) of the Claims and Payments Regulations, as having made a claim for universal credit, references to the date on which the claim is treated as made are to the date of formation of the couple;
- (c) where a regulation refers to entitlement to an existing benefit on the date on which a claim for universal credit is made or treated as made, such entitlement is to be taken into account notwithstanding the effect of regulations 3, 5 and 6 or termination of an award of the benefit before that date by virtue of an order made under Article 2 of the Order;
- (d) notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(a), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

►<sup>16</sup>(3) In these Regulations

- (a) references to an award of income-based jobseeker's allowance are to an award of old style JSA where the claimant is, or joint claimants are, entitled to the income-based allowance; and
  - (b) references to an award of income-related employment and support allowance are to an award of old style ESA where the claimant is entitled to the income-related allowance.
- (4) In regulation 47 (termination of existing benefits if no claim before the deadline) ►<sup>17</sup>◀ “terminate” in relation to an award of income-based jobseeker's allowance or income-related employment and support allowance means treating that award as if the following provisions had come into force (including where a saving provision has ceased to apply) in relation to that award—
- (a) Article 39(1)(a) and (b) and (2) of the Order (abolition of benefits);
  - (b) paragraphs 17 to 21 of Schedule 3 to the Order (abolition of benefits: consequential amendments) and Article 39(3) of the Order in so far as it relates to those paragraphs; and
  - (c) the repeals in Part 1 of Schedule 12 to the Order (abolition of benefits superseded by universal credit) that come into force if a claim is made for universal credit.◀

## PART 2

### ►<sup>18</sup>CHAPTER A1

#### ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

#### 2A.►<sup>19</sup>◀

#### 2B.►<sup>20</sup>►<sup>21</sup>►<sup>22</sup>◀◀◀

### CHAPTER 1

#### ENTITLEMENT TO OTHER BENEFITS

#### Exclusion of entitlement to certain benefits

3.—(1) Except as provided in paragraph (2), a claimant is not entitled to—

- (a) income support;
- (b) housing benefit;
- (c) a tax credit; or
- (d) state pension credit►<sup>23</sup>◀

in respect of any period when the claimant is entitled to universal credit(b).

(a) 1954 c. 33 (N.I.)

(b) A person who is entitled to universal credit is not entitled to old style JSA or old style ESA (other than in certain circumstances where the person is a member of a couple at the time of entitlement), by virtue of orders made under Article 2 of the Order, which brings into operation repeals of the legislation relating to those benefits

(2) Entitlement to universal credit does not preclude the claimant from entitlement—

- ▶<sup>24</sup>(a) to housing benefit in respect of specified accommodation or temporary accommodation;
- (ab) housing benefit or income support where regulations 6(2A), ▶<sup>25</sup>or 47(1) ◀ apply; or◀
- (b) during the first assessment period for universal credit, where the claimant is a new claimant partner, to—
  - (i) income support, where an award to which the new claimant partner is entitled terminates, in accordance with regulation 5(4), after the first date of entitlement to universal credit,
  - (ii) housing benefit, where regulation 5(5)(b) ▶<sup>26</sup>or (c)◀ applies and an award of housing benefit to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit, ▶<sup>27</sup>◀
  - (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the Tax Credits Act 2002, after the first date of entitlement to universal credit, ▶<sup>28</sup> or
  - (iv) state pension credit, where an award to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or
- (c) during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeal Regulations applies, to housing benefit or state pension credit from the date the claimant reaches that age.◀

▶<sup>29</sup>**Entitlement to universal credit and housing benefit: universal credit work allowance**

**3A.** Where a claimant has an award of universal credit and, in any assessment period, is also entitled to housing benefit for temporary accommodation and the award of universal credit does not include an amount for housing costs, regulation 23(2) of the Universal Credit Regulations (amount of the work allowance) is to apply in relation to that assessment period as if the award did ▶<sup>30</sup>◀include an amount for housing costs.◀

**Exclusion of claims for certain existing benefits**

4.▶<sup>31</sup>▶<sup>32</sup>◀▶<sup>33</sup>◀◀

▶<sup>34</sup>**Restriction on claims for housing benefit, income support or a tax credit**

**4A.**—(1) Except as provided by paragraphs (2) to (7) a person may not make a claim for housing benefit, income support, or a tax credit.

(2) Paragraph (1) does not apply to a claim for housing benefit in respect of specified accommodation or temporary accommodation.

(3) Paragraph (1) does not apply to a claim for housing benefit that is made during the last assessment period of an award of universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations(a) applies, in respect of entitlement arising from the date the claimant reaches that age.

(4) Paragraph (1) does not apply to a claim for housing benefit by a single person who has reached the qualifying age for state pension credit, or a member of a State Pension Credit Act couple where both members have reached that age or a member of a polygamous marriage where all members have reached that age.

(5) Paragraph (1) does not apply to a claim for housing benefit where—

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(a) S.R. 2016 No. 221. Schedule 1 paragraph 26 was substituted by S.R. 2020 No. 119.

(a) the claim is made by a member of a State Pension Credit Act couple who has reached the qualifying age for state pension credit and the other member has not reached that age; and

(b) one of the savings in the sub-paragraphs of article 4(1) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019(a) applies and the saving has not ceased to have effect under article 4(2) of that order.

(6) Paragraph (1) does not apply to a claim for a tax credit where a person makes or persons make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) has or have an award of working tax credit or child tax credit respectively.

(7) Paragraph (1) does not apply to a claim for a tax credit where a person has or had, or persons have or had, an award of child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(8) For the purposes of this regulation—

(a) “polygamous marriage” has the same meaning as in regulation 3(4) of the Universal Credit Regulations;

(b) “State Pension Credit Act couple” means a couple as defined in section 17(1) of the State Pension Credit Act (Northern Ireland) 2002(b),

and a reference to the date on which a claim for tax credit is made is a reference to the date on which such a claim is made or treated as made as provided for in the Tax Credits (Claims and Notification) Regulations 2002(c).”<sup>4</sup>

### **Termination of awards of certain existing benefits: new claimant partners**

5.—(1) This regulation applies where—

- (a) a person (“A”) who was previously entitled to universal credit ceases to be so entitled on becoming a member of a couple;
- (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit immediately before formation of the couple;<sup>35</sup> and<sup>4</sup>
- (c) the couple is treated, in accordance with regulation 8(8) of the Claims and Payments Regulations, as having made a claim for universal credit;<sup>36</sup>
- (d) <sup>4</sup>

(2) Subject to paragraphs (4) and (5), where this regulation applies, all awards of income support or housing benefit to which the new claimant partner would (were it not for the effect of these Regulations) have been entitled during the relevant period are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the joint claimants are entitled to universal credit in connection with the claim; or
- (b) if the joint claimants are not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to them had been met; or

(a) S.R. 2019 No. 4 (C. 1) The relevant amending instruments are S.R. 2019 No. 107, S.R. 2020 No. 119

(b) The definition of “couple” in section 17 was substituted by regulation 71(a) of S.I. 2019/1514

(c) S.I. 2002/2014

- (c) if the new claimant partner became entitled to an award after the date on which it would otherwise terminate under sub-paragraph (a) or (b) at the beginning of the first day of entitlement to that award.

(3) For the purposes of this regulation, “the relevant period” is the period starting with the first day of assessment period (in relation to A’s award of universal credit) during which A and the new claimant partner formed a couple and ending with the date of formation of the couple.

(4) Where the new claimant partner was entitled during the relevant period to income support, he or she was at that time a member of a couple and the award included an amount in respect of the new claimant partner and their partner at that time (“P”), the award of income support terminates, by virtue of this regulation, on the date on which the new claimant partner and P ceased to be a couple for the purposes of the Income Support (General) Regulations (Northern Ireland) 1987(a), unless it terminates on that date in accordance with other legislative provision, or terminated on an earlier date.

(5) An award of housing benefit to which the new claimant partner is entitled does not terminate by virtue of this regulation where—

- (a) the award is in respect of specified accommodation <sup>37</sup>or temporary accommodation<sup>38</sup>,
- (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A(b)<sup>39</sup>or
- (c) the new claimant partner has reached the qualifying age for state pension credit and the award is made in accordance with the Housing Benefit (State Pension Credit) Regulations.<sup>40</sup>

(6) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

(7) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 9 (ongoing awards of tax credits) as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the Tax Credits Act 2002, as having made a claim for the tax credit in question for the current tax year.

### Termination of awards of certain existing benefits: other claimants

6.—(1) This regulation applies where—

- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 8(8) of the Claims and Payments Regulations, as having been made) is made<sup>40</sup>, whether or not subsequently withdrawn<sup>41</sup>;
- (b) <sup>42</sup>

(2) Subject to paragraph (3), <sup>42</sup>where this regulation applies<sup>43</sup>, all awards of <sup>43</sup>housing benefit <sup>44</sup>in the form of a rate rebate awarded in accordance with regulation 12 of the Housing Benefit Regulations or regulation 12 of the Housing Benefit (SPC) Regulations<sup>44</sup> or a tax credit to which the claimant (or, in the case of joint claimants, either of them) is entitled on the date on which the claim is made are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the claimant is entitled to universal credit in connection with the claim; or
- (b) if the claimant is not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

<sup>45</sup>(2A) Subject to paragraph (3), where this regulation applies, an award of <sup>46</sup>income support or <sup>46</sup>housing benefit, in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations or regulation 13 of the Housing

(a) S.R. 1987 No. 459

(b) In which case, *see* regulation 77 of the 2006 Regulations as amended and regulation 57 of the 2006 (SPC) Regulations as amended

Benefit (SPC) Regulations, to which the claimant is entitled on the day mentioned in paragraph (2)(a) or (b) terminates on the last day of the period of 2 weeks beginning with the day after that day (whether or not the person is also entitled to an award of ►<sup>47</sup>◄a tax credit).◄

►<sup>48</sup>(2B) This regulation does not apply in the case of a single claimant who has reached the qualifying age for state pension credit or in the case of joint claimants who have both reached the qualifying age for state pension credit.◄

(3) An award of housing benefit to which a claimant is entitled in respect of specified accommodation ►<sup>49</sup>or temporary accommodation◄ does not terminate by virtue of this regulation.

(4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 9 (ongoing awards of tax credits) as being entitled to a tax credit—

- (a) the claimant (or, as the case may be, the relevant claimant) is to be treated, for the purposes of the Tax Credits Act 2002 and this regulation, as having made a claim for the tax credit in question for the current year; and
- (b) if the claimant (or the relevant claimant) is entitled on the date on which the claim for universal credit was made to an award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of sub-paragraph (a), that award is to terminate, by virtue of this regulation—
  - (i) on the day before the first date on which the claimant is entitled to universal credit, or
  - (ii) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

(5) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

#### ►<sup>50</sup>Transitional housing payment

**6A.** Where an award of housing benefit terminates under regulation 6 ►<sup>51</sup>,►<sup>52</sup>or 47◄—

- (a) the claimant is to be treated for the purposes of the Housing Benefit Regulations as entitled to universal credit during the period of 2 weeks mentioned in regulation 6(2A) ►<sup>53</sup>,►<sup>54</sup>or 47(1)◄◄, even if no decision has been made on the claim; ►<sup>55</sup>◄
- (b) if a claim for universal credit is made and the claimant moves to new accommodation occupied as the claimant's home, then, notwithstanding anything in the Housing Benefit Regulations, housing benefit is to be paid directly to the claimant during the period of 2 weeks mentioned in regulation 6(2A) ►<sup>56</sup>,►<sup>57</sup>or 47(1)◄◄.◄ ►<sup>58</sup>;and
- (c) if a claim for universal credit is made by a notified person then, notwithstanding anything in the Housing Benefit Regulations(a), the weekly amount of housing benefit to which the person is entitled for that period of two weeks is the same as the weekly amount they were entitled to on the first day of that period.◄

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(a) S.R. 2006 No. 405



**►<sup>59</sup>Effect on universal credit award of two week run-on of income support, income-based jobseeker's allowance and income-related employment and support allowance**

6B. In a case where an award of income support, income-based jobseeker's allowance or income-related employment and support allowance is to continue for two weeks after the commencement of an award of universal credit by virtue of regulation 6(2A) ►<sup>60</sup>or 47(1)◄ or by virtue of regulation 4 (two week run-on of income-based jobseeker's allowance and income-related employment and support allowance: day appointed for abolition) of the Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019—

- (a) regulation 79 of the Universal Credit Regulations applies as if the benefit in question was not included in the list of welfare benefits in Article 101(7) of the Order (benefit cap)(6); and
- (b) in a case where the claimant has become entitled to an award of new style JSA or new style ESA on the termination of an award of income-based jobseeker's allowance or income-related employment and support allowance, the claimant is to be treated, for the purposes of regulation 73 of the Universal Credit Regulations (unearned income calculated monthly), as if they had been entitled to that award of new style JSA or new style ESA from the first day of the award of universal credit.◄

**Treatment of ongoing entitlement to certain benefits: benefit cap**

7.—(1) This regulation applies where a claimant who is a new claimant partner, or who has (in accordance with ►<sup>61</sup>regulation 25 of the Claims and Payments Regulations◄) been awarded universal credit in respect of a period preceding the date on which the claim for universal credit was made or treated as made—

- (a) is entitled, in respect of the whole or part of the first assessment period for universal credit, or a welfare benefit (other than universal credit) mentioned in ►<sup>62</sup>Article 101(7) of the Order (benefit cap)◄; and
- (b) is entitled to housing benefit at any time during the first assessment period for universal credit, or would be so entitled were it not for the effect of these Regulations.

(2) Where this regulation applies, regulation 79 of the Universal Credit Regulations applies, in relation to the claimant, as if the benefit in question was not included in the list of welfare benefits in ►<sup>63</sup>Article 101(7) of the Order◄.

**Treatment of overpayments**

8.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to an existing benefit other than a tax credit►<sup>64</sup>, any housing benefit in the form of a rate rebate awarded in accordance with regulation 12 of the Housing Benefit Regulations◄ or a joint-claim jobseeker's allowance; and
- (b) a payment of the existing benefit is made which includes payment (“the overpayment”) in respect of a period—
  - (i) during which the claimant is not entitled to that benefit (including non-entitlement which arises from termination of an award by virtue of an order made under Article 2(2) of the Order or regulation 5, 6 or 13), and
  - (ii) which falls within an assessment period for universal credit.

(2) Where this regulation applies, for the purposes of calculating the amount of an award of universal credit in respect of an assessment period—

- (a) regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies as if the overpayment which was made in respect of that assessment period were added to the descriptions of unearned income in paragraph (1)(b) of that regulation; and

(b) regulation 73 of the Universal Credit Regulations (unearned income calculated monthly) does not apply to the overpayment.

(3) In so far as any overpayment is taken into account in calculating the amount of an award of universal credit in accordance with this regulation, that payment may not be recovered as an overpayment under—

- (a) the Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(a);
- (b) regulations 96 to 104 of the Housing Benefit Regulations;
- (c) regulations 77 to 85 of the Housing Benefit (State Pension Credit) Regulations.

►<sup>65</sup>**Arrears of benefit disregarded as capital**

**8A.**—(1) This regulation applies in relation to the calculation of an award of universal credit (the “current award”) where the claimant has received a payment of arrears of benefit ►<sup>66</sup>or armed forced independence payment◄, or a concessionary payment made to compensate for arrears of benefit ►<sup>67</sup>or armed forced independence payment◄, of £5,000 or more, and the following conditions are met:

- (a) the payment—
  - (i) is received during the current award, or
  - (ii) was received during an award of an existing benefit (the “earlier award”) and the claimant became entitled to the current award within one month of the date of termination of the earlier award;
- (b) in the case of a payment falling within sub-paragraph (a)(i), it would be disregarded from the calculation of the claimant’s capital if the claimant were entitled to an existing benefit;
- (c) in the case of a payment falling within sub-paragraph (a)(ii), it was disregarded from the calculation of the claimant’s capital for the purposes of the earlier award; and
- (d) the period of entitlement to benefit ►<sup>68</sup>or armed forced independence payment◄ to which the payment relates commences before the first date on which, by virtue of Article 39 of the Order (abolition of benefits), no claimant is entitled to an existing benefit.

(2) Where this regulation applies, the payment is to be disregarded from the calculation of a claimant’s capital for 12 months from the date of receipt of the payment, or until the termination of the current award (if later).◄

►<sup>69</sup>(3) “Armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011. ◄

►<sup>70</sup>**Arrears of maternity allowance disregarded as capital**

**8B.**—(1) This regulation applies in relation to the calculation of an award of universal credit where—

- (a) the conditions set out in regulation 8A(1)(a) to (d) are met; and
- (b) the claimant has received a payment of arrears of maternity allowance, or a payment made to compensate for arrears due to the non-payment of maternity allowance, of under £5,000.

(2) Where this regulation applies, notwithstanding anything in the Universal Credit Regulations, the payment is to be disregarded from the calculation of the claimant’s capital for 12 months from the date of receipt of the payment.

