

2018 No. 65

SOCIAL SECURITY

The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018

Made - - - - at 1.05 p.m. on 22nd January 2018

Laid before Parliament at 4.00 p.m. on 22nd January 2018

Coming into force in accordance with regulation 1(2) to (4)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1A), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(a), sections 10(6), 79(1), (4) and (5) and 84 of the Social Security Act 1998(b), sections 6H(1)(a), 35 and 36(2) of the Jobseekers Act 1995(c), section 69(1), (2) and (7) of the Child Support, Pensions and Social Security Act 2000(d) and sections 6(1)(c) and (3), 7(2) and (3), 8(3), 11(3)(a) and (5)(a), 19(2)(d), (3) and (4), 24(1)(a), 30, 32(1) and (4), 36, 40 and 42(1) to (3) of, and paragraphs 4(1) and (3)(a) of Schedule 1 and paragraphs 1(1) and 4(1)(a) of Schedule 6 to, the Welfare Reform Act 2012(e).

In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred the proposals in respect of regulations 6(2)(b), (4) (apart from in relation to temporary accommodation), (7)(a) and (b), (8) and (10)(a) and 7(1) to (3), (4)(b), (5) and (6) to the Social Security Advisory Committee.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of regulations 1 to 5, 6(2)(a) and (c), (3), (4) (in so far as it relates to temporary accommodation), (5), (6), (7)(c), (9), (10)(b) and (11), 7(4)(a) and 8 should not be referred to it.

In respect of the provisions in regulations 2, 3(2)(c), (12) and (13)(a), (b)(i)(bb) and (ii) and (c) to (h), and 6(2)(a) and (b), (3) to (8) and (10), in accordance with section 176(1) of the Social Security Administration Act 1992(f) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

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- (a) 1992 c. 5. Section 5(1A) was inserted by section 99(1) and (3) of the Welfare Reform Act 2012 (c. 5). Section 191 is cited for the meaning of “prescribe”. The definition of “prescribe” was amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c. 5).
- (b) 1998 c. 14. Section 79(1) was amended by S.I. 2008/2833 and paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002 (c. 21). Section 84 is cited for the meaning of “prescribe”.
- (c) 1995 c. 18. Section 6H was substituted by the Welfare Reform Act 2012. Section 35 is cited for the meaning of “regulations”.
- (d) 2000 c. 19. Section 69(7) is cited for the meaning of “prescribed”.
- (e) 2012 c. 5. Section 40 is cited for the meaning of “prescribed”.
- (f) Section 176(1) was amended by paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c. 52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 and repealed for certain purposes by Part 1 of Schedule 14 to the Welfare Reform Act 2012.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018.

(2) Subject to paragraphs (3) and (4), these Regulations come into force on 14th February 2018.

(3) Regulation 3(1), in so far as it relates to paragraph (7) of regulation 3, and that paragraph (7), come into force on 9th April 2018.

(4) The following provisions come into force on 11th April 2018—

(a) regulation 3(1), in so far as it relates to regulation 3(2)(b) and (c), (5)(a) and (c), (6) and (9) to (13);

(b) regulation 5(1), in so far as it relates to regulation 5(2);

(c) regulation 6(1), in so far as it relates to regulation 6(2)(a) and (b), (3) to (8) and (10);

(d) regulations 2, 3(2)(b) and (c), (5)(a) and (c), (6) and (9) to (13), 4, 5(2), 6(2)(a) and (b), (3) to (8) and (10) and 8.

(5) These Regulations extend to England and Wales and Scotland only.

Amendments to the Discretionary Financial Assistance Regulations 2001

2. In the following provisions of the Discretionary Financial Assistance Regulations 2001(a), for “paragraph 3(e)” substitute “paragraph 3(h) or (i)”(b)—

(a) regulation 1(2), in the definition of “relevant award of universal credit”;

(b) regulation 4(2)(b).

Amendments to the Universal Credit Regulations 2013

3.—(1) The Universal Credit Regulations 2013(c) are amended as follows.

(2) In the Table of Contents—

(a) omit the entries for regulations 19A and 20A;

(b) after the entry for regulation 21 insert—

“21A. Assessment period cycle to remain the same following change in the first day of entitlement”;

(c) in the entries for Schedule 4—

(i) in the entry for Part 4 omit “and Temporary Accommodation”;

(ii) in the entry for Part 5 omit “Other than Temporary Accommodation”.

(3) Omit regulation 19A (waiting days).

(4) Omit regulation 20A (awards).

(5) In regulation 21 (assessment periods)—

(a) in paragraph (1) omit “, subject to paragraph (5),”;

(b) omit paragraph (1A);

(c) after paragraph (2) insert—

“(2A) But paragraphs (1) and (2) are subject to regulation 21A (assessment period cycle to remain the same following change in the first date of entitlement).”.

