

**2014 No. 1230**

**SOCIAL SECURITY**

**UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014**

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**SCHEDULE – Modification of Tax Credits Legislation (Finalisation of Tax Credits)**

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 42(2) and (3) of and paragraphs 1(1) and (2)(b), 3(1)(a) to (c), 4(1)(a), 5(1), (2)(c) and (d) and (3)(a) and 6 of Schedule 6 to the Welfare Reform Act 2012.

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

In accordance with section 176(1) of the 1992 Act and, in so far as these Regulations relate to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned in respect of proposals for these Regulations.

## PART 1

### INTRODUCTORY

#### 1 Citation and commencement

- (1) These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations 2014.
- (2) These Regulations come into force on 16th June 2014.

#### 2 Interpretation

- (1) In these Regulations-

"the 2002 Act" means the Tax Credits Act 2002;

"the 2007 Act" means the Welfare Reform Act 2007;

"the Act" means the Welfare Reform Act 2012;

"assessment period" has the same meaning as in the Universal Credit Regulations;

*"childcare costs element" has the meaning in the Universal Credit Regulations;*

"the Claims and Payments Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's

Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013;

"contributory employment and support allowance" means a contributory 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 14, to the Act that remove references to an income-related allowance;

*“deadline day” has the meaning in regulation 44;*

*“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 2002 Act, but see also *paragraph (3) and regulation 25(2)*;

"First-tier Tribunal" has the same meaning as in the Social Security Act 1998;

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

"housing benefit" means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992;

*“housing costs element” has the meaning in the Universal Credit Regulations;*

"income-based jobseeker's allowance" has the same meaning as in the Jobseekers Act 1995;

"income-related employment and support allowance" means an income-related allowance under Part 1 of the 2007 Act;

"income support" means income support under section 124 of the Social Security Contributions and Benefits Act 1992;

*“indicative UC amount” has the meaning in regulation 54;*

"joint-claim jobseeker's allowance" means old style JSA, entitlement to which arises by virtue of section 1(2B) of the Jobseekers Act 1995;

*“migration day” has the meaning in regulation 49;*

*“migration notice” has the meaning in regulation 49;*

"new claimant partner" has the meaning given in regulation 7;

"new style ESA" means an allowance under Part 1 of the 2007 Act as amended by the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance;

"new style JSA" means an allowance under the Jobseekers Act 1995 as amended by the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based allowance;

*“notified person” has the meaning in regulation 44;*

*“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 for Work and Pensions, HMRC or a local authority that administers housing benefit; and*
- (b) was not caused, or materially contributed to, by any person outside that body or outside the Department, HMRC or local authority;*

"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 14, to the Act that remove references to an income-related allowance;

"old style JSA" means a jobseeker's allowance under the Jobseekers Act 1995 as that Act has effect apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based allowance;

*"qualifying claim" has the meaning in regulation 48;*

"specified accommodation" means accommodation to which one or more of sub-paragraphs (2) to (5) of paragraph 3A of Schedule 1 to the Universal Credit Regulations applies;

*"severe disability premium" means a premium under paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations 2008(1) or any corresponding premium in relation to income support, old style JSA or housing benefit;*

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

*"total legacy amount" has the meaning in regulation 53;*

*"transitional capital disregard" has the meaning in regulation 51;*

*"transitional element" has the meaning in regulation 52;*

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

"qualifying young person" has the same meaning as in the Universal Credit Regulations, but see also regulation 28;

"tax credit" (including "child tax credit" and "working tax credit"), "tax credits" and "tax year" have the same meanings as in the 2002 Act;

"the Universal Credit Regulations" means the Universal Credit Regulations 2013;

"Upper Tribunal" has the same meaning as in the Social Security Act 1998.

(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 the Claims and Payments Regulations;

(b) where a couple is treated, in accordance with regulation 9(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 5, 7 and 8 or termination of an award of the benefit before that date by virtue of an order made under section 150(3) of the Act.

(3) For the purposes of these Regulations,—

(a) references an award of an income-based jobseeker's allowance are to an award of an old style jobseeker's allowance where the claimant is, or joint claimants are, entitled to the income based allowance; and

(b) references to an award of an income-related employment and support allowance are to an award of an old style employment and support allowance where the claimant is entitled to the income-related allowance,

and references to an award of an existing benefit are to be read accordingly.