(3) (3) “Maternity allowance” means a maternity allowance under section 35 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (state maternity allowance for employed or self-employed earner). ◄

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(a) S.R. 1988 No. 142

►<sup>71</sup>**Compensatory payment disregard as capital**

**8C.**—(1) This regulation applies in relation to the calculation of an award of universal credit where—

- (a) the claimant has received a payment made to rectify, or compensate for, an error made by an officer of the Department which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the claimant's entitlement to contributory employment and support allowance; and
- (b) the payment is received before the first date on which, by virtue of Article 39 of the Order (abolition of benefits), no claimant is entitled to an existing benefit.

(2) Where this regulation applies and the amount of the payment is less than £5,000, the payment is to be disregarded from the calculation of the claimant's capital for 12 months from the date of receipt of the payment.

(3) Where—

- (a) this regulation applies;
- (b) the amount of the payment is £5,000 or more; and
- (c) the conditions set out in regulation 8A(1)(a) and (c) are met,

the payment is to be disregarded from the calculation of the claimant's capital for 12 months from the date of receipt of the payment, or until the termination of the current award (if later).◀

**Ongoing awards of tax credits**

**9.**—(1) For the purposes of ►<sup>72</sup>these Regulations◀—

- (a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 in respect of a claim for that tax credit for that tax year, if the person was entitled to working tax credit for the previous tax year and any of the cases specified in paragraph (2) applies; and
- (b) a person is to be treated as being entitled to child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 in respect of a claim for that tax credit for that tax year, if the person was entitled to child tax credit for the previous tax year and any of the cases specified in paragraph (2) applies►<sup>73</sup>, and references to an award of a tax credit are to be read accordingly◀.

(2) The cases are—

- (a) a final notice has not been given to a person under section 17 of the Tax Credits Act 2002 in respect of the previous tax year;
- (b) a final notice has been given, which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6) of the Tax Credits Act 2002 and—
  - (i) the date specified in the notice for the purposes of section 17(2) and (4) of the Tax Credits Act 2002 or, where different dates are specified, the later of them, has not yet passed and no claim for a tax credit for the current tax year has been made, or treated as made, or
  - (ii) a claim for a tax credit has been made, or treated as made, on or before the date mentioned in sub-paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the Tax Credits Act 2002;

- (c) a final notice has been given, no claim for a tax credit for the current year has been made or treated as made, and no decision has been made under section 18(1) of the Tax Credits Act 2002 in respect of entitlement to a tax credit for the previous year; <sup>74</sup>◀
- ▶<sup>75</sup>(ca) a final notice has been given and the person made a declaration in response to a requirement included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a) of the Tax Credits Act 2002, or any combination of those provisions—
  - (i) by the date specified on the final notice,
  - (ii) if not in accordance with paragraph (i), within 30 days following the date on the notice to the person that payments of tax credits under section 24(4) of the Tax Credits Act 2002 have ceased due to the person's failure to make the declaration by the date specified in the final notice, or
  - (iii) if not in accordance with paragraph (i) or (ii), before 31 January in the tax year following the period to which the final notice relates and, in the opinion of Her Majesty's Revenue and Customs, the person had good reason for not making the declaration in accordance with paragraph (i) or (ii); or◀
- (d) a final notice has been given and—
  - (i) the person did not make a declaration in response to provision included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a) of the Tax Credits Act 2002, or any combination of those provisions, by the date specified in the notice,
  - (ii) the person was given due notice that payments of tax credit under section 24(4) of the Tax Credits Act 2002 had ceased due to his or her failure to make the declaration, and
  - (iii) the person's claim for universal credit is made during the period of 30 days starting with the date on the notice referred to in sub-paragraph (ii) or, where the person is a new claimant partner, notification of formation of a couple with a person entitled to universal credit is given to the Department during that period.

### Modification of tax credits legislation: overpayments and penalties

#### 10.—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made; <sup>76</sup>and◀
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; <sup>77</sup>
- (c) ◀

(2) Where this regulation applies the Tax Credits Act 2002 applies in relation to the claimant with the following modifications.

(3) In section 28 —

(a) In subsection (1)—

- (i) after “tax year” in both places where it occurs, insert “or part tax year”,
- (ii) <sup>78</sup>in paragraph (b), for the words from “as if it were” to the end substitute “as an overpayment of universal credit”; ◀

▶<sup>79</sup>◀

(c) omit subsection (5);

(d) in subsection (6) omit “(apart from subsection(5))”.

▶<sup>80</sup>▶<sup>81</sup>◀◀

(5) In section 48 after the definition of “overpayment” insert—

““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of tax credit terminated,”.

(6) In paragraph 6(1)(a) and (c) and (2)(a) of Schedule 2 after “for the tax year” insert “or part tax year”.

## Modification of tax credits legislation: finalisation of tax credits

**11.**—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made<sup>82</sup>, or a migration notice is issued and the notified person fails to make a claim on or before the deadline day<sup>83</sup> and<sup>84</sup>
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made<sup>84</sup> or in which the deadline day falls<sup>84</sup>, entitled to a tax credit;

<sup>85</sup>(c)

(2) Subject to paragraph (3), where this regulation applies, the amount of the tax credit to which the person is entitled is to be calculated in accordance with the Tax Credits Act 2002 and regulations made under that Act, as modified by <sup>86</sup>Schedule 1 (“the modified legislation”).

(3) Where, in the opinion of the Commissioners for Her Majesty’s Revenue and Customs, it is not reasonably practicable to apply the modified legislation in relation to any case or category of cases, the Tax Credits Act 2002 and regulations made under that Act are to apply without modification in that case or category of cases.

## Appeals etc relating to certain existing benefits

**12.**—(1) This regulation applies where, after an award of universal credit has been made to a claimant—

- (a) an appeal against a decision relating to the entitlement of the claimant to income support, housing benefit or a tax credit (a “relevant benefit”) is finally determined;
- (b) a decision relating to the claimant’s entitlement to income support is revised under Article 10 of the Social Security Order 1998 or superseded under Article 11 of that Order;
- (c) a decision relating to the claimant’s entitlement to housing benefit is revised or superseded under Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000<sup>(a)</sup>; or
- (d) a decision relating to the claimant’s entitlement to tax credit is revised under section 19 or 20 of the Tax Credits Act 2002, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act<sup>(b)</sup>.

(2) Where the claimant is a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession of the decision the claimant would (were it not for the effect of these Regulations) be entitled to income support or housing benefit during the relevant period mentioned in regulation 5(3), awards of those benefits are to terminate in accordance with regulation 5.

(3) Where the claimant is not a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession, variation or cancellation of the decision, the claimant would (were it not for the effect of these Regulations) be entitled to a relevant benefit on the date on which the claim for universal credit was made, awards of relevant benefits are to terminate in accordance with regulation 6<sup>87</sup><sup>88</sup> or 47.<sup>88</sup>

(4) The Department is to consider whether it is appropriate to revise under Article 10 of the Social Security Order 1998 the decision in relation to entitlement to universal credit or, if that decision has been superseded under Article 11 of that Order, the decision as so superseded (in either case, “the UC decision”).

(5) Where it appears to the Department to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Department to be necessary to take account of—

- (a) the decision of the Appeal Tribunal, the Commissioner or court, or as the case may be the decision relating to entitlement to a relevant benefit, as revised, superseded, varied or cancelled; and

<sup>(a)</sup> 2000 c.4 (N.I.)

<sup>(b)</sup> Section 21A was inserted by S.I. 2014/886

- (b) any finding of fact by the Appeal Tribunal, Commissioner or court.

### **Appeals etc relating to universal credit**

**13.—**(1) This regulation applies where—

- (a) a decision is made that a claimant is not entitled to universal credit (“the UC decision”);
- (b) the claimant becomes entitled to income support, housing benefit or a tax credit (a “relevant benefit”);
- (c) an appeal against the UC decision is finally determined, or the decision is revised under Article 10 of the Social Security Order 1998;
- (d) an award of universal credit is made to the claimant in consequence of entitlement arising from the appeal, or from the decision as revised; and
- (e) the claimant would (were it not for the effect of regulation 3 and this regulation) be entitled to both universal credit and a relevant benefit in respect of the same period.

(2) Subject to paragraph (3), where this regulation applies—

- (a) all awards of a relevant benefit to which the claimant would (were it not for the effect of these Regulations) be entitled are to terminate, by virtue of this regulation, at the beginning of the first day of entitlement to that award; and
- (b) any legislative provision <sup>89</sup>except regulation 6(2A) under which an award would otherwise terminate on a later date does not apply.

(3) An award of housing benefit to which a claimant is entitled in respect of specified accommodation <sup>90</sup>or temporary accommodation does not terminate by virtue of this regulation.

## **CHAPTER 2**

### **EFFECT OF TRANSITION TO UNIVERSAL CREDIT**

#### **Modification of Claims and Payments Regulations in relation to universal credit claimants**

**14.—**(1) Where a claim for universal credit is made by a person who was previously entitled to an existing benefit, regulation 25 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) applies in relation to that claim with the modification specified in paragraph (2).

(2) After regulation 25(3)(a) insert—

“(aa) the claimant was previously in receipt of an existing benefit (as defined in the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016) and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant’s entitlement expired;”.

#### **Persons Unable to act**

**15.—**(1) Paragraph (2) applies where—

- (a) a person (“P2”) has been appointed, or treated as appointed, under regulation 33(1) of the Claims and Payments Regulations 1987 (persons unable to act) to exercise rights and to receive and deal with sums payable on behalf of a person who is unable to act (“P1”); or
- (b) a person (“P2”) has been appointed under regulation 18(3) of the Tax Credits (Claims and Notifications) Regulations 2002 (circumstances where one person may act for another in making a claim – other appointed persons) to act for a person who is unable to act (“P1”) in making a claim for a tax credit.

(2) Where this paragraph applies and P1 is, or may be, entitled to universal credit, the Department may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 52(1) of the Claims and Payments Regulations (persons unable to act) and P2 may carry out the functions set out in regulation 52(4) of those Regulations in relation to P1.

(3) Paragraph (4) applies where a person (“P2”) was appointed, or treated as appointed, under regulation 52(1) of the Claims and Payments Regulations to carry out functions in relation to a person who is unable to act (“P1”) and who was, or might have been, entitled to universal credit, but who has ceased to be so entitled, or was not in fact so entitled.

(4) Where this paragraph applies—

- (a) the Department may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 33(1) of the Claims and Payments Regulations 1987 and P2 may exercise rights and receive and deal with sums payable in respect of existing benefits on behalf of P1; and
- (b) the Board (within the meaning of the Tax Credits (Claims and Notifications) Regulations 2002) may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 18(3) of those Regulations and P2 may act for P1 in making a claim for a tax credit.

►91◀

### **Advance payments of universal credit**

**17.**—(1) This regulation applies where—

- (a) the Department is deciding a claim for universal credit, other than a claim which is treated as having been made, in accordance with regulation 8(8) of the Claims and Payments Regulations;
- (b) the claimant is, or was previously, entitled to an existing benefit (“the earlier award”); and
- (c) if the earlier award terminated before the date on which the claim for universal credit was made, the claim for universal credit was made during the period of one month starting with the date of termination.

(2) Where this regulation applies—

- (a) a single claimant may request an advance payment of universal credit; and
- (b) joint claimants may jointly request such a payment,

at any time during the first assessment period for universal credit.

(3) Where a request has been made in accordance with this regulation, the Department may make an advance payment to the claimant, or joint claimants, of such amount in respect of universal credit as it considers appropriate.

(4) After an advance payment has been made under this regulation, payments of any award of universal credit to the claimant or, in the case of joint claimants, to either or both of them, may be reduced until the amount of the advance payment is repaid.

(5) In this regulation “single claimant”, in relation to universal credit, has the same meaning as in Part 2 of the Order;

### **Deductions from benefits**

**18.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who—
  - (i) was entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (a “relevant award”) on the date on which the claim for universal credit was made or treated as made,
  - (ii) is a new claimant partner who was, immediately before forming a couple with a person entitled to universal credit, the partner of a person (“P”) who was at that time entitled to a relevant award, or
  - (iii) is not a new claimant partner and was, immediately before making a claim for universal credit, the partner of a person (“P”) who was at that time entitled to a

relevant award, where the award of universal credit is not a joint award to the claimant and P; and

- (b) on the relevant date, deductions in respect of fuel costs or water charges were being made under regulation 34A of the Claims and Payments Regulations 1987, in accordance with Schedule 8A to those Regulations<sup>(a)</sup>.

(2) In this regulation, the “relevant date” means—

- (a) where paragraph (1)(a)(i) applies and the claimant is not a new claimant partner, the date on which the claim for universal credit was made;
- (b) where paragraph (1)(a)(i) applies and the claimant is a new claimant partner, the date on which the claim for universal credit was treated as made; or
- (c) where paragraph (1)(a)(ii) or (iii) applies, the date on which the claimant ceased to be the partner of P.

(3) Where this regulation applies, deductions in respect of fuel costs or, as the case may be, water charges, may be made from the award of universal credit in accordance with Schedule 5 to the Claims and Payments Regulations, without the need for any consent which would otherwise be required under paragraph 3(3) of that Schedule.

(4) For the purposes of this regulation a deduction is to be taken into account even if the relevant award subsequently terminated by virtue of an order made under Article 2(2) of the Order, regulation 5 or as the case may be, regulation 6, before the date on which the deduction was first applied.

### Transition from old style ESA

19.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and
- (b) <sup>92</sup>on or before the relevant date it had been determined that the claimant had limited capability for work or limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act).<sup>94</sup>

(2) Where, on or before the relevant date, it had been determined that the claimant <sup>93</sup>had limited capability for work (within the meaning of Part 1 of the 2007 Act)<sup>94</sup>—

<sup>94</sup>

- (b) the claimant is to be treated as having limited capability for work for the purposes of <sup>95</sup>Article 26(1)(a) of <sup>96</sup>the Order, and

- (c) the claimant is to be treated as if the determination that they have limited capability for work, for the purposes of regulation 14(1)(b) of the Universal Credit Regulations, was made before the date on which the claimant started receiving education (see regulations 12(2) and 13 of the Universal Credit Regulations).<sup>97</sup>

<sup>97</sup>

(4) Where, on or before the relevant date, it had been determined that the claimant <sup>98</sup>had limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act) or was treated as having limited capability for work-related activity<sup>99</sup>—

- (a) regulation 28(3) of the Universal Credit Regulations does not apply; <sup>99</sup>
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of those Regulations and Article 24(2)(a) of <sup>100</sup>the Order, and

(a) Regulation 34A was inserted by regulation 2(2) of S.R. 1988 No. 67 and amended by regulation 7(b) of S.R. 1988 No. 141, regulation 3(7) of S.R. 1988 No. 369, regulation 3 of S.R. 1992 No. 271 and regulation 2(2) of S.R. 2001 No. 22. Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67



- (c) the claimant is to be treated as if the determination that they have limited capability for work and work-related activity, for the purposes of regulation 14(1)(b) of those Regulations, was made before the date on which the claimant started receiving education.

◀

(5) Unless the assessment phase applied and had not ended at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph(4)(b)—

- (a) regulation 29 of the Universal Credit Regulations does not apply; and  
(b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(6) For the purposes of this regulation, a determination that the claimant ▶<sup>101</sup>had limited capability for work or, as the case may be, limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act)◀, is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before the date on which that determination was made, by virtue of an order made under Article 2(2) of the Order.

(7) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Department may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(8) In this regulation and in regulations 20 to 28—

▶<sup>102</sup> “assessment phase” has the same meaning as in the 2007 Act;◀

“incapacity benefit” and “severe disablement allowance” have the same meanings as in Schedule 4 to the 2007 Act;

▶<sup>103</sup> “LCWRA element” has the same meanings as in the Universal Credit Regulations◀.

(9) For the purposes of this regulation and regulation 20, references to cases in which the assessment phase applied are references to cases in which sections 2(2)(a), ▶<sup>104</sup>and 4(4)(a)◀ of the 2007 Act applied and references to cases in which the assessment phase did not apply are references to cases in which those sections did not apply(a).

▶<sup>105</sup>(10) For the purposes of this regulation, references to a determination that the claimant had limited capability for work do not include a determination made under regulation 30 of the ESA Regulations 2008 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made.◀

### **Transition from old style ESA before the end of the assessment phase**

**20.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and  
(b) on the relevant date, the assessment phase in relation to the claimant applied and had lasted for less than 13 weeks.

(2) Where this regulation applies—

- (a) regulation 29(2) of the Universal Credit Regulations (period for which the ▶<sup>106</sup>◀ LCWRA element is not to be included) does not apply; and  
(b) for the purposes of regulation 29 of those regulations, the relevant period is—  
(i) the period of 13 weeks starting with the first day of the assessment phase, or

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(a) For cases where those sections do not apply, see Regulation 7 of the 2008 Regulations as amended

- (ii) where regulation 5 of the ESA Regulations 2008 (the assessment phase – previous claimants) applied to the claimant, the period which ends when the sum of the periods for which the claimant was previously entitled to old style ESA and the period for which the claimant is entitled to universal credit is 13 weeks.
- (3) Where, on the relevant date, the assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—
  - (a) regulation 29 of the Universal Credit Regulations does not apply;
- ▶<sup>107</sup>◀
- (c) if it is subsequently determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.
- (4) For the purposes of this regulation, the fact that an assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before that date by virtue of an order made under Article 2(2) of the Order.