(6) After regulation 21 insert—

(a) S.I. 2001/1167; the relevant amending instrument is S.I. 2013/1139.

(b) New sub-paragraph (i) is inserted into paragraph 3 of Schedule 1 to S.I. 2013/376 by regulation 3(12)(a) of these Regulations.

(c) S.I. 2013/376; relevant amending instruments are S.I. 2014/597, 771, 2015/345, 1362, 1649 and 2017/252.

“Assessment period cycle to remain the same following change in the first date of entitlement

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

- (a) the first date of entitlement has been determined;
- (b) it is subsequently determined that the first date of entitlement falls on a different date (the “start date”); and
- (c) applying regulation 21(1) and (2) following that subsequent determination (and thereby changing the beginning of each assessment period) would, in the opinion of the Secretary of State, cause unnecessary disruption to the administration of the claim.

(2) Where this regulation applies—

- (a) the first assessment period is to be a period of a length determined by the Secretary of State beginning with the start date;
- (b) the amount payable in respect of that first assessment period is to be calculated as follows—

$$N \times \left(\frac{A \times 12}{365} \right)$$

where—

N is the number of days in the period; and

A is the amount calculated in relation to that period as if it were an assessment period of one month; and

- (c) regulation 21(1) and (2) apply to the second and subsequent assessment periods as if the day after the end of the first assessment period were the first date of entitlement.”.

(7) In the table in regulation 22 (deduction of income and work allowance)—

- (a) for “£397” in each place substitute “£409”;
- (b) for “£192” in each place substitute “£198”.

(8) In regulation 57 (self-employed earnings)(a), in paragraph (2)(a)—

- (a) for “by way of—” substitute “by way of national insurance contributions and income tax; and”;
- (b) omit paragraphs (i) and (ii).

(9) In regulation 66 (unearned income)—

- (a) at the end of paragraph (1)(a) insert “to which the person is entitled, subject to any adjustment to the amount payable in accordance with regulations under section 73 of the Social Security Administration Act 1992 (overlapping benefits)(b)”;
- (b) after paragraph (1)(d) insert—
“**(da)** foreign state retirement pension;”;
- (c) after paragraph (1)(l) insert—
“**(la)** PPF periodic payments;”;
- (d) in sub-paragraph (m), for “(a) to (l)” substitute “(a) to (la)”;
- (e) for paragraph (2) substitute—
“(2) In this regulation—

(a) Regulation 57(2) is to be substituted (for digital service cases only) by S.I. 2015/345, which comes into force on 11th April 2018. See also regulation 7(4) of these Regulations for amendments to substituted regulation 57(2).

(b) 1992 c. 5.

- (a) in paragraph (1)(da) “foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security;
- (b) in paragraph (1)(f) and (g) a person’s “living expenses” are the cost of—
 - (i) food;
 - (ii) ordinary clothing or footwear;
 - (iii) household fuel, rent or other housing costs (including council tax), for the person, their partner and any child or qualifying young person for whom the person is responsible;
- (c) in paragraph (1)(la) “PPF periodic payments” has the meaning given in section 17(1) of the State Pension Credit Act 2002(a).”.

(10) In regulation 89 (claimants subject to no work-related requirements), after paragraph (1)(d) insert—

“(da) the claimant is a member of a couple entitled to universal credit by virtue of regulation 3(2)(b) and has student income in relation to the course they are undertaking which is taken into account in the calculation of the award;”.

(11) In regulation 99 (circumstances in which requirements must not be imposed)—

(a) in paragraph (4), for “This paragraph” substitute “Subject to paragraph (4ZA), this paragraph”;

(b) after paragraph (4) insert—

“(4ZA) Where paragraph (4ZB) applies, paragraph (4) will only apply to a claimant if the Secretary of State makes a decision to carry out an assessment under regulation 41(1)(b).

(4ZB) This paragraph applies where—

- (a) (i) it has previously been determined on the basis of an assessment under Part 5 of these Regulations or under Part 4 or 5 of the ESA Regulations(b) that the claimant does not have limited capability for work; or
- (ii) the claimant has previously been treated as not having limited capability for work or, as the case may be, for work and work-related activity under regulation 43(3) or 44(2); and

(b) the condition specified in the evidence provided by the claimant in accordance with paragraph (4)(b) is in the opinion of the Secretary of State the same, or substantially the same, as the condition specified in the evidence provided by the claimant before the date—

- (i) of the determination that the claimant does not have limited capability for work; or
- (ii) that the claimant was treated as not having limited capability for work or, as the case may be, for work and work-related activity.”;

(c) in paragraph (5)—

- (i) in the opening words, after “because” omit “the claimant”;
- (ii) at the beginning of sub-paragraph (a) insert “the claimant”;
- (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “the claimant”;
 - (bb) at the end omit “or”;
- (iv) at the beginning of sub-paragraph (c), insert “the claimant”;
- (v) after sub-paragraph (c) insert—

(a) 2002 c. 16. The definition of “PPF periodic payments” was inserted by S.I. 2006/343.
 (b) S.I. 2013/379.