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(1)

**Revocation and saving of the Universal Credit (Transitional Provisions) Regulations 2013**

**3.-(1)** The Universal Credit (Transitional Provisions) Regulations 2013 ("the 2013 Regulations") are revoked, subject to the savings in paragraphs (2) to (4).

(2) Chapters 2 and 3 of Part 2 (Pathfinder Group and treatment of invalid claims) of the 2013 Regulations continue to have effect in relation to a claim for universal credit--

(a) which was made before the date on which these Regulations come into force ("the commencement date"); and

(b) in respect of which no payment has been made to the claimant before the commencement date.

(3) Regulation 19 of the 2013 Regulations (advance payments of universal credit) continues to have effect in relation to an advance payment which was made in accordance with that regulation before the commencement date and regulation 17 of these Regulations does not apply to such a payment.

(4) Any other provision of the 2013 Regulations continues to have effect in so far as is necessary to give full effect to paragraphs (2) and (3).

**PART 2**

**TRANSITION TO UNIVERSAL CREDIT**

**CHAPTER 1**

**ENTITLEMENT TO CLAIM UNIVERSAL CREDIT**

**Secretary of State discretion to determine that claims for universal credit may not be made**

**4.-(1)** Where the Secretary of State considers it necessary, in order to--

(a) safeguard the efficient administration of universal credit; or

(b) ensure the effective testing of systems for the administration of universal credit,

to cease to accept claims in any area, or in any category of case (either in all areas or in a specified area), the Secretary of State may determine that claims for universal credit may not be made in that area, or in that category of case.

(2) A determination under paragraph (1) has effect until it ceases to have effect in accordance with a further determination made by the Secretary of State.

(3) More than one determination under paragraph (1) may have effect at the same time.

**CHAPTER 2**

**ENTITLEMENT TO OTHER BENEFITS**

**Exclusion of entitlement to certain benefits**

**5.-(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 under the State Pension Credit Act 2002,

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

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

- (a) to housing benefit in respect of specified accommodation, temporary accommodation or where regulation 8(2A) applies; 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 7(4), after the first date of entitlement to universal credit;
  - (ii) housing benefit, where regulation 7(5)(b) 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; or
  - (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the 2002 Act, after the first date of entitlement to universal credit.

#### **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.

#### **Exclusion of claims for certain existing benefits**

**6.-(1)** Except as provided in paragraphs (5) to (9) a universal credit claimant may not make a claim for income support, housing benefit or a tax credit.

(2) For the purposes of this regulation, a person is a universal credit claimant if—

- (a) the person is entitled to universal credit;
- (b) the person has made a claim for universal credit, a decision has not yet been made on that claim and the person has not been informed (in accordance with an order made under section 150(3) of the Act) that he or she is not entitled to claim universal credit;
- (ba) (i) the conditions in regulation 6(1)(a), (b) and (c) or 6(2)(a), (b) and (c) of the Claims and Payments Regulations (claims not required for entitlement to universal credit in certain cases) are met in relation to the person;

(ii) he or she may be entitled to an award of universal credit without making a claim if the conditions in regulation 6(1)(d) and (e) or, as the case may be, 6(2)(d) and (e) of those Regulations are also met; and

(iii) either the Secretary of State has no information in relation to the person which may indicate a change of circumstances as referred to in regulation 6(1)(e) or, as the case may be, 6(2)(e) of those Regulations, or the Secretary of State has such information but no decision has been made that the person is entitled to universal credit;

(c) the person was previously entitled to a joint award of universal credit which terminated because the person ceased to be a member of a couple, he or she is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the condition of entitlement to universal credit that he or she makes a claim for it and the period of one month, starting with the date on which the person notified the Secretary of State that he or she had ceased to be a member of a couple, has not expired;

(ca) the person may be entitled to an award of universal credit in circumstances where, by virtue of regulation 9(6), (7) or (10) of the Claims and Payments Regulations (claims for universal credit by members of a couple), it is not a condition of entitlement that he or she makes a claim for it, but no decision has yet been made as to the person's entitlement;

(d) the person is treated, under the Claims and Payments Regulations, as having made a claim for universal credit, but no decision has yet been made as to the person's entitlement;

(e) a decision has been made that the person is not entitled to universal credit and--

(i) the Secretary of State is considering whether to revise that decision under section 9 of the Social Security Act 1998, whether on an application made for that purpose, or on the Secretary of State's own initiative; or

(ii) the person has appealed against that decision to the First-tier Tribunal and that appeal or any subsequent appeal to the Upper Tribunal or to a court has not been finally determined.