### Transition from jobseeker's allowance following an extended period of sickness

**21.**—(1) This regulation applies where—

- (a) the claimant's first day of entitlement to universal credit ("the relevant date"), immediately follows the claimant's last day of entitlement to a jobseeker's allowance; and
- (b) immediately before the relevant date the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of the JSA Regulations 1996(a) or ▶<sup>108</sup>regulation 46◀ of the Jobseeker's Allowance Regulations (Northern Ireland) 2016(b) (extended period of sickness).

(2) Where this regulation applies—

- (a) regulation 29(2) of the Universal Credit Regulations (period for which ▶<sup>109</sup>◀ LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 29 of those Regulations, the relevant period is the period starting with the first day of the period for which the claimant was treated as capable of work or as not having limited capability for work as specified in paragraph (1)(b).

### Other claimants with limited capability for work: credits only cases

**22.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(iv),(iva) or (v) of the Social Security (Credits) Regulations (Northern Ireland) 1975(c) on the date on which the claim for universal credit was made or treated as made (the "relevant date"); and
- (b) neither regulation 19 nor regulation 20 applies to that claimant (whether or not, in the case of joint claimants, either of those regulations apply to the other claimant).

(2) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—

(a) Regulation 55ZA was inserted by regulation 2(5) of S.R. 2015 No. 138

(b) S.R. 2016 No. xxx

(c) S.R. 1975 No. 113; Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 3 of 2000 No. 404, regulation 2(2)(b) of S.R. 2003 No. 151, regulation 7(6)(a) of S.R. 2008 No. 286 and regulation 2(2) of S.R. 2010 No. 109. Sub-paragraph (a)(iva) was inserted by regulation 2 of S.R. 2016 No. 175

►<sup>110</sup>◄

- (b) the claimant is to be treated as having limited capability for work for the purposes of ►<sup>111</sup>◄ Article 26(1)(a) of the Order.

►<sup>112</sup>◄

(4) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—

- (a) regulation 28(3) of the Universal Credit Regulations does not apply; and
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation ►<sup>113</sup>28(1)◄ of those Regulations and Article 24(2)(a) of the Order.

(5) Unless the notional assessment phase applied and had lasted for less than 13 weeks at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph (4)—

- (a) regulation 29 of the Universal Credit Regulations does not apply; and
- (b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(6) Where, on the relevant date, the notional assessment phase in relation to the claimant to whom the award was made applied and had lasted for less than 13 weeks—

- (a) regulation 29(2) of the Universal Credit Regulations does not apply; and
- (b) for the purposes of regulation 29 of those Regulations, the relevant period is the period of 13 weeks starting with the first day of the notional assessment phase.

(7) Where, on the relevant date, the notional assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—

- (a) regulation 29 of the Universal Credit Regulations does not apply;

►<sup>114</sup>◄

- (c) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work and work-related activity, the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(8) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Department may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(9) For the purposes of this regulation—

- (a) a determination that the claimant would have limited capability for work or, as the case may be, limited capability for work-related activity, if the claimant was entitled to old style ESA is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before the date on which that determination was made because he or she became entitled to universal credit;
- (b) the fact that a notional assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before that date because the claimant became entitled to Universal Credit;
- (c) references to a determination that the claimant would have limited capability for work if the claimant was entitled to old style ESA do not include a determination made under regulation 30 of the ESA Regulations 2008(a) (conditions for treating a claimant as

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(a) Regulation 30 was amended by regulation 9(8) of S.R. 2010 No. 200

having limited capability for work until a determination about limited capability for work has been made);

- (d) references to cases in which the notional assessment phase applied are references to cases in which sections 2(2)(a) <sup>115</sup> and 4(4)(a) <sup>116</sup> of the 2007 Act would have applied to the claimant if he or she had been entitled to old style ESA in addition to the entitlement mentioned in paragraph (1)(a), but do not include cases in which the claimant is entitled as mentioned in paragraph (1)(a) under regulation 8B(2)(iva) of the Social Security (Credits) Regulations (Northern Ireland) 1975;
- (e) subject to sub-paragraph (e), the “notional assessment phase” is the period of 13 weeks starting on the day on which the assessment phase would have started in relation to the claimant, if he or she had been entitled to old style ESA and sections 2(2)(a) <sup>116</sup> and 4(4)(a) <sup>117</sup> of the 2007 Act had applied; and
- (f) the notional assessment phase has not ended if, at the end of the 13 week period referred to in sub-paragraph (e), no determination has been made as to whether a claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if the claimant was entitled to old style ESA.

### **Transition from income support payable on the grounds of incapacity for work or disability and other incapacity benefits**

**23.**—(1) This regulation applies where an award of universal credit is made to a claimant (other than a claimant to whom regulation 24 or 25 applies) who was entitled to income support on the grounds of incapacity for work or disability on the date on which the claim for universal credit was made or treated as made or is entitled to incapacity benefit or severe disablement allowance.

(2) Where this regulation applies—

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
  - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 28(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period,
  - (ii) regulation 29 of those Regulations (period for which the LCW or LCWRA element is not to be included) does not apply, and
  - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
  - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period,
  - (ii) regulation 29 of those Regulations does not apply, and
  - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(3) In this regulation—

“income support on the grounds of incapacity for work or disability” means an award of income support which is an “existing award” within the meaning of Schedule 4 to the 2007 Act.

### **Transition from other incapacity benefits: assessment under the ESA (Transitional Provisions) Regulations 2010**

**24.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance (“the relevant award”); and
- (b) on or before the date on which the claim for universal credit is made or treated as made, a notice has been issued to the claimant under regulation 4 of the ESA (Transitional Provisions) Regulations 2010 (notice commencing the conversion phase).

(2) Where this regulation applies, regulation 28(3) (award to include LCW and LCWRA elements) and Part 5 (determination of limited capability for work and work related activity) of the Universal Credit Regulations do not apply and the question whether a claimant has limited capability for work and work related activity, is to be determined for the purposes of the Order and the Universal Credit Regulations, in accordance with this regulation.

(3) Where it is determined in accordance with the ESA (Transitional Provisions) Regulations 2010 that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those regulations (qualifying for conversion) and that award includes the work-related activity component—

- (a) the claimant is to be treated as having had limited capability for work for the purposes of regulation 28(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
- (b) regulation 29(1) of those Regulations (period for which LCW or LCWRA element is not to be included) does not apply;
- (c) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (d) the claimant is to be treated as having limited capability for work for the purposes of Article 26(1)(a) of the Order.

(4) Where it is determined in accordance with the ESA (Transitional Provisions) Regulations 2010 that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations and that award includes the support component—

- (a) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
- (b) regulation 29(1) of those Regulations does not apply;
- (c) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (d) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of Article 24(2)(a) of the Order.

### **Transition from other incapacity benefits: claimants approaching pensionable age**

**25.—**(1) This paragraph applies where—

- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
- (b) no notice has been issued to the claimant under regulation 4 of the ESA (Transitional Provisions) Regulations 2010 (notice commencing the conversion phase);
- (c) the claimant will reach pensionable age (within the meaning in regulation 2(1) of the ESA (Transitional Provisions) Regulations 2010) within the period of one year; and
- (d) the claimant is also entitled to—
  - (i) personal independence payment, where neither the daily living component nor the mobility component is payable at the enhanced rate<sup>(a)</sup>,

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<sup>(a)</sup> See Articles 83-85 of the Order

- (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the middle rate within the meaning of section 72(4) of that Act or the mobility component is payable at the lower rate within the meaning of section 73(11) of that Act (or both components are payable at those rates),
  - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the lower rate in accordance with section 65 of that Act,
  - (iv) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act (increase where constant attendance needed), where the increase is of an amount which is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act, or
  - (v) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003<sup>(a)</sup>) where the amount of that payment is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act.
- (2) Where paragraph (1) applies and paragraph (3) does not apply—
- (a) regulation 28(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply;
  - (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 28(1)(a) of those Regulations from the beginning of the first assessment period;
  - (c) regulation 29(1) of the Universal Credit Regulations (period for which LCW or LCWRA element is not to be included) does not apply;
  - (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the claimant is to be treated as having limited capability for work for the purposes of Article 26(1)(a) of the Order.
- (3) This paragraph applies where—
- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
  - (b) no notice has been issued to the claimant under regulation 4 of the ESA (Transitional Provisions) Regulations 2010;
  - (c) the claimant will reach pensionable age (within the meaning in regulation 2(1) of the ESA (Transitional Provisions) Regulations 2010) within the period of one year; and
  - (d) the claimant is also entitled to—
    - (i) personal independence payment, where either the daily living component or the mobility component is (or both components are) payable at the enhanced rate,
    - (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the highest rate within the meaning of section 72(4) of that Act or the mobility component is payable at the higher rate within the meaning of section 73(11) of that Act (or both components are payable at those rates),
    - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the higher rate in accordance with section 65 of that Act,
    - (iv) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011<sup>(b)</sup>,

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(a) 2001 c. 1  
(b) S.I. 2011/517

- (v) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act, where the increase is of an amount which is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act, or
  - (vi) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 where the amount of that payment is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act).
- (4) Where paragraph (3) applies (whether or not paragraph (1) also applies)—
- (a) regulation 28(3) of the Universal Credit Regulations does not apply;
  - (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of those Regulations from the beginning of the first assessment period;
  - (c) regulation 29(1) of the Universal Credit Regulations does not apply;
  - (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of Article 26(2)(a) of the Order.
- (5) In this regulation—
- “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a).

#### **Transition from other incapacity benefits: supplementary**

**26.**—(1) Where an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance, regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies to the claimant as if incapacity benefit or, as the case may be, severe disablement allowance were added to the descriptions of unearned income in paragraph (1)(b) of that regulation.

(2) For the purposes of regulations 24 and 25 and this regulation only, incapacity benefit and severe disablement allowance are prescribed benefits under paragraph 1(2)(b) of Schedule 6 to the Order.

#### **Other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age**

**27.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in operation under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits) Regulations (Northern Ireland) 1975 on the date on which the claim for universal credit was made or treated as made;
- (b) the claimant will reach pensionable age within the meaning of the ESA (Transitional Provisions) Regulations 2010 within the period of one year; and
- (c) none of regulations 23, 24 or 25 apply to that claimant (whether or not, in the case of joint claimants, any of those regulations apply to the other claimant).

(2) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 25(1)(d) and is not entitled to a payment, allowance or increased rate of pension specified in regulation 25(3)(d)—

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(a) 1992 c. 7 (N.I.)

- (a) regulation 28(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply;
- (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 28(1)(a) of those Regulations from the beginning of the first assessment period;
- (c) regulation 29(1) of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply;
- (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work for the purposes of Article 26(1)(a) of the Order.

(3) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 25(3)(d) (whether or not the claimant is also entitled to a payment, allowance or increased rate of pension specified in regulation 25(1)(d))—

- (a) regulation 28(3) of the Universal Credit Regulations does not apply;
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of those Regulations from the beginning of the first assessment period;
- (c) regulation 29(1) of the Universal Credit Regulations does not apply;
- (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of Article 24(2)(a) of the Order.

(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 25(1)(d) or regulation 25(3)(d)—

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
  - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 28(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period,
  - (ii) regulation 29 of the Universal Credit Regulations does not apply, and
  - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period; and
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
  - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period,
  - (ii) regulation 29 of the Universal Credit Regulations does not apply, and
  - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

#### **Other claimants with incapacity for work: credits only cases**

**28.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(i), (ii)



- or (iii) of the Social Security (Credits) Regulations (Northern Ireland) 1975 on the date on which the claim for universal credit was made or treated as made; and
- (b) none of regulations 23, 24, 25 or 27 apply to that claimant (whether or not, in the case of joint claimants, any of those Regulations apply to the other claimant).
- (2) Where this regulation applies—
  - (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
    - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 28(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period,
    - (ii) regulation 29 of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply, and
    - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period; and
  - (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
    - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period,
    - (ii) regulation 29 of the Universal Credit Regulations does not apply, and
    - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

### **Meaning of “qualifying young person”**

**29.** Where a person who would (apart from the provision made by this regulation) be a “qualifying young person” within the meaning of regulation 6 of the Universal Credit Regulations is entitled to an existing benefit—

- (a) that person is not a qualifying young person for the purposes of the Universal Credit Regulations; and
- (b) regulation 6(5) of those Regulations applies as if, after “a person who is receiving” there were inserted “an existing benefit (within the meaning of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016),”.

### **Support for housing costs**

**30.—**(1) Paragraph (3) applies where—

- (a) an award of universal credit is made to a claimant who—
  - (i) was entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (a “relevant award”) at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under Article 2(2) of the Order or the effect of these Regulations), or
  - (ii) was at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P; and
- (b) on the relevant date, the relevant award included an amount in respect of housing costs under—

- (i) ►<sup>117</sup>paragraph 16 of Schedule 2◄ to the JSA Regulations 1996(a),
- (ii) ►<sup>118</sup>paragraph 18 of Schedule 6◄ to the ESA Regulations 2008(b), or, as the case may be,
- (iii) ►<sup>119</sup>paragraph 17 of Schedule 3◄ to the Income Support (General) Regulations (Northern Ireland) 1987(c).

(2) In this regulation the “relevant date” means—

- (a) where paragraph (1)(a)(i) applies and the claimant was not entitled to the relevant award on the date on which the claim for universal credit was made or treated as made, the date on which the relevant award terminated;
- (b) where paragraph (1)(a)(i) applies, the claimant is not a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was made, that date;
- (c) where paragraph (1)(a)(i) applies, the claimant is a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was treated as made, that date; and
- (d) where paragraph (1)(a)(ii) applies, the date on which the claimant ceased to be the partner of P or, if earlier, the date on which the relevant award terminated.

(3) Where this paragraph applies, paragraph 5 of Schedule 5 to the Universal Credit Regulations (no housing costs element under this Schedule for qualifying period) does not apply.

(4) Paragraph (5) applies where paragraph (1)(a) applies, but the relevant award did not include an amount in respect of housing costs because the claimant’s entitlement (or, as the case may be, P’s entitlement) was nil by virtue of—

- (a) paragraph 6(1)(c) or 7(1)(b) of Schedule 2 to the JSA Regulations 1996;
- (b) paragraph 8(1)(c) or 9(1)(b) of Schedule 6 to the ESA Regulations 2008; or, as the case may be,
- (c) paragraph 6(1)(c) or 8(1)(b) of Schedule 3 to the Income Support (General) Regulations (Northern Ireland) 1987.

(5) Where this paragraph applies—

- (a) paragraph 5(2) of Schedule 5 to the Universal Credit Regulations does not apply; and
- (b) the “qualifying period” referred to in paragraph 5 of that Schedule is the period of 273 days starting with the first day on which the claimant (or, as the case may be, P) was entitled to the relevant award, taking into account any period which was treated as a period of continuing entitlement under—
  - (i) paragraph 13 of Schedule 2 to the JSA Regulations 1996(d);
  - (ii) paragraph 15 of Schedule 6 to the ESA Regulations 2008(e); or, as the case may be,
  - (iii) paragraph 14 of Schedule 3 to the Income Support (General) Regulations (Northern Ireland) 1987(a),

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- (a) Schedule 2 is modified in relation to certain persons by S.R. 2008 No. 503, as amended by S.R. 2009 No. 426. Paragraph 15 was amended by regulation 4(8)(c) of S.R. 2008 No. 428. Paragraph 16 was amended by regulation 5 of S.R. 2006 No. 407
  - (b) Schedule 6 is modified in relation to certain persons by S.R. 2008 No. 503, as amended by S.R. 2009 No. 426
  - (c) S.R. 1987 No. 459; Schedule 3 is modified in relation to certain persons by S.R. 2008 No. 503, as amended by S.R. 2009 No. 426. Paragraph 16 was amended by regulation 2(8)(c) of S.R. 2008 No. 248; Paragraph 17 was amended by regulation 5 of S.R. 2006 No. 407
  - (d) Paragraph 13 was amended by regulation 29(5) of S.R. 1996 No. 358, regulation 2(18)(a) of S.R. 1996 No. 503, regulation 7(2) of S.R. 1997 No. 165, regulation 13(3) of S.R. 1997 No. 541, regulation 11(4) of S.R. 1998 No. 324, regulation 2(6) of S.R. 1999 No. 107, regulation 2(2) of S.R. 1999 No. 315, Article 9(17)(b) of S.R. 1999 No. 428 (C. 32), paragraph 54(8)(b), (c), (d) and (e) of S.R. 2000 No. 350, regulation 12(b) of S.R. 2001 No. 78, regulation 9(b)(ii)(bb) and (iii) of S.R. 2001 No. 151, regulation 5 of S.R. 2002 No. 128, regulation 32(b) of S.R. 2003 No. 191, regulation 4(7) of S.R. 2005 No. 424, regulation 13(12)(b) of S.R. 2006 No. 359, regulation 4(14) of S.R. 2008 No. 112, regulation 19(25)(e) of S.R. 2008 No. 286, regulation 3(5) of S.R. 2008 No. 290, regulation 4(8)(b) of S.R. 2008 No. 428, regulation 2(10) of S.R. 2009 No. 141, regulation 7(8) of S.R. 2011 No. 135 and regulation 10(11)(b) of S.R. 2011 No. 357
  - (e) Paragraph 15 was amended by regulation 3(30)(d) of S.R. 2008 No. 413, regulation 14(10)(b), (c) and (d) of S.R. 2011 No. 135, regulation 21(15) of S.R. 2011 No. 357 and regulation 5(7) of S.R. 2011 No. 368

provided that, throughout that part of the qualifying period after the award of universal credit is made, receipt of universal credit is continuous and the claimant otherwise qualifies for the inclusion of an amount calculated under Schedule 5 to the Universal Credit Regulations in their award.