“; or

(d) paragraph (4) would apply to the claimant but for paragraph (4ZA).”;

(d) in paragraphs (5A) and (5B)(a), for “sub-paragraph (a), (b) or (c)” substitute “sub-paragraph (a), (b), (c) or (d)”.

(12) In Schedule 1 (meaning of payments in respect of accommodation)—

(a) in paragraph 3, after sub-paragraph (h) insert—

“;

(i) payments in respect of accommodation specified in paragraph 3B.”;

(b) after paragraph 3A insert—

“Temporary Accommodation

3B.—(1) The accommodation referred to in paragraph (3)(i) is accommodation which falls within Case 1 or Case 2.

(2) Case 1 is where—

(a) rent payments are payable to a local authority;

(b) the local authority makes the accommodation available to the renter—

(i) to discharge any of the local authority’s functions under Part II of the Housing (Scotland) Act 1987(a), Part VII of the Housing Act 1996(b) or Part 2 of the Housing (Wales) Act 2014(c), or

(ii) to prevent the person being or becoming homeless within the meaning of Part II of the Housing (Scotland) Act 1987, Part VII of the Housing Act 1996 or Part 2 of the Housing (Wales) Act 2014; and

(c) the accommodation is not exempt accommodation.

(3) Case 2 is where—

(a) rent payments are payable to a provider of social housing other than a local authority;

(b) that provider makes the accommodation available to the renter in pursuance of arrangements made with it by a local authority—

(i) to discharge any of the local authority’s functions under Part II of the Housing (Scotland) Act 1987, Part VII of the Housing Act 1996 or Part 2 of the Housing (Wales) Act 2014, or

(ii) to prevent the person being or becoming homeless within the meaning of Part II of the Housing (Scotland) Act 1987, Part VII of the Housing Act 1996 or Part 2 of the Housing (Wales) Act 2014; and

(c) the accommodation is not exempt accommodation.

(4) Sub-paragraph (1) applies irrespective of whether the renter is also liable to make service charge payments.

(5) In sub-paragraph (3), “provider of social housing” has the meaning given in paragraph 2 of Schedule 4.”;

(c) in paragraph 8(1)(a) omit “other than temporary accommodation”.

(13) In Schedule 4 (housing costs element for renters)—

(a) in paragraph 1(4)—

(i) in paragraph (b) omit “or who occupy temporary accommodation”;

(a) 1987 c. 26.
(b) 1996 c. 52.
(c) 2104 anaw 7.

- (ii) in paragraph (c) omit “other than temporary accommodation”;
- (b) in paragraph 4B(1)—
 - (i) in paragraph (b)—
 - (aa) for “(5)(a) or (c)” substitute “(5)”;
 - (bb) omit “and temporary accommodation”;
 - (ii) omit paragraph (c);
- (c) for paragraph 17(3) substitute—

“(3) The single calculation is to be made under Part 5 of this Schedule in any case where the renter’s liability to make rent payments in respect of accommodation A and accommodation B is to a provider of social housing.”;
- (d) in the heading to Part 4 omit “and Temporary Accommodation”;
- (e) for paragraph 20(1) substitute—

“(1) This Part applies to renters who are liable to make rent payments to a person other than a provider of social housing.”;
- (f) omit paragraph 21;
- (g) in the heading to Part 5 omit “Other than Temporary Accommodation”;
- (h) for paragraph 30(1) substitute—

“(1) This Part applies to renters who are liable to make rent payments to a provider of social housing.”.

Amendments to the Jobseeker’s Allowance Regulations 2013

4. In regulation 16 (circumstances in which requirements must not be imposed) of the Jobseeker’s Allowance Regulations 2013**(a)**—

- (a) in paragraph (1), for “(4) or (5)”, in both places it occurs, substitute “(4), (5) or (5B)”;
- (b) in paragraph (2), for “(4) or (5)” substitute “(4), (5) or (5B)”;
- (c) after paragraph (5) insert—

“(5A) Paragraph (5) does not apply to a claimant—

 - (a) if it has previously been determined on the basis of an assessment under Part 5 of the Universal Credit Regulations 2013 or Part 4 or 5 of the Employment and Support Allowance Regulations 2013 that the claimant does not have limited capability for work; and
 - (b) the condition specified in the evidence provided by the claimant in accordance with paragraph (5)(b) is in the opinion of the Secretary of State the same, or substantially the same, as the condition specified in the evidence provided by the claimant before the date of the determination that the claimant does not have limited capability for work.

(5B) This paragraph applies where the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 6D(4) of the Act**(b)**, because paragraph (5) would apply to the claimant but for paragraph (5A).”.

(a) S.I. 2013/378.

(b) Section 6D was inserted by section 49 of the Welfare Reform Act 2012.

Amendments to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013

5.—(1) The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a) are amended as follows.

(2) In regulation 33 (procedure for making an application for a supersession), after paragraph (3) add—

“(4) In relation to an applicant who is supplying information or evidence of a change of circumstances which is advantageous to the applicant in relation to an award of universal credit, paragraph (3)(b) has effect as if for “one month” there were substituted “14 days.””.

(3) In Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances), for paragraphs 32 and 33 substitute—

“**32.** Where the change of circumstances is that there has been a change in the legislation, the superseding decision takes effect—

- (a) in relation to an award of universal credit that exists on the date on which the change in legislation comes into force—
 - (i) if there is an assessment period for the award that begins on the date on which that change in legislation has effect, from that date; or
 - (ii) in any other case, from the first day of the next assessment period for the award beginning after the date on which that change had effect;
- (b) in any other case, from the date on which that change in the legislation had effect.

33. Where the change of circumstances is the expected coming into force of a change in the legislation, the superseding decision takes effect—

- (a) in relation to an award of universal credit that exists on the date on which the change in legislation comes into force—
 - (i) if there is an assessment period for the award that begins on the date on which that change in legislation has effect, from that date; or
 - (ii) in any other case, from the first day of the next assessment period for the award beginning after the date on which that change has effect;
- (b) in any other case, from the date on which that change in the legislation has effect.”.

Amendments to the Universal Credit (Transitional Provisions) Regulations 2014

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

(2) In the Table of Contents—

(a) after the entry for regulation 5 insert—

“5A. Entitlement to universal credit and housing benefit: universal credit work allowance”;

(b) after the entry for regulation 8 insert—

“8A. Transitional housing payment”;

(c) omit the entry for regulation 16A.

(3) In regulation 2(1) (interpretation), after the definition of “specified accommodation” insert—

““temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 3B of Schedule 1 to the Universal Credit Regulations;”.

(a) S.I. 2013/381.

(b) S.I. 2014/1230; relevant amending instruments are S.I. 2014/1626 and 2015/1362.

(4) In regulation 5 (exclusion of entitlement to certain benefits), in paragraph (2)(a), after “specified accommodation” insert “, temporary accommodation or where regulation 8(2A) applies”.

(5) After regulation 5 (exclusion of entitlement to certain benefits) insert—

“Entitlement to universal credit and housing benefit: universal credit work allowance

5A. 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 22(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 include an amount for housing costs.”.

(6) In each of the following regulations, after “specified accommodation” insert “or temporary accommodation”—

(a) regulation 6 (exclusion of claims for certain existing benefits), in paragraph (8);

(b) regulation 7 (termination of awards: new claimant partners), in paragraph (5)(a).

(7) In regulation 8 (termination of awards of existing benefits: other claimants)—

(a) in paragraph (2)—

(i) for “Subject to paragraph (3), where” substitute “Where”; and

(ii) omit “, housing benefit”;

(b) after paragraph (2) insert—

“(2A) Subject to paragraph (3), where this regulation applies, an award of housing benefit 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 two weeks beginning with the day after that day (whether or not the person is also entitled to an award of income support or a tax credit).”;

(c) in paragraph (3), after “specified accommodation” insert “or temporary accommodation”.

(8) After regulation 8 insert—

“Transitional housing payment

8A. Where an award of housing benefit terminates under regulation 8—

(a) the claimant is to be treated for the purposes of the Housing Benefit Regulations 2006(a) as entitled to universal credit during the period of two weeks mentioned in regulation 8(2A), even if no decision has been made on the claim; and

(b) if a claim for universal credit is made because the claimant moves to new accommodation occupied as the claimant’s home, then, notwithstanding anything in the Housing Benefit Regulations 2006, housing benefit is to be paid directly to the claimant during the period of two weeks mentioned in regulation 8(2A).”.

(9) In regulation 11 (ongoing awards of tax credits)—

(a) at the end of paragraph (2)(c) omit “or”;

(b) after paragraph (2)(c) insert—

“(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), 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 credit under section 24(4) of the

(a) S.I. 2006/213.