(6) For the purposes of—

- (a) paragraph (1)(b) of this regulation, inclusion of an amount in respect of housing costs in a relevant award is to be taken into account even if the relevant award subsequently terminated by virtue of an order made under Article 2(2) of the Order, regulation 5 or, as the case may be, regulation 6, before the date on which that amount was included in the award;
- (b) paragraph (5)(b) of this regulation, entitlement to a relevant award is to be treated as having continued until the relevant date even if the award subsequently terminated by virtue of an order made under Article 2(2) of the Order, regulation 5 or, as the case may be, regulation 6, before that date.

### **Sanctions: transition from old style ESA**

**31.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style ESA (“the ESA award”); and
- (b) on the relevant date, payments in respect of the ESA award were reduced under regulation 63 of the ESA Regulations 2008(b).

(2) In this regulation the “relevant date” means—

- (a) where the claimant was not entitled to old style ESA on the date on which the claim for universal credit was made or treated as made, the date on which the ESA award terminated;
- (b) where the claimant is not a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was made, that date;
- (c) where the claimant is a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was treated as made, that date.

(3) Where this regulation applies—

- (a) the failure which led to reduction of the ESA award (“the ESA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as a failure which is sanctionable under Article 32 of the Order;
- (b) the award of universal credit is to be reduced in relation to the ESA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and
- (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under Article 32 of the Order.

(4) The reduction period for the purposes of regulation 98(1) of the Universal Credit Regulations is a period of the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63(7) of the ESA Regulations 2008 in relation to the ESA failure, minus—

- (a) the number of days (if any) in that period in respect of which the amount of old style ESA was reduced; and

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- (a) Paragraph 14 was amended by regulation 2(3)(i) of S.R. 1995 No. 434, regulation 24(b) of S.R. 1996 No. 199, regulation 5(10)(b) of S.R. 1996 No. 405, regulation 16(3) of S.R. 1997 No. 541, regulation 3(5) of S.R. 1998 No. 182, regulation 8(4)(b) of S.R. 1998 No. 324, regulation 3 of S.R. 1999 No. 107, regulation 2(1) of S.R. 1999 No. 315, Article 7(11)(b)(i) and (ii) of S.R. 1999 No. 472 (C. 36), regulation 3(5) of S.R. 2000 No. 241, regulation 6 of S.R. 2001 No. 78, regulation 12(b)(ii)(bb) and (iv), regulation 5 of S.R. 2002 No. 128, regulation 24(6)(d) of S.R. 2003 No. 191, regulation 2(7) of S.R. 2005 No. 424, regulation 5(6)(b) of S.R. 2006 No. 359, regulation 2(9)(b)(ii) and (15) of S.R. 2008 No. 112, regulation 2(8)(b) of S.R. 2008 No. 248, regulation 12(11)(f) of S.R. 2008 No. 286 and regulation 3(7) of S.R. 2011 No. 135
  - (b) Regulation 63 was amended by regulation 10(8) of S.R. 2011 No. 265

- (b) if the ESA award terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.

(5) Accordingly, regulation 98 of the Universal Credit Regulations (general principles for calculating reduction periods) applies in relation to the ESA failure as if—

- (a) in paragraph (1) for “in accordance with regulations 99 to 102”; and
- (b) in paragraph (3) for “in accordance with regulations 100 to 102”,

there were substituted “in accordance with regulation 31 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.

(6) For the purposes of this regulation, a determination that payments in respect of the ESA award are to be reduced under regulation 63 of the ESA Regulations 2008 is to be taken into account even if the ESA award subsequently terminated (in so far as it was an award of income-related employment and support allowance) on a date before the date on which that determination was made, by virtue of an order made under Article 2(2) of the Order.

### **Escalation of sanctions: transition from old style ESA**

**32.—**(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style ESA.

(2) Where this regulation applies, for the purposes of determining the reduction period under regulation 101 of the Universal Credit Regulations (low-level sanction) in relation to a sanctionable failure by the claimant, other than a failure which is treated as sanctionable by virtue of regulation 31—

- (a) a reduction of universal credit in accordance with regulation 31; and
- (b) any reduction of old style ESA under the ESA Regulations 2008 which did not result in a reduction under regulation 31,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period which applies is the number of days which is equivalent to the length of the fixed period which applied under regulation 63 of the ESA Regulations 2008.

(3) In determining a reduction period under regulation 101 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 31 if, at any time after that reduction, the claimant was entitled to an existing benefit; and
- (b) a reduction of old style ESA under the ESA Regulations 2008 if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

### **Sanctions: transition from old style JSA**

**33.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style JSA (“the JSA award”);
- (b) on the relevant date, payments in respect of the JSA award were reduced under Article 21 (as it applied either before or after substitution by Article 52 of the Order) or Article 21A of the Jobseekers Order 1995<sup>120</sup>, or under regulation 69B of the JSA Regulations 1996(a)¶; and
- (c) if the JSA award was made to a joint-claim couple within the meaning of the Jobseekers Order 1995 and the reduction related to—

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(a) Regulation 69B was inserted by regulation 2(2) of S.R. 2016 No. 241

- (i) in the case of a reduction under Article 21 of the Jobseekers Order 1995 as it applied before substitution by the Order, circumstances relating to only one member of the couple, or
- (ii) in the case of a reduction under Article 21 of the Jobseekers Order 1995 as it applied after substitution by the Order, a sanctionable failure by only one member of the couple,

the award of universal credit was made to that person.

(2) In this regulation the “relevant date” means—

- (a) where the claimant was not entitled to old style JSA on the date on which the claim for universal credit was made or treated as made, the date on which the JSA award terminated;
- (b) where the claimant is not a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was made, that date; and
- (c) where the claimant is a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was treated as made, that date.

(3) Where this regulation applies—

- (a) the circumstances or failure which led to reduction of the JSA award (in either case, “the JSA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as—
  - (i) a failure which is sanctionable under Article 31 of the Order, where the reduction was under Article 21 of the Jobseekers Order 1995, or
  - (ii) a failure which is sanctionable under Article 32 of the Order, where the reduction was under Article 21A of the Jobseekers Order <sup>121</sup>1995 or regulation 69B of the JSA Regulations 1996<sup>122</sup>;
- (b) the award of universal credit is to be reduced in relation to the JSA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and
- (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under Article 31 or, as the case may be, Article 32 of the Order.

<sup>122</sup>(4) The reduction period for the purposes of the Universal Credit Regulations is a period of the number of days which is equivalent to the length of the period of reduction which is applicable to the person under regulation 69, 69A or 69B of the JSA Regulations 1996, minus—

- (a) the number of days (if any) in that period in respect of which the amount of old style JSA was reduced; and
- (b) if the award of old style JSA terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.

(5) Accordingly, regulation 98 of the Universal Credit Regulations applies in relation to the JSA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 99 to 102” there were substituted “in accordance with regulation 33 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.

(6) Where the JSA award was made to a joint-claim couple within the meaning of the Jobseekers Order 1995 and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of regulation 108 of the Universal Credit Regulations (daily reduction rate) is the amount calculated in accordance with regulation 70(3) of the JSA Regulations 1996<sup>(a)</sup> in respect of the JSA award, divided by 7 and rounded down to the nearest 10 pence, unless regulation 108(2) or (3) of the Universal Credit Regulations applies.

(7) Where the daily reduction rate is to be determined in accordance with paragraph 0, regulation 108(1) of the Universal Credit Regulations applies in relation to the JSA failure as if, for the words from “an amount equal to” to the end there were substituted the words “an amount

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(a) Regulation 70 was substituted by regulation 2(3) of S.R. 2016 No. xxx

determined in accordance with regulation 33 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.

(8) For the purposes of this regulation, a determination that payments in respect of the JSA award are to be reduced under regulation 69, 69A or 69B of the JSA Regulations 1996 is to be taken into account even if the JSA award subsequently terminated (in so far as it was an award of income-based jobseeker’s allowance) on a date before the date on which that determination was made, by virtue of an order made under Article 2(2) of the Order.◀

### **Escalation of sanctions: transition from old style JSA**

**34.**—(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style JSA.

(2) Where this regulation applies, for the purposes of determining the applicable reduction period under regulation 99 (higher-level sanction), 100 (medium-level sanction) or 101 (low-level sanction) of the Universal Credit Regulations in relation to a sanctionable failure by the person, other than a failure which is treated as sanctionable by virtue of regulation 33—

- (a) a reduction of universal credit in accordance with regulation 33; and
- (b) any reduction of old style JSA under Article 21 or Article 21A of the Jobseekers Order 1995▶<sup>123</sup>, or under regulation 69B of the JSA Regulations 1996◀ which did not result in a reduction under regulation 33,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period is the number of days which is equivalent to the length of the period which applied under regulation 69▶<sup>124</sup>, 69A or 69B◀ of the JSA Regulations 1996.

(3) In determining a reduction period under regulation 99, 100 or 101 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 33 if, at any time after that reduction, the claimant was entitled to an existing benefit; and
- (b) a reduction of old style JSA under Article 21 or Article 21A of the Jobseekers Order 1995▶<sup>125</sup>, or under regulation 69B of the JSA Regulations 1996◀ if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

### **Sanctions: temporary return to certain existing benefits**

**35.** If an award of universal credit terminates while there is an outstanding reduction period (within the meaning of regulation 104 of the Universal Credit Regulations (reduction period to continue where award terminates)) and the claimant becomes entitled to old style JSA, old style ESA or income support (“the relevant benefit”) during that period—

- (a) regulation 104 of the Universal Credit Regulations ceases to apply; and
- (b) the reduction period is to terminate on the first date of entitlement to the relevant benefit.

### **Loss of benefit penalties: transition from existing benefits other than tax credits**

**36.**—(1) Subject to paragraph (6), this regulation applies in the cases set out in paragraphs (2) to (4).

(2) The first case is where—

- (a) an award of universal credit is made to a claimant who is an offender;
- (b) the claimant was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under Article 2(2) of the Order or, as the case may be, the effect of these Regulations); and

- (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 5B (loss of benefit in case of conviction, penalty or caution for benefit offence), 6 (repeated benefit fraud) or 7 (effect of offence on joint-claim jobseeker's allowance) of the Fraud Act 2001.

(3) The second case is where—

- (a) an award of universal credit is made to a claimant who is an offender;
- (b) another person who was the offender's family member (but is no longer their family member) was entitled to old style JSA, old style ESA, income support or housing benefit ("the earlier award") at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
- (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 8 (effect of offence on benefits for members of offender's family) of the Fraud Act 2001.

(4) The third case is where—

- (a) an award of universal credit is made to a claimant who is an offender's family member;
- (b) the offender, or the claimant, was entitled to old style JSA, old style ESA, income support or housing benefit ("the earlier award") at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
- (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 5B, 6, 7 or, as the case may be, 8 of the Fraud Act 2001.

(5) Where this regulation applies—

- (a) any subsequent payment of universal credit to the claimant in respect of an assessment period which falls wholly or partly within the remainder of the disqualification period applicable to the offender is to be reduced in accordance with regulation 37; and
- (b) regulation 3ZB of the Loss of Benefit Regulations 2002(a) does not apply.

(6) This regulation does not apply if the earlier award was a joint-claim jobseeker's allowance and—

- (a) payments in respect of the award were, on the relevant date, subject to a restriction under section 7(2) of the Fraud Act 2001; or
- (b) the award of universal credit is not made to joint claimants who were, on the relevant date, both entitled to the joint-claim jobseeker's allowance.

(7) In this regulation and in regulation 37—

"the Fraud Act 2001" means the Social Security Fraud Act (Northern Ireland) 2001(b);

"the Loss of Benefit Regulations 2002" means the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002(c);

"disqualification period" has the meaning given in section 5B and 6 of the Fraud Act 2001, interpreted in accordance with regulations 1A and 2 of the Loss of Benefit Regulations 2002(d);

"earlier award" is to be interpreted in accordance with paragraph (2)(b), (3)(b) or, as the case may be, (4)(b) and, for the purposes of regulation 37, where there is more than one earlier award, the term refers to the award to which the claimant became entitled most recently;

"offender" means an offender within the meaning of sections 5B(1), 6(1), and 8(2)(c) of the Fraud Act 2001;

"offender's family member" has the same meaning as in section 8(2)(a) of the Fraud Act 2001;

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(a) Regulation 3ZB was inserted by regulation 9 of S.R. 2016 No. xxx

(b) 2001 c.17 (N.I.)

(c) S.R. 2002 No. 79

(d) Regulation 1A was inserted and regulation 2 was substituted by regulation 2(3) of S.R. 2011 No. 291

“the relevant date” means—

- (a) in relation to the first case—
  - (i) where the claimant was not entitled to the earlier award on the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated,
  - (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date,
  - (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date;
- (b) in relation to the second case, the date on which the person entitled to the earlier award ceased to be the offender’s family member or, if the award terminated before that date, the date on which the earlier award terminated;
- (c) in relation to the third case—
  - (i) where the claimant was entitled to the earlier award but that entitlement terminated before the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated,
  - (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date,
  - (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date,
  - (iv) where the offender’s family member was entitled to the earlier award, the date on which that person ceased to be the offender’s family member or, if earlier, the date on which the earlier award terminated.

(8) For the purposes of this regulation, the fact that payments in respect of an earlier award were subject to a restriction is to be taken into account, even if the earlier award subsequently terminated before the date on which payments became subject to a restriction by virtue of an order made under Article 2(3) of the Order (in so far as it was an award of income-based jobseeker’s allowance or income-related employment and support allowance), regulation 5 or, as the case may be, regulation 6.

### **Loss of benefit penalties: reduction of universal credit**

**37.**—(1) Subject to paragraph (6) and to regulation 39, where regulation 36 applies, the amount of a reduction of universal credit in respect of an assessment period is to be calculated by multiplying the daily reduction rate by the number of days in the assessment period, unless paragraph (2) applies.

(2) Where the disqualification period ends during an assessment period, the amount of the reduction for that assessment period is (subject to paragraph (6)) to be calculated by multiplying the daily reduction rate by the number of days in the assessment period which are within the disqualification period.

(3) Subject to paragraphs (4) and (5), the daily reduction rate where regulation 36 applies is an amount which is equal to—

- (a) the monetary amount by which payments in respect of the earlier award were reduced in accordance with section 5B or 6 of the Fraud Act 2001 or, as the case may be, regulation 3, 3ZA(a) or 17 of the Loss of Benefit Regulations 2002 in respect of the last complete week before the relevant date (within the meaning of regulation 36);
- (b) multiplied by 52;
- (c) divided by 365; and
- (d) rounded down to the nearest 10 pence.

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(a) Regulation 3ZA was inserted by regulation 8 of S.R. 2016 No. xxx



(4) Where the monetary amount by which payments in respect of the earlier award would have been reduced would, if the claimant had remained entitled to the earlier award, have changed during the disqualification period because of an order made under section 132 of the Social Security Administration (Northern Ireland) Act 1992 (annual up-rating of benefits)—

- (a) the daily reduction rate is to be calculated in accordance with paragraph (3), but on the basis of the new amount by which payments would have been reduced; and
- (b) any adjustment to the reduction of universal credit is to take effect from the first day of the first assessment period to start after the date of the change.

(5) Where the earlier award was a joint-claim jobseeker's allowance, the daily reduction rate is an amount which is equal to—

- (a) the amount of the standard allowance<sup>(a)</sup> applicable to the joint claimants under regulation 38 of the Universal Credit Regulations (table showing amounts of elements);
- (b) multiplied by 12;
- (c) divided by 365;
- (d) reduced by 60%; and
- (e) rounded down to the nearest 10 pence.

(6) The amount of the reduction under this regulation in respect of any assessment period is not to exceed the amount of the standard allowance which is applicable to the claimant in respect of that period.

#### **Loss of benefit penalties transition from working tax credit**

**38.**—(1) This regulation applies where an award of universal credit is made to a claimant who—

- (a) was previously entitled to working tax credit; and
- (b) is an offender, within the meaning of sections 36A or 36C of the Tax Credits Act 2002<sup>(b)</sup>.