2002 Act 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".

(10) In regulation 14 (appeals etc. relating to universal credit)—

- (a) in paragraph (2)(b), after "legislative provision" insert "except regulation 8(2A)";
- (b) in paragraph (3), after "specified accommodation" insert "or temporary accommodation".

(11) Omit regulation 16A (waiting days).

Amendments to the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015

7.—(1) The Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015(a) are amended as follows.

(2) In regulation 1 (citation and commencement), for "2nd April 2018" substitute "11th April 2018".

(3) In regulation 2 (carry forward of surplus earnings), in paragraph (2), for regulation 54A of the Universal Credit Regulations 2013, as inserted by that paragraph, substitute—

"Surplus earnings

54A.—(1) This regulation applies in relation to a claim for universal credit where—

- (a) the claimant, or either of joint claimants, had an award of universal credit (the "old award") that terminated within the 6 months ending on the first day in respect of which the claim is made;
- (b) the claimant has not, or neither of joint claimants has, been entitled to universal credit since the old award terminated; and
- (c) the total earned income in the month that would have been the final assessment period for the old award, had it not terminated, exceeded the relevant threshold.

(2) Where this regulation applies in relation to a claim, any surplus earnings determined in accordance with paragraph (3) are to be treated as earned income for the purposes of determining whether there is entitlement to a new award and, if there is entitlement, calculating the amount of the award.

(3) Surplus earnings are—

- (a) if the claim in question is the first since the termination of the old award, the amount of the excess referred to in paragraph (1)(c) ("the original surplus");
- (b) if the claim in question is the second since the termination of the old award, the amount, if any, by which—
 - (i) the original surplus, plus
 - (ii) the total earned income in the month that would have been the first assessment period in relation to the first claim, exceeded the relevant threshold ("the adjusted surplus");
- (c) if the claim in question is the third since the termination of the old award, the amount, if any, by which—
 - (i) the adjusted surplus from the second claim, plus

(a) S.I. 2015/345, amended by S.I. 2015/1754, 2016/215 and 2017/197. S.I. 2015/345 now comes into force on 11th April 2018 in accordance with regulation 7(2) of these Regulations. The amendments made by S.I. 2015/345 are subject to savings in regulation 4 of that instrument.

- (ii) the total earned income in the month that would have been the first assessment period in relation to the second claim, exceeded the relevant threshold;
 - (d) if the claim in question is the fourth or fifth since the termination of the old award, an amount calculated in the same manner as for the third claim (that is by taking the adjusted surplus from the previous claim).
- (4) For the purposes of paragraph (3)—
- (a) if the claim in question is the first joint claim by members of a couple, each of whom had an old award (because each was previously entitled to universal credit as a single person or as a member of a different couple), the amounts of any surplus earnings from the old award or from a previous claim that would have been treated as earned income if they had each claimed as a single person are to be aggregated; and
 - (b) if the claim in question is—
 - (i) a single claim where the claimant had an old award, or made a subsequent claim, as a joint claimant, or
 - (ii) a joint claim where either claimant had an old award, or made a subsequent claim, as a member of a different couple,
 the original surplus, or any adjusted surplus, in relation to the old award is to be apportioned in the manner determined by the Secretary of State.
- (5) No amount of surplus earnings is to be taken into account in respect of a claimant who has, or had at the time the old award terminated, recently been a victim of domestic violence (within the meaning given by regulation 98).

(6) In this regulation—

“total earned income” is the earned income of the claimant or, if the claimant is a member of a couple, the couple’s combined earned income, but does not include any amount a claimant would be treated as having by virtue of regulation 62 (the minimum income floor);

“the nil UC threshold” is the amount of total earned income above which there would be no entitlement to universal credit, expressed by the following formula—

$$\frac{(M - U)}{63} \times 100 + WA$$

where—

M is the maximum amount of an award of universal credit**(a)**;

U is unearned income**(b)**;

WA is the work allowance**(c)**; and

“the relevant threshold” is the nil UC threshold plus £300.”.

(4) In regulation 3 (self-employed earnings – treatment of losses)—

- (a) in paragraph (2), in the wording substituted for paragraph (2) of regulation 57 of the Universal Credit Regulations 2013**(d)**, in Step 3 for the words “in respect of”, where they first appear, to the end of paragraph (b) substitute “by way of national insurance contributions or income tax in respect of any trade, profession or vocation carried on by the person”;

(a) The maximum amount of an award of universal credit is determined by section 8(2) of the Welfare Reform Act 2012.

(b) For the meaning of “unearned income” see Chapter 3 of Part 6 of S.I. 2013/376.

(c) See regulation 22 of S.I. 2013/376.

(d) Regulation 57(2) is substituted for digital service cases only (see saving in regulation 4 of S.I. 2015/345). See also regulation 3(8) of these Regulations.