(2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 apply as if in regulation 3ZB of those Regulations—

- (a) in paragraph (1) at the beginning there were inserted “Subject to regulation 39 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016,”;
- (b) “disqualification period” includes a disqualification period within the meaning of sections 36A(6) and 36C(5) of the Tax Credits Act 2002;
- (c) “offender” includes an offender within the meaning of the Tax Credits Act 2002; and
- (d) “offender's family member” includes a person who is a member of the family (within the meaning of section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(c)</sup>) of a person who is an offender within the meaning of the Tax Credits Act 2002.

#### **Loss of benefits penalties maximum total reduction**

**39.** Where regulations 36 and 38 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under—

- (a) regulation 37; and
- (b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002,

must not exceed the amount of the standard allowance<sup>(d)</sup> which is applicable to the claimant in respect of that period.

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(a) See Article 14 of the Order

(b) Sections 36A and 36C were inserted by section 120 of the Welfare Reform Act 2012 (c. 5)

(c) 1992 c. 4; The definition of “family” was amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c.33)

(d) See Article 14 of the Order

►<sup>126</sup>PART 3

ARRANGEMENTS REGARDING CHANGES TO THE CHILD ELEMENT

►<sup>127</sup>◄

►<sup>128</sup>◄

**Availability of the child element where maximum exceeded – continuation of exception from a previous award of child tax credit, income support or old style JSA**

**42.—**(1) Where—

- (a) the claimant (“C”) is the step-parent of a child or qualifying young person (“A”); and
- (b) within the 6 months immediately preceding the first day on which C became entitled to an award of universal credit, C had an award of child tax credit, income support or old style JSA in which an exception corresponding with an exception under paragraph 2, 3, 5 or 6 of Schedule 12 to the Universal Credit Regulations<sup>(a)</sup> (availability of the child element where maximum exceeded – exceptions) applied in respect of A,

paragraph 6 of that Schedule is to apply as if sub-paragraph (c) of that paragraph were satisfied, despite the fact that the previous award was not an award of universal credit.

(2) In this regulation “step-parent” has the same meaning as in the Universal Credit Regulations.

**Evidence for non-consensual conception where claimant previously had an award of child tax credit**

**43.—**(1) This regulation applies for the purposes of paragraph 5 of Schedule 12 to the Universal Credit Regulations (exception for non-consensual conception).

(2) The Department may treat the condition in sub-paragraph (3)(a) of paragraph 5 as met if the Department is satisfied that the claimant has previously provided the evidence referred to in that sub-paragraph to the Commissioners for her Majesty’s Revenue and Customs for the purposes of the corresponding exception in relation to child tax credit.

**Abolition of higher amount of the child element for first child or qualifying young person – saving where claimant responsible for a child or qualifying young person born before 6th April 2017**

**44.** Article 10(5)(b) of the Welfare Reform and Work (Northern Ireland) Order 2016<sup>(b)</sup> (which amends the Universal Credit Regulations by omitting the amount of the child element payable for the first child or qualifying young person) does not apply where the claimant is responsible for a child or qualifying young person born before 6th April 2017.◄

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(a) Schedule 12 is inserted by regulation 2(4) of these Regulations.

(b) S.I. 2016/999 (N.I. 1).

## ►<sup>129</sup>PART 4

### MANAGED MIGRATION TO UNIVERSAL CREDIT

#### *The Migration Process*

#### **Migration Notice**

**45.**—(1) The Department may, at any time, issue a notice (“a migration notice”) to a person who is entitled to an award of an existing benefit—

- (a) informing the person that all awards of any existing benefits to which they are entitled are to terminate and that they will need to make a claim for universal credit; and
- (b) specifying a day (“the deadline day”) by which a claim for universal credit must be made.

(2) The migration notice may contain such other information as the Department considers appropriate.

(3) The deadline day must not be within the period of three months beginning with the day on which the migration notice is issued.

(4) If the person who is entitled to an award of an existing benefit is, for the purposes of that award, a member of a couple or a member of a polygamous marriage, the Department must also issue the migration notice to the other member (or members).

(5) The Department may cancel a migration notice issued to any person—

- (a) if it has been issued in error►<sup>130</sup>or◄
- (b) ►<sup>131</sup>◄
- (c) in any other circumstances where the Department considers it necessary to do so in the interests of the person, or any class of person, or to safeguard the efficient administration of universal credit.
- (6) A “notified person” is a person to whom a migration notice has been issued. ►<sup>132</sup>
- (7)◄

#### **Extension of the deadline day**

**46.**—(1) The Department may determine that the deadline day should be changed to a later day either—

- (a) on the Department’s own initiative; or
- (b) if a notified person requests such a change before the deadline day,

where there is a good reason to do so.

(2) The Department must inform the other notified person or persons of the new deadline day.

#### **Termination of existing benefits if no claim before the deadline**

**47.**—(1) Where a notified person has not made a claim for universal credit on or before the deadline day, all awards of any existing benefits to which the person is entitled terminate—

- (a) in the case of housing benefit►<sup>133</sup>in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations(a) or regulation 13 of the Housing Benefit (State Pension Credit) Regulations(b),►<sup>134</sup>income support, income-based jobseeker’s allowance or income-related employment and support allowance◄, on the last day of the period of two weeks beginning with the deadline day; and

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(a) S.R. 2006 No. 405  
(b) S.R. 2006 No. 406

(b) in the case of <sup>135</sup>housing benefit in the form of a rate rebate awarded in accordance with regulation 12 of the Housing Benefit Regulations or regulation 12 of the Housing Benefit (State Pension Credit) Regulations or <sup>136</sup>a tax credit, on the day before the deadline day.

(2) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.

(3) Where paragraph (1) applies and the notified person makes a claim for universal credit—

(a) after the deadline day; and

(b) on or before the final deadline specified in paragraph (4),

then, notwithstanding anything in regulation 25 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) as modified by regulation 14 of these Regulations, the award is to commence on the deadline day.

(4) The final deadline is the day that would be the last day of the first assessment period in relation to an award commencing on the deadline day.

(5) <sup>137</sup>

### **Notified persons who claim as a different benefit unit**

48. <sup>138</sup>

#### *Transitional Protection*

### **Meaning of “qualifying claim”**

49. A “qualifying claim” is a claim for universal credit by a single claimant who is a notified person or by joint claimants, both of whom are notified persons, where the claim is made on or before the final deadline (see regulation 47(4)).

### **Meaning of “migration day”**

50. “Migration day”, in relation to a qualifying claim, means the day before the first day on which the claimant is entitled to universal credit in connection with that claim.

### **Department to determine whether transitional protection applies**

51.—(1) Before making a decision on a qualifying claim the Department must first determine whether—

(a) a transitional capital disregard is to apply; or

(b) a transitional element is to be included,

(or both) in the calculation of the award.

(2) But the Department is not to determine whether a transitional element is to be included in a case <sup>139</sup>where—

(a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or

(b) notified persons who were single for the purposes of an award of an existing benefit when the migration notice was issued are a couple for the purposes of a claim for universal credit; or

(c) notified persons who were members of a polygamous marriage for the purposes of an award of an existing benefit when the migration notice was issued are a couple or single persons for the purposes of a claim for universal credit. <sup>140</sup>

### **The transitional capital disregard**

- 52.**—(1) A transitional capital disregard is to apply where, on the migration day, the claimant—
- (a) is entitled to an award of a tax credit; and
  - (b) has capital exceeding £16,000.
- (2) Where a transitional capital disregard applies, any capital exceeding £16,000 is to be disregarded for the purposes of—
- (a) determining whether the financial condition in Article 10(1)(a) or (2)(a) of the Order (capital limit) is met; and
  - (b) calculating the amount of an award of universal credit (including the indicative UC amount).
- (3) Where a transitional capital disregard has been applied in the calculation of an award of universal credit but, in any assessment period, the claimant no longer has (or joint claimants no longer have) capital exceeding £16,000, the transitional capital disregard is not to apply in any subsequent assessment period.
- (4) A transitional capital disregard is not to apply for more than 12 assessment periods.

### **The transitional element**

- 53.**—(1) A transitional element is to be included in the calculation of an award if the total amount of any awards of existing benefits determined in accordance with regulation 54 (“the total legacy amount”) is greater than the amount of an award of universal credit determined in accordance with regulation 55 (“the indicative UC amount”).
- (2) Where a transitional element is to be included in the calculation of an award, the amount of that element is to be treated for the purposes of Article 13 of the Order (calculation of awards), as if it were an additional amount to be included in the maximum amount under Article 13(2) before the deduction of income under Article 13(3).

### **The transitional element - total legacy amount**

- 54.**—(1) The total legacy amount is the sum of the representative monthly rates of all awards of any existing benefits to which a claimant is, or joint claimants are, entitled on the migration day.

#### *Tax credits*

- (2) To calculate the representative monthly rate of an award of working tax credit or child tax credit—
- (a) take the figure for the daily rate of the award on the migration day provided by HMRC and calculated on the basis of the information as to the claimant’s circumstances held by HMRC on that day; and
  - (b) convert to a monthly figure by multiplying by 365 and dividing by 12.
- (3) For the purposes of paragraph (2)(a) “the daily rate” is—
- (a) in a case where section 13(1) of the Tax Credits Act 2002<sup>(a)</sup> applies (relevant income does not exceed the income threshold or the claimant is entitled to a prescribed social security benefit), the maximum rate of each element to which the claimant is entitled on the migration day divided by 365; and
  - (b) in any other case, the rate that would be produced by applying regulations 6 to 9 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002<sup>(b)</sup> as if the migration day were a relevant period of one day.

#### *IS, JSA(IB) and ESA(IR)*

- (4) To calculate the representative monthly rate of an award of income support, income-based jobseeker’s allowance or income-related employment and support allowance—

<sup>(a)</sup> 2002 c.21.

<sup>(b)</sup> S.I. 2002/2008. Relevant amending instruments are S.I. 2008/796, 2011/1035, 2012/849 and 2015/451.

(a) take the weekly rate on the migration day calculated in accordance with—

(i) in the case of income support, Part 7 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(a)</sup> and the Income Support (General) Regulations (Northern Ireland) 1987<sup>(b)</sup>,

(ii) in the case of income-based jobseeker's allowance, Part 1 of the Jobseekers Order 1995<sup>(c)</sup> and the JSA Regulations 1996<sup>(d)</sup>, or

(iii) in the case of income-related employment and support allowance, Part 1 of the 2007 Act<sup>(e)</sup>, the ESA Regulations 2008<sup>(f)</sup> and the ESA (Transitional Provisions) Regulations 2010<sup>(g)</sup>,

on the basis of the information held by the Department on that day; and

(b) convert to a monthly figure by multiplying by 52 and dividing by 12.

(5) The amount of an award of income-based jobseeker's allowance or income-related employment and support allowance is to be calculated before any reduction for a sanction.

(6) Where —

(a) a claimant who is entitled to income-based jobseeker's allowance is also entitled to contribution-based jobseeker's allowance; or

(b) a claimant who is entitled to income-related employment and support allowance is also entitled to a contributory allowance,

then, notwithstanding Article 6(8) to (11) of the Jobseekers Order 1995 and section 6(3) to (7) of the 2007 Act (excess over the contributory allowance to be treated as attributable to the income-based, or income-related, allowance) the weekly rate in paragraph (4) is to be calculated as the applicable amount<sup>(h)</sup> less the claimant's income (if any).

*Housing benefit*

(7) To calculate the representative monthly rate of an award of housing benefit<sup>140</sup>, in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations or regulation 13 of the Housing Benefit (State Pension Credit) Regulations<sup>141</sup>,—

(a) take the weekly rate on the migration day calculated in accordance with Part 7 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Housing Benefit Regulations, on the basis of the information held by the Department on that day, and convert to a monthly figure by multiplying by 52 and dividing by 12; or

(b) in a case where the claimant has rent free periods, calculate the annual rate by multiplying the weekly rate (as above) by the number of weeks in the year in respect of which the claimant is liable to pay rent, and convert to a monthly figure by dividing by 12.

(8) For the purposes of paragraph (7), if the migration day falls in a rent free period, the weekly rate of housing benefit is to be calculated by reference to the amount of rent for the last complete week that was not a rent free period.

(9) In paragraphs (7) and (8) “rent free period” has the meaning in regulation 79 of the Housing Benefit Regulations.

(10) In a case where regulation 6(3) (continuation of housing benefit in respect of specified accommodation or temporary accommodation) applies, no amount is to be included in the total legacy amount<sup>141</sup> for housing benefit in respect of specified or temporary accommodation.<sup>142</sup>

(a) 1992 c.7 (N.I.).

(b) S.R. 1987 No. 459.

(c) S.I. 1995/2705 (N.I. 15).

(d) S.R. 1996 No. 198.

(e) 2007 c.2 (N.I.).

(f) S.R. 2008 No. 280.

(g) S.R. 2010 No. 312.

(h) See Article 6 of the Jobseekers Order 1995 and section 6 of the 2007 Act for the meaning of “applicable amount”.

*The benefit cap*

(11) Where—

- (a) the existing benefits do not include an award of housing benefit or they include an award of housing benefit<sup>142</sup>, in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations or regulation 13 of the Housing Benefit (State Pension Credit) Regulations,<sup>143</sup> that has been reduced to the minimum amount by virtue of Part 8A of the Housing Benefit Regulations (the benefit cap);
- (b) Part 7 of the Universal Credit Regulations (the benefit cap) applies in the calculation of the indicative UC amount; and
- (c) the claimant's total entitlement to welfare benefits (as defined in Article 101(7) of the Order)<sup>(a)</sup> on the migration day is greater than the relevant amount,  
the total legacy amount is reduced by the excess (minus the amount for childcare costs referred to in regulation 55(2)(b) where applicable) over the relevant amount.

(12) For the purposes of paragraph (11)—

- (a) the amount of each welfare benefit is the monthly equivalent calculated in the manner set out in regulation 73 (unearned income calculated monthly) of the Universal Credit Regulations; and
- (b) the “relevant amount” is the amount referred to in regulation 80A of those Regulations<sup>(b)</sup> which is applicable to the claimant.

**The transitional element - indicative UC amount**

**55.**—(1) The indicative UC amount is the amount to which a claimant would be entitled if an award of universal credit were calculated in accordance with Article 13 of the Order by reference to the claimant's circumstances on the migration day, applying the assumptions in paragraph (2).

(2) The assumptions are—

- (a) if the claimant is entitled to an award of child tax credit, the claimant is responsible for any child or qualifying young person in respect of whom the individual element of child tax credit is payable;
- (b) if the claimant is entitled to an award of working tax credit that includes the childcare element, the indicative UC amount includes the childcare costs element and, for the purposes of calculating the amount of that element, the amount of the childcare costs is equal to the relevant weekly childcare charges included in the calculation of the daily rate referred to in regulation 54(2), converted to a monthly amount by multiplying by 52 and dividing by 12;
- (c) the amount of the claimant's earned income is—
  - (i) if the claimant is entitled to an award of a tax credit, the annual amount of any employment income or trading income, as defined by regulation 4 or 6 respectively of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(c)</sup>, by reference to which the representative monthly rate of that tax credit is calculated for the purposes of regulation 54(2) converted to a net monthly amount by—
    - (aa) dividing by 12, and
    - (bb) deducting such amount for income tax and national insurance contributions as the Department considers appropriate;
  - (ii) if paragraph (i) does not apply and the claimant is entitled to an award of income support, income-based jobseeker's allowance or income-related employment and support allowance, the amount of earnings by reference to which the representative

(a) The definition of welfare benefit was amended by Article 5(4) of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)).

(b) Regulation 80A was inserted by regulation 3(4) of S.R. 2016 No. 375.

(c) S.I.2002/2006.

monthly rate of that benefit was calculated for the purposes of regulation 54(4) to (6) (including nil if none were taken into account) converted to a monthly amount by multiplying by 52 and dividing by 12, or

(iii) if paragraphs (i) and (ii) do not apply, but the claimant had an award of housing benefit, the amount of earnings by reference to which the representative monthly rate of that benefit was calculated for the purposes of regulation 54(7) to (10) (including nil if none were taken into account) converted to a monthly amount by multiplying by 52 and dividing by 12.

(3) If the claimant would not meet the financial condition in Article 10(1)(b) of the Order (or, in the case of joint claimants, they would not meet the condition in Article 10(2)(b) of the Order) the claimant is to be treated, for the purposes of calculating the indicative UC amount, as if they were entitled to an award of universal credit of a nil amount.

(4) If a transitional capital disregard is to apply, the claimant is to be treated as having met the financial condition in Article 10(1)(a) or (2)(a) of the Order (capital limit).

(5) The indicative UC amount is to be calculated after any reduction under Part 7 of the Universal Credit Regulations (the benefit cap) but before any reduction under Article 31 (higher-level sanctions) or 32 (other sanctions) of the Order.

(6) But there is to be no reduction for the benefit cap under that Part where the amount of the claimant's earned income (or, in the case of a couple their combined earned income) on the migration day, calculated in accordance with paragraph (2)(c), is equal to or exceeds the amount specified in regulation 82(1)(a) of the Universal Credit Regulations (exceptions – earnings)(a).