- (b) in regulation 57A (unused losses), as inserted by paragraph (4)—
 - (i) in paragraph (1)(a) omit “11”;
 - (ii) in paragraph (3), for the text from “treat” to the end substitute—
“treat—
 - (a) the assessment periods under the previous award; and
 - (b) any months between that award and the current award in respect of which a claim has been made,
 as assessment periods under the current award.”.
- (5) In regulation 4 (saving), in paragraph (4)—
 - (a) omit “by regulation 2(2)”;
 - (b) for “6th April 2016” substitute “11th April 2018”;
 - (c) for “ended” substitute “began”.
- (6) After regulation 4 insert—

“Transitional provision – temporary de minimis period

5.—(1) For the purposes of applying regulation 54A (surplus earnings) of the Universal Credit Regulations 2013 in relation to a claim for universal credit made in respect of a period that begins before the end of the temporary de minimis period, the meaning of “relevant threshold” in paragraph (6) of that regulation is modified by substituting “£2,500” for “£300”.

(2) For the purposes of paragraph (1), the “temporary de minimis period” is the period beginning with the coming into force of regulation 54A and ending on 31st March 2019, but may be extended by the Secretary of State if the Secretary of State considers it necessary to do so to safeguard the efficient administration of universal credit.”.

Saving and Transitional Provision

8.—(1) The amendments made by regulation 3(2)(b), (5)(a) and (c) and (6) do not apply to an award of universal credit unless it is an award falling within sub-paragraphs (a) to (d) of regulation 5(1) (saving) of the Universal Credit (Digital Service) Amendment Regulations 2014(a).

(2) The amendments made by regulations 2, 3(2)(c), (12) and (13)(a), (b)(i)(bb) and (ii) and (c) to (h), 6(2)(a), (3), (4) (in so far as it relates to temporary accommodation), (5), (6), (7)(c) and (10)(b) do not apply to an award of universal credit that exists on 10th April 2018 and that then includes the housing costs element in respect of temporary accommodation, until—

- (a) there is a change in the amount of rent payments or service charge payments that the claimant is liable to make (with respect to any accommodation); or
- (b) the award ceases to include the housing costs element,

whichever occurs first.

(3) For the purposes of paragraph (2)—

- (a) “housing costs element” means the amount to be included in a claimant’s award of universal credit under section 11 of the Welfare Reform Act 2012;
- (b) “rent payments” has the meaning in paragraph 2 of Schedule 1 to Universal Credit Regulations 2013;
- (c) “service charge payments” has the meaning in paragraph 7 of Schedule 1 to those Regulations(b);

(a) S.I. 2014/2887; relevant amending instrument is S.I. 2015/1754.
 (b) Paragraph 7 is amended by S.I. 2017/725.

- (d) “temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 3B of Schedule 1 to those Regulations(a).

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

Alok Sharma
Minister of State

22nd January 2018

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 in these Regulations amends the Discretionary Financial Assistance Regulations 2001 (S.I. 2001/1167), regulation 3 amends the Universal Credit Regulations 2013 (S.I. 2013/376) (the “Universal Credit Regulations”), regulation 4 amends the Jobseeker’s Allowance Regulations 2013 (S.I. 2013/378) (the “Jobseeker’s Allowance Regulations”), regulation 5 amends the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (S.I. 2013/381) (the “Decisions and Appeals Regulations”), regulation 6 amends the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) (the “Transitional Regulations”) and regulation 7 amends the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015 (S.I. 2015/345) (the “Surplus Amendment Regulations”).

Regulation 3(2)(a), (3), (4) and (5)(b) removes the provisions in the Universal Credit Regulations which apply a 7 day period at the start of certain claims for universal credit in which entitlement does not arise (“waiting days”), previously introduced by the Universal Credit (Waiting Days) (Amendment) Regulations 2015 (S.I. 2015/1362). Regulation 6(11) removes the provision in the Transitional Regulations exempting universal credit claims made by certain individuals migrating from existing benefits from the application of waiting days. These provisions come into force on 14th February 2018.

Regulation (5)(a) and (c) amends regulation 21 of the Universal Credit Regulations and regulation 3(6) inserts new regulation 21A into those regulations to make provision for cases where there is a change in the first date of a claimant’s entitlement to universal credit after the assessment period cycle for the award has been established. Where adjusting that cycle retrospectively would cause unnecessary disruption to the administration of the claim, provision is made for the length of the first assessment period to be adjusted as necessary in order that subsequent assessment periods remain as previously fixed. The saving provision in regulation 8(1) applies so that these amendments only have effect in relation to the digital service. These provisions come into force on 11th April 2018.

Regulation 3(7) increases the work allowances specified in the table in regulation 22 of the Universal Credit Regulations. This amendment comes into force on 9th April 2018.

Regulation 3(8) amends regulation 57(2) of the Universal Credit Regulations, which deals with the deduction of income tax and national insurance contributions in the calculation of self-employed earnings. From 14th February 2018 (and in anticipation of the abolition of Class 2 contributions) it substitutes a general reference for the specific references to Class 2 and Class 4 contributions. (Note that from 11th April 2018, for digital service cases only, regulation 57(2) is substituted by the Surplus Amendment Regulations.) The amendments made by regulation 3(8) will continue in effect after that date for cases not in the digital service.

(a) Paragraph 3B is inserted into Schedule 1 of S.I. 2013/376 by regulation 3(12) of these Regulations and comes in force on 11th April 2018 under regulation 1(4).

Regulation 7(4) amends regulation 57(2) of the Universal Credit Regulations, as substituted by regulation 3 of the Surplus Amendment Regulations, by substituting a general reference for the specific reference to Class 2 and Class 4 contributions.

Regulation 3(9) amends regulation 66 of the Universal Credit Regulations to allow for foreign state pension income and Pension Protection Fund periodic payments to be taken into account as unearned income in universal credit. These changes mirror the rules which apply in other legacy benefits such as state pension credit. Provision is also made for state retirement pension income to be taken into account in universal credit net of any deductions applied under overlapping benefit rules, in the same way as other unearned state benefits. This comes into force on 11th April 2018.

Regulation 3(10) amends regulation 89 of the Universal Credit Regulations in relation to a claimant who is receiving education and who is entitled to universal credit because they are a member of a couple. Such a claimant will not be subject to work-related requirements if they have student income taken into account in the calculation of their universal credit award. This provision comes into force on 11th April 2018.

Regulations 3(11) and 4 amend regulation 99 of the Universal Credit Regulations and regulation 16 of the Jobseeker's Allowance Regulations respectively. Regulation 99(4) of the Universal Credit Regulations makes provision for work search and work availability requirements to be switched off for claimants suffering ill-health for up to two periods of 14 days in a rolling 12 month period. The amendments apply to claimants who have undergone a work capability assessment and been found not to have limited capability for work or who are treated as not having limited capability for work because they have failed to provide information or to attend a medical examination. In other words, claimants who are, or are treated as being, fit for work. If such a claimant produces evidence that they are unfit for work and the condition referred to in the evidence is the same, or substantially the same, as the condition referred to in the evidence produced before the claimant was assessed/treated as not having limited capability for work, requirements will only be switched off if the claimant has been referred for another assessment as to their capability for work. If such a claimant has not been referred for another assessment, regulation 99(5) is amended so that work search and work availability requirements may still be switched off if it would be unreasonable for a claimant to comply. Similar amendments are made to regulation 16 of the Jobseeker's Allowance Regulations. These amendments come into force on 11th April 2018.

Regulation 3(13)(b)(i)(aa) amends paragraph 4B(1)(b) of Schedule 4 to the Universal Credit Regulations. Paragraph 4A of Schedule 4 to those Regulations makes provision for certain renters aged 18 to 21 to not receive the housing costs element of universal credit and paragraph 4B of that Schedule sets out when paragraph 4A does not apply and where claimants may remain entitled to the housing costs element. The amendment makes provision so that any universal credit claimant aged 18 to 21 who is in receipt of attendance allowance, including armed forces independence payment (which is included in the definition of attendance allowance in regulation 2 of the Universal Credit Regulations), may still be eligible to receive the housing costs element. This amendment comes into force on 11th April 2018.

Regulation 5(2) amends regulation 33 of the Decisions and Appeals Regulations to reduce the time in which a claimant is required to supply information and evidence when making an application for a supersession in relation to a change of circumstances advantageous to the claimant, from one month to 14 days. This comes into force on 11th April 2018.

Regulation 5(3) amends Schedule 1 to the Decisions and Appeals Regulations to create a new default date for new legislative provisions to come into effect for universal credit. The amendment provides that the default date on which new legislation will take effect in relation to supersession decisions arising from a change of legislation will be, where there is an existing award of universal credit, the first day of the assessment period that begins on or after the day on which the change has effect or, in other cases, the date on which the change has effect. This provision comes into force on 14th February 2018.

Regulations 2, 3(2)(c), (12) and (13)(a), (b)(i)(bb) and (ii) and (c) to (h), 6(2)(a), (3) to (6), (7)(c) and (10)(b) and 8(2) and (3) make provision in relation to “temporary accommodation” and these provisions all come into force on 11th April 2018.