(7) The calculation of the indicative UC amount is to be based on information that is used for the purposes of calculating the total legacy amount, supplemented as necessary by such further information or evidence as the Department requires.

### **The transitional element – initial amount and adjustment where other elements increase**

**56.—**(1) The initial amount of the transitional element is—

- (a) if the indicative UC amount is greater than nil, the amount by which the total legacy amount exceeds the indicative UC amount; or
- (b) if the indicative UC amount is nil, the total legacy amount plus any amount by which the income which fell to be deducted in accordance with Article 13(3) of the Order exceeded the maximum amount.

(2) The amount of the transitional element to be included in the calculation of an award is—

- (a) for the first assessment period, the initial amount;
- (b) for the second assessment period, the initial amount reduced by the sum of any relevant increases in that assessment period;
- (c) for the third and each subsequent assessment period, the amount that was included for the previous assessment period reduced by the sum of any relevant increases (as in subparagraph (b)).

(3) If the amount of the transitional element is reduced to nil in any assessment period, a transitional element is not to apply in the calculation of the award for any subsequent assessment period.

(4) A “relevant increase” is<sup>143</sup>, subject to paragraph (5),<sup>144</sup> an increase in any of the amounts that are included in the maximum amount under Articles 14 to 17 of the Order (including any of those amounts that is included for the first time)(b), apart from the childcare costs element.

(a) Regulation 82(1)(a) was amended by regulation 2(3)(a) of S.R. 2017 No. 145

(b) Article 15 was amended by Article 10(2), (3) and (4) of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)), Article 16 was amended by Article 15(10) of that Order and Article 17 was amended by Article 11 of that Order.



►<sup>144</sup>(5) In cases where the LCW is replaced by the LCWRA element, the “relevant increase” is to be treated as the difference between the amounts of those elements.

(6) In this regulation “LCW element”(a) and “LCWRA element” have the same meaning as in regulation 2 of the Universal Credit Regulations.◀

*Ending of transitional protection*

**Circumstances in which transitional protection ceases**

**57.**—(1) A transitional capital disregard or a transitional element does not apply in any assessment period to which paragraph (2) or (4) applies, or in any subsequent assessment period.

*Cessation of employment or sustained drop in earnings*

(2) This paragraph applies to an assessment period if the following condition is met—

(a) in the case of a single claimant—

(i) it is the assessment period after the third consecutive assessment period in which the claimant’s earned income is less than the amount specified in regulation 97(14)(a) of the Universal Credit Regulations (“the single administrative threshold”), and

(ii) in the first assessment period of the award, the claimant’s earned income was equal to or more than that threshold; or

(b) in the case of joint claimants—

(i) it is the assessment period after the third consecutive assessment period in which their combined earned income is less than the amount specified in regulation 97(14)(b) of the Universal Credit Regulations (“the couple administrative threshold”), and

(ii) in the first assessment period of the award, their combined earned income was equal to or more than that threshold.

(3) ►<sup>145</sup> For the purposes of paragraph (2)—

(a) references to the amount specified in regulation 97(14)(a) and 97(14)(b) respectively of the Universal Credit Regulations (Northern Ireland) 2016 are to the amount that was applicable on the first day of the award; and

(b) a claimant is to be treated as having earned income that is equal to or more than the single administrative threshold and the couple administrative threshold respectively in any assessment period in respect of which regulation 63 (minimum income floor) of the Universal Credit Regulations (Northern Ireland) 2016 applies to that claimant or would apply but for regulation 63(6) of those Regulations (minimum income floor not to apply in a start-up period).◀

*Couple separating or forming*

(4) This paragraph applies to an assessment period in which—

(a) joint claimants cease to be a couple or become members of a different couple; or

(b) a single claimant becomes a member of a couple, unless it is a case where the person may, by virtue of regulation 3(2) of the Universal Credit Regulations (claimant with an ineligible partner), claim as a single person.

**Application of transitional protection to a subsequent award**

**58.**—(1) Where—

(a) a transitional capital disregard is applied, or a transitional element is included, in the calculation of an award, and that award terminates; or

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(a) The LCW element was abolished from 3rd April 2017 by S.R. 2017 No. 146 but is saved for certain claimants by transitional provisions as set out in Schedule 2 to S.R. 2017 No.146

(b) the Department determines (in accordance with regulation 51) that a transitional capital disregard is to apply, or a transitional element is to be included in the calculation of an award, but the decision on the qualifying claim is that there is no entitlement to an award,

no transitional capital disregard is to apply and no transitional element is to be included in the calculation of any subsequent award unless paragraph (2) applies.

(2) This paragraph applies if—

(a) the reason for the previous award terminating or, as the case may be, there being no entitlement to an award, was that the claimant (or joint claimants) had earned income on account of which the financial condition in Article 10(1)(b) or (2)(b) of the Order (income is such that the amount payable is at least 1p) was not met; and

(b) the claimant becomes entitled to an award within the period of three months beginning with—

(i) where paragraph (1)(a) applies, the last day of the month that would have been the final assessment period of the previous award (had it not terminated), or

(ii) where paragraph (1)(b) applies, the day that would have been the last day of the first assessment period had there been entitlement to an award.

(3) Where paragraph (2) applies in a case where a previous award has terminated, the new award is to be treated for the purposes of regulation 52 (transitional capital disregard), 56 (transitional element – initial amount and adjustment where other elements increase) and 57 (circumstances in which transitional protection ceases) as if it were a continuation of that award.

#### *Miscellaneous*

#### **Qualifying claim – Department may set later commencement day**

**59.** Where the Department decides a qualifying claim, and it is not a case where the award is to commence before the date of claim by virtue of regulation 47(3)<sup>146</sup> (claim made by the final deadline) or regulation 25 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made)(a) as modified by regulation 14 of these Regulations, the Department may determine a day on which the award of universal credit is to commence that is after, but no more than one month after, the date of claim.

#### **Minimum income floor not to apply for first 12 months**

<sup>147</sup>60.4

#### **Protection for full-time students until course completed**

**61.**—(1) Where a notified person does not meet the basic condition in Article 9(1)(d) of the Order (not receiving education) on the day on which all awards of any existing benefit are to terminate as a consequence of a claim for universal credit because the person is undertaking a full-time course (see regulation 12(2) and 13 of the Universal Credit Regulations), that condition is not to apply in relation to the notified person while they are continuing to undertake that course.

<sup>148</sup>(2) Paragraph (1) does not apply to any assessment period in respect of which a transitional element or transitional capital disregard would (if the claimant had been entitled to that element or that disregard) have ceased to apply by virtue of regulation 57 (circumstances in which transitional protection ceases) or regulation 58 (application of transitional protection to a subsequent award).4

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(a) S.R. 2016 No. 220.

## **Rounding**

**62.** Regulation 7 of the Universal Credit Regulations (rounding)(a) applies for the purposes of calculating any amount under this Part.

## **Effect of revision, appeal etc. of an award of an existing benefit**

**63.**—(1) Nothing in regulation 54 (total legacy amount) or 55 (indicative UC amount) requiring a calculation in relation to the transitional element to be made on the basis of information held on the migration day prevents the Department from revising or superseding a decision in relation to a claim for, or an award of, universal credit where—

(a) in the opinion of the Department, the information held on that day was inaccurate or incomplete in some material respect because of—

- (i) a misrepresentation by a claimant,
- (ii) a failure to report information that a claimant was required to report where that failure was advantageous to the claimant, or
- (iii) an official error; or

(b) a decision has been made on or after the migration day on—

- (i) an application made before migration day to revise or supersede a decision in relation to an award of an existing benefit (including the report of a change of circumstances), or
- (ii) an appeal in relation to such an application.

(2) In this regulation “official error” means an error that—

(a) was made by an officer of, or an employee of a body acting on behalf of, the Department, HMRC or the Northern Ireland Housing Executive; and

(b) was not caused, or materially contributed to, by any person outside that body or outside the Department, HMRC or the Northern Ireland Housing Executive,

but excludes any error of law which is shown to have been such by a subsequent decision of the Commissioner or of a court as defined in Article 27(7) of the Social Security Order 1998(b).

## **Claimants previously entitled to a severe disability premium**

**64.** ▶<sup>149</sup>Schedules 2 and 3◀ contain provision in respect of certain claimants who have been entitled to a benefit which included a severe disability premium.

## **Discretionary hardship payments**

**65.** ▶<sup>150</sup>◀

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

5th May 2016

*Freud*  
Minister of State  
Department for Work and Pensions

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(a) Regulation 7 was amended by regulation 2(2) of S.R. 2017 No. 142, regulation 2(2) of S.R. 2017 No. 145 and regulation 3(2) of S.R. 2018 No. 187.

(b) The definition of “court” was amended by paragraph 67 of Schedule 9 to the Constitutional Reform Act 2005 (c.4).

►<sup>151</sup>SCHEDULE 1◀

Regulation 11

MODIFICATION OF TAX CREDITS LEGISLATION  
(FINALISATION OF TAX CREDITS)**Modifications to the Tax Credits Act 2002**

1. Paragraphs 2 to 10 prescribe modifications to the application of the Tax Credits Act 2002 where regulation 11 of these Regulations applies.

2. In section 7 (income test)—

(a) in subsection (3) before “current year income” in each place where it occurs, insert “notional”;

(b) ►<sup>152</sup>◀

(c) after subsection (4) insert—

“(4A) In this section “the notional current year income” means—

(a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the part tax year to which the claim relates, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence; and

(b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that part tax year, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence.”.

3. In section 17 (final notice)—

(a) in subsection (1)—

(i) omit “the whole or”; and

(ii) in sub-paragraph (a) before “tax year” insert “part”;

(b) in subsection (3) before “tax year” insert “part”;

(c) in subsections (4)(a) and (4)(b) for “current year” in both places where it occurs, substitute “current part year”;

(d) in subsection (5)(a) for “current year” in both places where it occurs substitute “current part year”;

(e) omit subsection (8).

4. In section 18 (decisions after final notice)—

(a) in subsection (1), before “tax year” insert “part”;

(b) omit subsections (6) to (9);

(c) in subsection (10) for “subsection (1), (5), (6) or (9)” substitute “subsection (1) or (5)”;

(d) in subsection (11)—

(i) after “subsection (5)” omit “or (9)”;

(ii) omit paragraph (a);

(iii) in paragraph (b) omit “in any other case.”;

(iv) before “tax year” in each place where it occurs, insert “part”.

5. In section 19 (power to enquire)—

(a) in subsection (1)(a) and (b), before “tax year” insert “part”;

(b) in subsection (3) before “tax year” insert “part”;

(c) for subsection (5) substitute—

“(5) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the part tax year.”;

(d) for subsection (6) substitute—

“(6) “The relevant section 17 date” means the date specified for the purposes of subsection (4) of section 17 in the notice given to a person or persons under that section in relation to the part tax year.”;

(e) in subsection (11) before “tax year” insert “part”;

(f) in subsection (12) before “tax year” in each place where it occurs, insert “part”.

**6. In section 20 (decisions on discovery)—**

(a) in subsection (1) before “tax year” insert “part”;

(b) in subsection (4)(a) before “tax year” insert “part”;

(c) in subsection (5)(b) before “tax year” insert “part”;

(d) in subsection (6)—

(i) before “tax year” insert “part”;

(ii) in paragraph (a) for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”;

(e) in subsection (7), before “tax year” in each place where it occurs, insert “part”.

**7. In section 21 (decisions subject to official error) for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”.**

**8. In section 23 (notice of decisions)—**

(a) in subsection (1) for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”;

(b) in subsection (3)—

(i) after “18(1)” omit “or (6)”;

(ii) for paragraph (b) substitute—

“(b) the notice of the decision under subsection (1) of section 18.”.

**9. In section 30(1) (underpayments) before “tax year” in each place where it occurs, insert “part”.**

**10. In section 38 (appeals)—**

(a) in subsection (1)(b) before “tax year” insert “part”;

(b) for subsection (2) substitute—

“(2) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the tax credit for the part tax year.”.

### **Modifications to the Tax Credits (Definition and Calculation of Income) Regulations**

**11. Paragraphs 12 to 23 prescribe modifications to the application of the Tax Credits (Definition and Calculation of Income) Regulations 2002(a) where regulation 11 of these Regulations applies.**

**12. In regulation 2(2) (interpretation) after the definition of “the Macfarlane Trusts” insert—**

““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated;”.

**13. In regulation 3 (calculation of income of claimant)(b)—**

(a) in paragraph (1)—

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(a) S.I. 2002/2006.

(b) Regulation 3 was amended by S.I. 2003/732 and 2815, 2006/745 and 766, 2007/824 and 1305 and 2014/658.

- (i) before “tax year” insert “part”;
- (ii) in Steps 1 and 2 after “of the claimant, or, in the case of a joint claim, of the claimants” insert “received in or relating to the part tax year”;
- (iii) in the second and third sentences of Step 4, before “year” insert “part”;
- (b) in paragraph (6A)(a) for the words from “ending on 31st March” to the end, substitute “ending on the last day of the month in which the claimant’s award of a tax credit terminated”;
- (c) in paragraph (8)(b) before “year” insert “part”.

**14. In regulation 4 (employment income)(b)—**

- (a) in paragraph (1)(a) before “tax year” insert “part”;
- (b) in paragraph (1)(b), (c), (d), (e), (g) and (k), before “year” insert “part”;
- (c) in paragraph (1)(f) after “ITEPA” insert “which is treated as received in the part tax year and in respect of which the charge arises in the part tax year”;
- (d) in paragraph (1)(h) after “week” insert “in the part tax year”;
- (e) in paragraph (1)(i) for “that year” substitute “the tax year” and after “ITEPA” insert “which is treated as received in the part tax year”;
- (f) in paragraph (1)(j) after “applies” insert “which is received in the part tax year”;
- (g) in paragraph (1)(l) for “that year” substitute “the tax year” and after “ITEPA” insert “in respect of which the charge arises in the part tax year”;
- (h) in paragraph (1)(m) after “paid” insert “in the part tax year”;
- (i) in paragraph (4) in the first sentence and in the title of Table 1, after “employment income” insert “received in the part tax year”;
- (j) in paragraph (5) after “calculating earnings” insert “received in the part tax year”.

**15. In regulation 5 (pension income)(c)—**

- (a) in paragraph (1) after ““pension income” means” insert “any of the following received in or relating to the part tax year”;
- (b) in paragraph (2) in the first sentence and in the title of Table 2, after “pension income” insert “received in or relating to the part tax year”;
- (c) in paragraph (3) after “income tax purposes”, insert “in relation to the part tax year”.

**16. In regulation 6 (trading income)(d)—**

- (a) re-number the existing regulation as paragraph (1);
- (b) in paragraph (1) (as so re-numbered)—
  - (i) in sub-paragraph (a) for “taxable profits for the tax year” substitute “actual or estimated taxable profits attributable to the part tax year”;
  - (ii) in sub-paragraph (b) for “taxable profit for the” substitute “actual or estimated taxable profit attributable to the part tax”;

►<sup>153</sup>(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(e), whichever applies) ending with 5th April 2024.

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

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(a) Paragraph (6A) was inserted by S.I. 2003/732 and amended by S.I. 2007/824.  
 (b) Regulation 4 was amended by S.I. 2003/732 and 2815, 2004/762 and 2663, 2006/766, 2007/824, 2008/604 and 2169, 2009/2887, 2010/2494, 2012/848 and 2014/658.  
 (c) Regulation 5 was amended by S.I. 2003/732, 2006/745 and 766, 2008/604 and 2010/2914.  
 (d) Regulation 6 was amended by S.I. 2006/766.  
 (e) 2022 c. 3

- (a) taking the figure for the actual or estimated taxable income earned in the basis period referred to in sub-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.◀

**17. In regulation 7 (social security income)(a)—**

- (a) in paragraph (1) after “social security income” insert “received in the part tax year”;
- (b) in paragraph (3) in the opening words and in the title of Table 3, after “social security income” insert “received in the part tax year”.

**18. In regulation 8 (student income)(b)** after “in relation to a student” insert “, any of the following which is received in the part tax year”.

**19. In regulation 10 (investment income)(c)—**

- (a) in paragraph (1) after “gross amount” insert “received in the part tax year”;
- (b) in paragraph (1)(e) before “year” insert “part tax”;
- (c) in paragraph (2) in the opening words and in the title of Table 4, after “investment income” insert “received in the part tax year”.

**20. In regulation 11(1) (property income)(d)—**

- (a) omit “annual”;
- (b) after “taxable profits” insert “for the part tax year”.

**21. In regulation 12(1) (foreign income)(e) before “year” insert “part tax”.**

**22. In regulation 13 (notional income)** after “means income” insert “received in the part tax year”.

**23. In regulation 18 (miscellaneous income)(f)** after “means income” insert “received in the part tax year”.

**Modifications to the Tax Credits (Income Thresholds and Determination of Rates) Regulations**

**24.** Paragraphs 25 to 27 prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(g) where regulation 11 of these Regulations applies.

**25. In regulation 2 (interpretation)—**

- (a) ▶<sup>154</sup>◀
- (b) in the definition of “the relevant income” insert “as modified by the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016” at the end.