Regulation 2 amends the Discretionary Financial Assistance Regulations 2001 to provide that a local authority may award a discretionary housing payment to a person for any universal credit assessment period when the person would have been entitled to universal credit housing costs were it not for the fact that the person occupied specified accommodation (defined in paragraph 3A of Schedule 1 to the Universal Credit Regulations) or temporary accommodation.

Regulation 3(12) amends Schedule 1 to the Universal Credit Regulations to prevent payments for temporary accommodation being classed as rent payments for the purposes of calculating the housing element of universal credit, and makes other consequential changes to that Schedule. Regulation 3(13)(a), (b)(i)(bb) and (ii) and (c) to (h) makes consequential amendments to Schedule 4 of the Universal Credit Regulations to omit references to temporary accommodation which are no longer necessary. Regulation 3(2)(c) makes minor consequential amendments.

Regulation 6(3) inserts a definition of “temporary accommodation” into the Transitional Regulations. Regulation 6(4), (6), (7)(c) and (10)(b) amend various provisions in the Transitional Regulations which allow for dual entitlement to universal credit and housing benefit in respect of claimants occupying specified accommodation, so that they also apply to claimants who are occupying temporary accommodation (and those receiving transitional housing payments under regulation 8(2A) (inserted by regulation 6(7)(b) of these Regulations)). Regulation 6(5) inserts new regulation 5A into the Transitional Regulations. The new regulation provides that where in a universal credit assessment period a person is entitled to universal credit (without the housing costs element) and is also entitled to housing benefit for temporary accommodation, the person is to be treated for the purposes of work allowances in universal credit as though the person were entitled to universal credit with the housing costs element.

Regulation 8(2) and (3) makes saving in respect of the amendments in these Regulations concerning temporary accommodation. The amendments will not apply to an award of universal credit that exists on 10th April 2018 which then includes the housing costs element for temporary accommodation until the claimant’s liability to pay rent or service charges changes or the award ceases to include the housing costs element, whichever occurs first.

Regulation 6(7)(a) and (b) provides for a transitional housing payment for claimants who migrate to universal credit when they are in receipt of housing benefit. The new paragraph (2A), which is inserted into regulation 8 (termination of existing benefits), allows a housing benefit award to continue for a period of two weeks beyond the day on which the person becomes entitled to universal credit. Regulation 6(8) also inserts a new regulation 8A which provides that, pending the decision on the claim, the claimant is treated as entitled to universal credit for the purposes of the housing benefit award, and where the claimant makes a claim for universal credit because they have moved home, housing benefit will be paid directly to the claimant for the period of two weeks beginning with the day on which they become entitled to universal credit. Regulation 6(2)(b) and (10)(a) makes minor consequential amendments. These provisions come into force on 11th April 2018.

Regulation 6(9) amends regulation 11 of the Transitional Regulations to enable a tax credits claimant who makes a late declaration under section 17 of the Tax Credits Act 2002 (c. 21) to be treated in certain circumstances as entitled to a tax credit with effect from the start of the tax year. This comes into force on 14th February 2018.

Regulation 7 amends the Surplus Amendment Regulations (with a coming into force date of 14th February 2018)—

— Paragraph (2) substitutes a new coming force date for the Surplus Amendment Regulations of 11th April 2018.

— Paragraph (3) substitutes a new regulation 54A to be inserted into the Universal Credit Regulations. Regulation 54A (as inserted by the Surplus Amendment Regulations) provides for

surplus earnings in the assessment period where an award of universal credit terminates, or in any of the following 5 months, to be carried forward as earned income in relation to a new claim. The main change in the substituted regulation 54A is that the calculation of surplus earnings will only take account of earned income in a month for which universal credit is claimed. There are also some changes to the calculation of surplus earnings where couples separate or form.

— Paragraph (4) amends regulation 57A, to be inserted into the Universal Credit Regulations. The main change is the removal of the restriction which only allows losses from 11 previous assessment periods to be taken into account. The other change (corresponding with the amendments to regulation 54A) is that losses incurred during the 6 month period between awards are only available in relation to a month in respect of which a claim has been made.

— Paragraph (5) makes amendments which are consequential on the new coming into force date for the Surplus Amendment Regulations. Those amendments will only affect surpluses or losses arising in assessment periods beginning on or after 11th April 2018.

— Paragraph (6) inserts a new transitional provision into the Surplus Amendment Regulations. This increases the £300 de minimis amount (applied in the calculation of surplus earnings) to £2,500 for the 12 months from the coming into force of regulation 54A of the Universal Credit Regulations. That period may be extended by the Secretary of State in order to safeguard the efficient administration of universal credit.

An impact assessment has not been produced for this instrument as it has no impact on business or on civil society organisations. This instrument has no impact on the public sector.