**26. In regulation 7(3) (determination of rate of working tax credit)(h)—**

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
- (b) ▶<sup>155</sup>◀

(a) Regulation 7 was amended by S.I. 2003/732 and 2815, 2008/1879, 2009/697, 2010/2494 and 2014/658.

(b) Regulation 8 was amended by S.I. 2003/2815, 2006/766, 2008/2169 and 2012/848.

(c) Regulation 10 was amended by S.I. 2003/732 and 2815, 2006/766, 2007/824 and 2010/751.

(d) Regulation 11(1) was amended by S.I. 2003/2815 and 2006/766.

(e) Regulation 12(1) was amended by S.I. 2006/766.

(f) Regulation 18 was amended by S.I. 2006/766.

(g) S.I. 2002/2008.

(h) Regulation 7(3) was amended by S.I. 2008/796, 2011/1035 and 2012/849.

**27.** In regulation 8(3) (determination of rate of child tax credit)(a)—

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
- (b) ►<sup>156</sup>◄

### **Modifications to the Tax Credits (Claims and Notifications) Regulations**

**28.** Paragraphs 29 to 34 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002(b) where regulation 11 of these Regulations applies.

**29.** In regulation 4 (interpretation) omit paragraph (b)(c).

**30.** Omit regulation 11 (circumstances in which claims to be treated as made)(d).

**31.** Omit regulation 12 (further circumstances in which claims to be treated as made)(e).

**32.** In regulation 13 (circumstances in which claims made by one member of a couple to be treated as also made by the other)—

- (a) in paragraph (1)(f) after “prescribed by paragraph” omit “(2) or”;
- (b) omit paragraph (2)(g).

**33.** In regulation 15(1)(c) (persons who die after making a claim)—

- (a) omit “the whole or” and “after the end of that tax year but”; and
- (b) for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”.

**34.** In regulation 33 (dates to be specified in notices)(h)—

- (a) in paragraph (a) for the words from “not later than 31st July” to “if later”, substitute “not less than 30 days after the date on which the notice is given”;
- (b) omit paragraph (b) and the “and” which precedes it.

### **Modification to the Tax Credits (Payment by the Commissioners) Regulations**

**35.** Paragraph 36 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002(i) where regulation 11 of these Regulations applies.

**36.** Omit regulation 7 (prescribed circumstances for certain purposes)(j).

### **Modification to the Tax Credits (Residence) Regulations**

**37.** Paragraph 38 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003(k) where regulation 11 of these Regulations applies.

**38.** In regulation 3(5)(a) (circumstances in which a person is treated as not being in the United Kingdom)(l), omit “under regulation 11 or 12 of the Tax Credits (Claims and Notifications) Regulations 2002 or otherwise”.

- 
- (a) Regulation 8(3) was amended by S.I. 2011/1035 and 2012/849.
  - (b) S.I. 2002/2014.
  - (c) Regulation 4(b) was amended by S.I. 2009/697.
  - (d) Regulation 11 was amended by S.I. 2004/762, 2008/604, 2009/697 and 2010/751.
  - (e) Regulation 12 was amended by S.I. 2010/751 and 2914.
  - (f) Regulation 13(1) was amended by S.I. 2005/2919 and 2008/2169.
  - (g) Regulation 13(2) was amended by S.I. 2005/2919 and 2010/751.
  - (h) Regulation 33 was substituted by S.I. 2004/762 and amended by S.I. 2007/824.
  - (i) S.I. 2002/2173.
  - (j) Regulation 7 was amended by S.I. 2005/2200.
  - (k) S.I. 2003/654.
  - (l) Regulation 3(5) was substituted by S.I. 2004/1243.



►<sup>157</sup> SCHEDULE 2

Regulation 64

## Claimants previously entitled to a severe disability premium

1. This Schedule applies to an award of universal credit where the following conditions are met in respect of the claimant, or each of the joint claimants.
2. The first condition is that the award was not made as a consequence of the claimant becoming a member of a couple where the other member was already entitled to an award of universal credit.
3. The second condition is that the claimant—
  - (a) 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 a severe disability premium within the month immediately preceding the first day of the award of universal credit; and
  - (b) continued to satisfy the conditions for eligibility for a severe disability premium up to and including the first day of that award.
4. Where this Schedule applies (subject to paragraphs 6 and 7), a transitional SDP element is to be included in the calculation of the award and the amount of that element is to be treated, for the purposes of Article 13 of the Order, as if it were an additional amount to be included in the maximum amount under Article 13(2) before the deduction of income under Article 13(3).
5. The amount of the transitional SDP element in the first assessment period is—
  - (a) in the case of a single claimant—
    - (i) ►<sup>158</sup>£140.97◄, if the LCWRA element is included in the award, or
    - (ii) ►<sup>159</sup>£334.81◄, if the LCWRA element is not included in the award;
  - (b) in the case of joint claimants—
    - (i) ►<sup>160</sup>£475.79◄►<sup>161</sup>if the higher severe disability premium rate is payable on the first day of the award and no person becomes a carer for either of them in the first assessment period.◄
    - (ii) ►<sup>162</sup>£140.97◄, if paragraph (i) does not apply and the LCWRA element is included in the award in respect of either of them, or
    - (iii) ►<sup>163</sup>£334.81◄, if paragraph (i) does not apply and the LCWRA element is not included in the award in respect of either of them.
6. In respect of the second and each subsequent assessment period, regulation 56(2) (adjustment where other elements increase), regulation 57 (circumstances in which transitional protection ceases) and regulation 58 (application of transitional protection to a subsequent award) are to apply in relation to the transitional SDP element as if it were a transitional element in respect of which the amount calculated in accordance with paragraph 5 was the initial amount.
7. The award is not to include a transitional SDP element where the claim was a qualifying claim and the award is to include a transitional element.
8. ►<sup>164</sup>—(1) In this Schedule—
 

“LCWRA element” has the meaning in the Universal Credit Regulations;

“the higher SDP rate” is the rate specified in paragraph 11(2)(b)(ii) of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008<sup>(a)</sup> or, as the case may be, the corresponding rate of a severe disability premium in relation to income support or income-based jobseeker’s allowance”.

- (2) In paragraph 5(b)(i) the reference to a person being a carer for another person is to the person being entitled to, and in receipt of, a carer’s allowance<sup>165</sup> or carer support payment<sup>166</sup> or having an award of universal credit which includes the carer element in respect of caring for that other person.<sup>167</sup>
- <sup>166</sup>(3) In sub-paragraph (2) “carer support payment” means carer’s assistance given in accordance with the Carer’s Assistance (Carer Support Payment)(Scotland) Regulations 2023.<sup>168</sup>
- <sup>167</sup>9. For the purposes of paragraph 3(b) and 5(b)(i), paragraph 6(6) of Schedule 4 to the ESA Regulations 2008 or, as the case may be, the corresponding provision in relation to income support or income-based jobseeker’s allowance, is to be disregarded.<sup>169</sup>

### ►<sup>168</sup>Schedule 3

Regulation 64

## 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 (Northern Ireland) 2021<sup>(b)</sup>, or would have done had it not been eroded to nil by virtue of regulation 56 (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 56, the additional amount is to be treated as if it were the initial amount of a transitional element calculated under regulation 56(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

(a) S.R. 2008 No. 280 Paragraph 11 was amended by paragraph 1 of Schedule 11 to the Social Security Benefits Up-Rating Order (Northern Ireland) 2020 (S.R. 2020 No. 40)

(b) S.R. 2021 No. 2

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) ▶<sup>169</sup>£89.63◀ for a claimant meeting the condition in paragraph 4(a);
  - (ii) ▶<sup>170</sup>£183.52◀ for a claimant meeting the condition in paragraph 4(b); and
  - (iii) ▶<sup>171</sup>£188.86◀ 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) ▶<sup>172</sup>£128.04◀ for claimants meeting the condition in paragraph 4(a);
  - (ii) ▶<sup>173</sup>£262.48◀ for claimants meeting the condition in paragraph 4(b); and
  - (iii) ▶<sup>174</sup>£188.86◀ per disabled child or qualifying young person for claimants meeting the condition in paragraph 4(c).

**6.** The Department 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 operation.

**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 (Northern Ireland) 1996<sup>(a)</sup> 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<sup>(b)</sup>;

“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

(a) S.R. 1996 No. 198. Paragraph 13 was substituted by S.R. 2007 No. 154 amended by S.R. 2010 No. 103, and S.R. 2018 No. 187.

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

Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>(a)</sup> 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 (Northern Ireland) 2008<sup>(b)</sup> or, as the case may be, the corresponding premium in relation to income support or income-based jobseeker's allowance.◀

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the second phase of the replacement of certain “existing benefits” by universal credit, a new benefit established by the Welfare Reform (Northern Ireland) Order (“the Order” S.I. 2015/2006 (N.I. 1)). The existing benefits are income-based jobseeker's allowance, income-related employment and support allowance, income support, housing benefit, working tax credit and child tax credit.

Part 2 of the Regulations makes provision about claimants who move from existing benefits to universal credit and, in particular, about how matters which are relevant to the award of an existing benefit are to have effect in relation to an award of universal credit.

Regulation 3 prevents a claimant who is entitled to universal credit from also being entitled to income support, housing benefit, tax credits or state pension credit (subject to limited exceptions). Provision to similar effect is made in relation to old style JSA and old style ESA by virtue of an order made under Article 2(2) of the Order, which bring into operation repeals of the legislation relating to those benefits. In these Regulations, references to old style JSA and old style ESA are to the versions of jobseeker's allowance and employment and support allowance which include an income-based, or income-related allowance.

Universal credit claimants are excluded from claiming income support, housing benefit or tax credits by regulation 4, except in certain cases where notice of intention to claim has previously been given, or a defective claim has previously been made, and entitlement will run from a date before the claimant became entitled to universal credit. Again, similar provision is made in relation to old style JSA and old style ESA by virtue of an order made under Article 2(2) of the Order, which bring into operation repeals of the legislation relating to those benefits.

Under regulation 5, most awards of income support and housing benefit to a claimant who has formed a couple with a universal credit claimant will terminate on the day before the first date of entitlement to universal credit. Awards of tax credits will terminate in accordance with the Tax Credits Act 2002 (c.21) as a result of the claimant's change of relationship status. Similar provision is made by regulation 6 in relation to other claimants, although in this case awards of tax credits also terminate, by virtue of regulation 6, on the day before the first date of entitlement to universal credit (or, where no award of universal credit is made, on the day before the first date on which the claimant would have been entitled to universal credit if all the applicable conditions had been met). Regulation 9 provides for a claimant to be treated as entitled to an award of a tax credit in certain cases, for the purposes of regulations 5 and 6. Entitlement to old style JSA and old style ESA will similarly terminate (in so far as the awards are of an income-based or income-related allowance) by virtue of an order made under Article 2(2) of the Order.

Regulation 7 provides, in certain cases, for entitlement to some welfare benefits to be disregarded for the purposes of the benefit cap during the claimant's first assessment period for universal

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(a) S.R. 1996 No. 198. Paragraph 16 was substituted by S.R. 2007 No. 154, and amended by S.R. 2009 No. 89, S.R. 2011 No. 135, S.I. 2013/388, S.I. 2013/3021, S.R. 2014 No. 275, S.R. 2016 No. 228, S.R. 2016 No. 236, S.I. 2021/786 and S.I. 2022/177; there are other amending instruments but none are relevant.

(b) S.R. 2008 No. 280, amended by S.I. 2013/388, S.I. 2013/3021 and S.I. 2013/177; there are other amending instruments but none are relevant.

credit. This will apply where a claimant is entitled to universal credit from a date before the date on which they made a claim, or were treated as making a claim, and they were previously entitled to housing benefit (which may already have been subject to the benefit cap). Overpayments of existing benefits (other than tax credits or joint-claim jobseeker's allowance) which may arise on transition to universal credit will be off-set against entitlement to universal credit, under regulation 8.

Where a claim for universal credit is made by a claimant who was previously entitled to a tax credit, regulation 10 provides for the Tax Credits Act 2002 to apply to that claimant with certain modifications, so that any overpayments of tax credits may be treated as overpayments of universal credit and appropriate time limits apply in relation to the imposition of penalties.

Regulation 11 provides for the amount of a tax credit claim to which a claimant is entitled to be finalised before the end of the tax year in which the award terminates, if the claimant has claimed universal credit during the tax year. Normally entitlement to tax credits is finalised after the end of the tax year in question, Regulation 11(1) and (2), along with the Schedule to these Regulations, provide for the modification of the Tax Credits Act 2002 (c. 21) and regulations made under that Act, to allow for in-year finalisation. Regulation 11(3) gives a discretion to the Commissioners for Her Majesty's Revenue and Customs to finalise entitlement to a tax credit after the end of the tax year in any case, or category of cases, where they consider that it is not reasonably practicable to apply the modified legislation.

Regulation 12 deals with appeals which are determined, and decisions about existing benefits which are revised or superseded, after the appellant has become entitled to universal credit. Entitlement to income support, housing benefit or a tax credit arising from an appeal, revision or supersession will terminate in accordance with regulation 5 or 6 and a decision made about entitlement to universal credit may be revised to take account of any findings of fact by the appeal body. Regulation 13 relates to the situation where a claimant successfully appeals a decision that they are not entitled to universal credit, or such a decision is revised, after the claimant has become entitled to income support, housing benefit or a tax credit. In this case, the award of the existing benefit terminates at the beginning of the first day of entitlement if there would otherwise be an overlap with the award of universal credit.

Where a claim for universal credit is made by a claimant who was previously entitled to an existing benefit, regulation 14 modifies the application of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2016 (S.R. 2016 No. xxx) in relation to the claimant. The effect is that the time for claiming universal credit may be extended by up to one month, if the claimant was not given advance notice of termination of the award of existing benefit. Under regulation 15, a person who has been appointed to act on behalf of a claimant in relation to existing benefits may be treated as having been appointed to act on their behalf in relation to universal credit and vice versa.

Regulation 16 provides that claimants migrating from existing benefits to universal credit will not be required to serve the 7 waiting days. Waiting days apply to claims for universal credit where the claimant, or either of the joint claimants, on the first day of the period in respect of which they make the claim, is subject to all work-related requirements under Article 27 of the Order, or is not so subject only because they have limited capability for work.

Where a claim for universal credit is made by a claimant who was entitled to an existing benefit before they became entitled to universal credit, regulation 17 allows the claimant to apply for an advance payment of universal credit during their first assessment period. Repayment is by reduction of subsequent payments. Where certain deductions were made from an award of an existing benefit, regulation 18 allows deductions in respect of the same items to be made from an award of universal credit without the need for consents which might otherwise be required.

Regulation 19 provides that a claimant may be treated as having limited capability for work, or limited capability for work and work-related activity, for the purposes of an award of universal credit, if they were previously entitled to the work-related activity component, or the support component, of old style ESA. Where a claimant was in the process of assessment of their

capability for work in connection with an award of old style ESA at the time that award terminated, the assessment period for universal credit will be adjusted accordingly, under regulation 20. Similar provision is made in regulation 22, in respect of claimants who were not entitled to old style ESA, but who were entitled to credits of contributions and earnings on the grounds of limited capability for work.

Where an award of universal credit immediately follows an award of jobseeker's allowance and the last day of that award was in an extended period of sickness, under regulation 21, the universal credit award may include an element for limited capability for work or work-related activity only after a period of 13 weeks starting on the first day of that extended period of sickness.

Transition to universal credit from existing incapacity benefits is dealt with in regulations 23 to 26. Transition from income support awarded on the grounds of incapacity for work or disability is dealt with in regulation 23 and transition from incapacity benefit or severe disablement allowance is dealt with in regulations 24 to 26. In both cases, the limited capability for work or limited capability for work and work-related activity elements may be included in an award of universal credit with effect from the start of the first assessment period, if the claimant is subsequently assessed as having limited capability for work or, in the case of a claimant approaching pensionable age, is entitled to certain other benefits. Similar provision is made in regulations 25 and 26 in respect of claimants who were not entitled to an incapacity benefit, but who were entitled to credits of earnings under the Social Security (Credits) Regulations (Northern Ireland) 1975 (S.R. 1975 No. 113) on the grounds of incapacity for work.

Regulation 29 ensures that payments may not be made as part of an award of universal credit in respect of a young person who is entitled to existing benefits in their own right.

Where a universal credit claimant or their partner was previously entitled to old style JSA, old style ESA or income support, regulation 30 allows for any support for housing costs which was included in that award, or time spent waiting to qualify for such support, to be carried over to the award of universal credit, if the claimant is entitled to the universal credit housing element.

Regulations 31 to 35 deal with the treatment of any sanctions which have been imposed on awards of old style JSA and old style ESA, prior to transition to universal credit. Current sanctions will continue to have effect by way of deductions from the award of universal credit and past sanctions will be taken into account for the purposes of determining the sanction applicable to any future sanctionable failure. However, where there is a period of entitlement to an existing benefit between two periods of entitlement to universal credit, any sanctions arising prior to that intervening period will not be taken into account.

Where a claimant moves to universal credit within one month of the end of an award of an existing benefit and is subject to a loss of benefit penalty, regulations 36 and 37 provide that the penalty will in most cases continue on the basis of the rate applicable to the existing benefit for the remainder of the disqualification period. The usual rules relating to calculation of penalties within universal credit will not apply.

An assessment has been made of the impact of Universal Credit. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## REFERENCES

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- 1 Inserted by reg 6(2) of S.R. 2020 No. 119 as from 25.11.20
  - 2 Inserted by reg 2(2)(a)(i) of S.R. 2019 No. 152 as 24.7.19
  - 3 Inserted by reg 2(2)(a)(ii) of S.R. 2019 No. 152 as 24.7.19
  - 4 Inserted by reg 2(2)(a)(iii) of S.R. 2019 No. 152 as 24.7.19
  - 5 Inserted by reg 2(2)(a)(iv) of S.R. 2019 No. 152 as 24.7.19

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- 6 Inserted by reg 2(2)(a)(v) of S.R. 2019 No. 152 as 24.7.19
  - 7 Inserted by reg 2(2)(a)(vi) of S.R. 2019 No. 152 as 24.7.19
  - 8 Inserted by reg 2(2)(a)(vii) of S.R. 2019 No. 152 as 24.7.19
  - 9 Inserted by reg 6(2) of S.R. 2020 No. 119 as from 25.11.20
  - 10 Inserted by reg 2(2)(a)(viii) of S.R. 2019 No. 152 as 24.7.19
  - 11 Inserted by reg 3(2) of S.R. 2017 No. 79 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 12 Inserted by reg 2(2) of S.R. 2019 No. 2 as from 16.1.19
  - 13 Inserted by reg 6(2) of S.R. 2020 No. 119 as from 25.11.20
  - 14 Inserted by reg 9(2) of S.R. 2018 No. 92 as from 8.5.18
  - 15 Inserted by reg 2(2)(a)(ix) of S.R. 2019 No. 152 as 24.7.19
  - 16 Inserted by reg 2(2)(b) of S.R. 2019 No. 152 as 24.7.19
  - 17 Omitted by paragraph 1(2) of the Schedule to S.R. 2022 No. 194 as from 1.8.22
  - 18 Inserted by reg 12(2) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 19 Revoked by reg 2 of S.R. 2022 No. 194 as from 1.8.22
  - 20 Revoked by reg 6 of S.R. No. 2019 No. 152 as from 27.1.21
  - 21 Inserted by reg 2(3) of S.R. 2019 No. 2 as from 16.1.19
  - 22 Inserted by reg 2(3) of S.R. 2019 No. 152 as 24.7.19
  - 23 Omitted by reg 6(3) of S.R. 2020 No. 119 as from 25.11.20
  - 24 Substituted by reg 3(2) of S.R. 2019 No. 152 as from 22.7.20
  - 25 Substituted by paragraph 1(3) of the Schedule to S.R. 2022 No. 194 as from 1.8.22
  - 26 Omitted by reg 6(3) of S.R. 2020 No. 119 as from 25.11.20
  - 27 Omitted by reg 6(3) of S.R. 2020 No. 119 as from 25.11.20
  - 28 Inserted by reg 6(3) of S.R. 2020 No. 119 as from 25.11.20
  - 29 Inserted by reg 9(4) of S.R. 2018 No. 92 as from 8.5.18
  - 30 Omitted by reg 4(2) of S.R. 2018 No. 187 as from 28.11.18
  - 31 Revoked by reg 3 of S.R. 2022 No. 194 as from 1.8.22
  - 32 Inserted by reg 9(5)(a) of S.R. 2018 No. 92 as from 8.5.18
  - 33 Inserted by reg 6(4) of S.R. 2020 No. 119 as from 25.11.20
  - 34 Inserted by reg 4 of S.R. 2022 No. 194 as from 1.8.22
  - 35 Inserted by reg 5(2)(a) of S.R. 2022 No. 194 as from 1.8.22
  - 36 Omitted by reg 5(2)(b) of S.R. 2022 No. 194 as from 1.8.22
  - 37 Inserted by reg 9(5)(b) of S.R. 2018 No. 92 as from 8.5.18
  - 38 Omitted by reg 6(5) of S.R. 2020 No. 119 as from 25.11.20
  - 39 Inserted by reg 6(5) of S.R. 2020 No. 119 as from 25.11.20
  - 40 Inserted by reg 5(3)(a) of S.R. 2022 No. 194 as from 1.8.22
  - 41 Omitted by reg 5(3)(b) of S.R. 2022 No. 194 as from 1.8.22
  - 42 Substituted by reg 9(6)(a)(i) of S.R. 2018 No. 92 as from 8.5.18
  - 43 Omitted by reg 3(3)(a) of S.R. 2019 No. 152 as from 22.7.2020
  - 44 Inserted by reg 9(6)(a)(ii) of S.R. 2018 No. 92 as from 8.5.18
  - 45 Inserted by reg 9(6)(b) of S.R. 2018 No. 92 as from 8.5.18
  - 46 Inserted by reg 3(3)(b) of S.R. 2019 No. 152 as from 22.7.2020
  - 47 Omitted by reg 3(3)(b) of S.R. 2019 No. 152 as from 22.7.2020
  - 48 Inserted by reg 5(3)(c) of S.R. 2022 No. 194 as from 1.8.22
  - 49 Inserted by reg 9(6)(c) of S.R. 2018 No. 92 as from 8.5.18
  - 50 Inserted by reg 9(7) of S.R. 2018 No. 92 as from 8.5.18
  - 51 Inserted by reg 2(5)(a) of S.R. 2019 No. 152 as 24.7.19
  - 52 Substituted by paragraph 1(4) to the Schedule to S.R. 2022 No. 194 as 001.8.22
  - 53 Inserted by reg 2(5)(b) of S.R. 2019 No. 152 as 24.7.19
  - 54 Substituted by paragraph 1(4) to the Schedule to S.R. 2022 No. 194 as 1.8.22
  - 55 Omitted by reg 2(5)(c) of S.R. 2019 No. 152 as 24.7.19
  - 56 Inserted by reg 2(5)(b) of S.R. 2019 No. 152 as 24.7.19
  - 57 Substituted by paragraph 1(4) to the Schedule of S.R. 2022 No. 194 as from 1.8.22
  - 58 Inserted by reg 2(5)(d) of S.R. 2019 No. 152 as 24.7.19
  - 59 Inserted by reg 3(4) of S.R. 2019 No. 152 as of 24.7.19
  - 60 Substituted by paragraph 1(5) of the Schedule to S.R. 2022 No. 194 a from 1.8.22
  - 61 Substituted by reg 4(2) of S.R. 2023 No. 93 as from 29.6.23

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- 62 Substituted by reg 5(a) of S.R. 2016 No. 375 as from immediately after the coming into operation of the Universal Credit Regulations
  - 63 Substituted by reg 5(b) of S.R. 2016 No. 375 as from immediately after the coming into operation of the Universal Credit Regulations
  - 64 Inserted by reg 12(3) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 65 Inserted by reg 4(3) of S.R. 2018 No. 187 as from 28.11.18
  - 66 Inserted by reg 9(2)(a)(i) of S.R. 2019 No. 195 as from 31.10.19
  - 67 Inserted by reg 9(2)(a)(i) of S.R. 2019 No. 195 as from 31.10.19
  - 68 Inserted by reg 9(2)(a)(ii) of S.R. 2019 No. 195 as from 31.10.19
  - 69 Added by reg 9(2)(b) of S.R. 2019 No. 195 as from 31.10.19
  - 70 Inserted by reg 9(3) of S.R. 2019 No. 195 as from 31.10.19
  - 71 Inserted by reg 9 of S.R. 2020 No. 108 as from 15.07.2020
  - 72 Substituted by reg 2(6)(a) of S.R. 2019 No. 152 as 24.7.19
  - 73 Added by reg 2(6)(b) of S.R. 2019 No. 152 as 24.7.19
  - 74 Omitted by reg 9(8)(a)(i) of S.R. 2018 No. 92 as from 8.5.18
  - 75 Inserted by reg 9(8)(a)(ii) of S.R. 2018 No. 92 as from 8.5.18
  - 76 Inserted by reg 5(4)(a) of S.R. 2022 No. 194 as from 1.8.22
  - 77 Omitted by reg 5(4)(b) of S.R. 2022 No. 194 as from 1.8.22
  - 78 Substituted by Article 8(2)(a) of S.I. 2017/781 as from 25<sup>th</sup> September 2017
  - 79 Omitted by Article 8(2)(b) of S.I. 2017/781 as from 25<sup>th</sup> September 2017
  - 80 Substituted by reg 12(4) S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 81 Omitted by Article 8(3) of S.I. 2017/781 as from 25<sup>th</sup> September 2017
  - 82 Inserted by Article 8(3)(a) of S.R. 2024 as from 6.4.2024
  - 83 Inserted by reg 5(5)(a) of S.R. 2022 No. 194 as from 1.8.22
  - 84 Inserted by reg 8(3)(b) of S.R. 2024 No. 54 as from 6.4.24
  - 85 Omitted by reg 5(5)(b) of S.R. 2022 No. 194 as from 1.8.22
  - 86 Substituted by reg 2(7) of S.R. 2019 No. 152 as 24.7.19
  - 87 Inserted by reg 3(7) of S.R. 2019 No. 152 as 22.7.20
  - 88 Substituted by paragraph 1(6) to the Schedule of S.R. 2022 No.0194 as from 1.8.22
  - 89 Inserted by reg 9(9)(a) of S.R. 2018 No. 92 as from 8.5.18
  - 90 Inserted by reg 9(9)(b) of S.R. 2018 No. 92 as from 8.5.18
  - 91 Omitted by reg 9(10) of S.R. 2018 No. 92 as from 8.5.18
  - 92 Substituted by reg 3(2)(a) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 93 Substituted by reg 3(2)(b)(i) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 94 Omitted by reg 3(2)(b)(ii) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 95 Omitted by reg 3(2)(b)(iii) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 96 Inserted by reg 3(a) of S.R. 2021 No. 303 as from 15.12.2021
  - 97 Omitted by reg 3(2)(c) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 98 Substituted by reg 3(2)(d) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 99 Omitted by reg 3(b)(i) of S.R. 2021 No. 303 as from 15.12.2021
  - 100 Inserted by reg 3(b)(ii) of S.R. 2021 No. 303 as from 15.12.2021
  - 101 Substituted by reg 3(2)(e) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 102 Substituted by reg 3(2)(f)(i) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 103 Substituted by reg 3(2)(f)(ii) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 104 Substituted by reg 3(2)(g) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 105 Added by reg 3(2)(h) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216



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- 106** Omitted by reg 3(3)(a) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 107** Omitted by reg 3(3)(b) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 108** Substituted by reg 12(5) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 109** Omitted by reg 3(4) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 110** Omitted by reg 3(5)(a)(i) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 111** Omitted by reg 3(5)(a)(ii) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 112** Omitted by reg 3(5)(b) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 113** Substituted by reg 4(3) of S.R. 2023 No. 93 as from 29.06.2023
  - 114** Omitted by reg 3(5)(c) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 115** Substituted by reg 3(5)(d) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 116** Substituted by reg 3(5)(d) of S.R. 2017 No. 146 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 117** Substituted by para 6(a) of Sch 5 to S.R. 2017 No. 176 as from 20.10.2017
  - 118** Substituted by para 6(b) of Sch 5 to S.R. 2017 No. 176 as from 20.10.2017
  - 119** Substituted by para 6(c) of Sch 5 to S.R. 2017 No. 176 as from 20.10.2017
  - 120** Inserted by reg 12(6)(a) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 121** Inserted by reg 12(6)(b) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 122** Inserted by reg 12(6)(c) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 123** Inserted by reg 12(7)(a) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 124** Inserted by reg 12(7)(b) of S.R. 2017 No. 116 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 125** Inserted by reg 12(7)(c) of S.R. 2017 No. 116 as from immediate
  - 125** Revoked by reg 6 of S.R. ly after the coming into operation of S.R. 2016 No. 216
  - 126** Inserted by reg 3(3) of S.R. 2017 No. 79 as from immediately after the coming into operation of S.R. 2016 No. 216
  - 127** Omitted by reg 3(2) of S.R. 2019 No. 3 as from 1.2.19
  - 128** Omitted by reg 3(3) of S.R. 2019 No. 3 as from 1.2.19
  - 129** Inserted by reg 2(8) of S.R. 2019 No. 152 as from 24.7.19
  - 130** Inserted by paragraph 1(7)(a) to the Schedule of S.R. 2022 No. 194 as from 1.8.22
  - 131** Omitted by paragraph 1(7)(b) to the Schedule of S.R. 2022 No. 194 as from 1.8.22
  - 132** Revoked by reg 6 of S.R. 2022 No. 194 as from 1.8.22
  - 133** Inserted by reg 7 of S.R. 2022 No. 194 as from 1.8.22
  - 134** Inserted by reg 3(5) of S.R. 2019 No. 152 as from 24.7.19
  - 135** Inserted by reg 4(4) of S.R. 2023 No. 93 as from 29.6.23
  - 136** Substituted by reg 3(5) of S.R. 2019 No. 152 as from 24.7.19
  - 137** Omitted by paragraph 1(8) of the Schedule to S.R. 2022 No. 194 as from 1.8.22
  - 138** Revoked by reg 8(1) of S.R. 2022 No. 194 from 1.8.22
  - 139** Substituted by 8(2) of S.R. 2022 No. 194 from 1.8.22
  - 140** Substituted by 8(2) of S.R. 2022 No. 194 from 1.8.22
  - 141** Substituted by reg 4(5) of S.R. 2023 No. 93 from 29.6.23
  - 142** Inserted by reg 9(2) of S.R. 2022 No. 194 from 1.8.22
  - 143** Inserted by reg 10(2) of S.R. 2022 No. 194 from 1.8.22
  - 144** Inserted by reg 10(3) of S.R. 2022 No. 194 from 1.8.22
  - 145** Substituted by reg 3 of S.R. 2023 No. 3 as from 30.1.23
  - 146** Omitted by paragraph 1(9) of the Schedule to S.R. 2022 No. 194 from 1.8.22
  - 147** Revoked by reg 5(2) of S.R. 2019 No. 152 as from 23.9.2020

- 148** Inserted by reg 11 of S.R. 2022 No. 194 from 1.8.22
- 149** Substituted by reg 2(2) of S.R. 2024 No. 5 from 14.2.24
- 150** Revoked by reg 12 of S.R. 2022 No. 194 from 1.8.22
- 151** Substituted by reg 2(9) of S.R. 2019 No. 152 as 24.7.19
- 152** Omitted by reg 4(6)(a) of S.R. 2023 No. 93 as 29.6.23
- 153** Substituted by reg 8(4) of S.R. 2024 No. 54 as from 6.4.24
- 154** Omitted by reg 4(6)(b) of S.R. 2023 No. 93 as 29.6.23
- 155** Omitted by reg 4(6)(c) of S.R. 2023 No. 93 as 29.6.23
- 156** Omitted by reg 4(6)(d) of S.R. 2023 No. 93 as 29.6.23
- 157** Schedule 2 was inserted by reg 2(10) of S.R. 2019 No. 152 from 24.7.19 and subsequently substituted by reg 2 of S.R. 2021 No. 2 from 27.1.21
- 158** Substituted by Article 33(a)(i) of S.R. 2024 No. 73 as from 8.4.24
- 159** Substituted by Article 33(a)(ii) of S.R. 2024 No. 73 as from 8.4.24
- 160** Substituted by Article 33(a)(iii) of S.R. 2024 No. 73 as from 8.4.24
- 161** Substituted by reg 4(7)(a) of S.R. 2023 No. 93 as from 29.6.23
- 162** Substituted by Article 33(a)(i) of S.R. 2024 No. 73 as from 8.4.24
- 163** Substituted by Article 33(a)(ii) of S.R. 2024 No. 73 as from 8.4.24
- 164** Inserted by reg 4(7)(b) of S.R. 2023 No. 93 as from 29.6.23
- 165** Inserted by Article 52(a) of S.I. 2023/1218 as from 19.11.23
- 166** Inserted by Article 52(b) of S.I. 2023/1218 as from 19.11.23
- 167** Inserted by reg 4(7)(c) of S.R. 2023 No. 93 as from 29.6.23
- 168** Inserted by reg 2(3) of S.R. 2024 No. 5 as from 14.2.24
- 169** Inserted by Article 33(b)(i) of S.R. 2024 No. 73 as from 8.4.24
- 170** Inserted by Article 33(b)(ii) of S.R. 2024 No. 73 as from 8.4.24
- 171** Inserted by Article 33(b)(iii) of S.R. 2024 No. 73 as from 8.4.24
- 172** Inserted by Article 33(b)(iv) of S.R. 2024 No. 73 as from 8.4.24
- 173** Inserted by Article 33(b)(v) of S.R. 2024 No. 73 as from 8.4.24
- 174** Inserted by Article 33(b)(iii) of S.R. 2024 No. 73 as from 8.4.24