(3) For the purposes of paragraph (1)--

(a) a universal credit claimant makes a claim for benefit mentioned in that paragraph if the claimant takes any action which results in a decision on a claim being required under the relevant Regulations; and

(b) except as provided in [paragraphs (5) to (7B)], it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purposes of those Regulations, the claim is made or treated as made at a time when the claimant was not a universal credit claimant.

(4) The relevant Regulations are--

(a) in relation to a claim for income support, the Social Security (Claims and Payments) Regulations 1987 ("the 1987 Regulations");

(b) in relation to a claim for housing benefit, the Housing Benefit Regulations 2006 ("the 2006 Regulations") or, as the case may be, the Housing Benefit (Persons who

have attained the qualifying age for state pension credit) Regulations 2006 ("the 2006 (SPC) Regulations");

(c) in relation to a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002.

(5) A universal credit claimant is not precluded from making a claim for income support if-

(a) first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) [or 6A] of the 1987 Regulations, before the date on which the claim for universal credit was made or treated as made; and

(b) in accordance with the 1987 Regulations, the claimant's entitlement to income support in connection with the claim will (if the claimant is entitled to income support) pre-date--

(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or

(ii) where the claimant is a new claimant partner and regulation 7(4) would apply to the award, the date on which it would terminate in accordance with that provision.

(6) A universal credit claimant is not precluded from making a claim for housing benefit if--

(a) first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations) before the date on which the claim for universal credit was made or treated as made; and

(b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date--

(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or

(ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.

(7) A universal credit claimant is not precluded from correcting or completing a claim for housing benefit which was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations if--

(a) the defective claim was made before the date on which the claim for universal credit was made or treated as made; and

(b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date--

(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or

(ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.

(7A) A claimant who is a universal credit claimant by virtue of sub-paragraph (ba) of paragraph (2) (and no other sub-paragraph) is not precluded from--

(a) making a claim for income support for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) or 6A of the 1987 Regulations, during the period starting with the relevant date and ending with 15<sup>th</sup> November 2015;

(b) making a claim for housing benefit for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations), during the period starting with the relevant date and ending with 15<sup>th</sup> November 2015;

(c) correcting or completing a claim for housing benefit for a period starting on or after the relevant date, where that claim was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations and was made during the period starting with the relevant date and ending with 15<sup>th</sup> November 2015.

(7B) For the purposes of paragraph (7A), the "relevant date" is--

(a) where the conditions in regulation 6(1)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the day after the claimant's last day of entitlement to universal credit;

(b) where the conditions in regulation 6(2)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the first date on which the claimant would have been entitled to universal credit if the claimant had been so entitled.

(8) A universal credit claimant is not precluded from making a claim for housing benefit in respect of specified accommodation or temporary accommodation.

(9) A universal credit claimant is not precluded from making a claim for a tax credit which the claimant is treated as having made by virtue of regulation 7(7) or 8(4)(a).

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

**7.-(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;

(c) the couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having made a claim for universal credit; and

(d) the Secretary of State is satisfied that the claimants meet the basic conditions specified in section 4(1)(a) to

(d) of the Act (other than any of those conditions which they are not required to meet by virtue of regulations under section 4(2) of the Act).

(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
- (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 the 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 1987, 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 or temporary accommodation; or
- (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A.

(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 11 as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the 2002 Act, 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**

**8.-(1)** This regulation applies where--

- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having been made) is made; and
- (b) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to
- (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(2) Where this regulation applies, all awards of income support, 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 he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

“(2A) Subject to paragraph (3), an award of housing benefit that a claimant has on the day specified in paragraph (2) (the termination day for an award of income support or a tax credit) terminates on the last day of the period of two weeks beginning with the day after that day.

(3) 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.

(4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 11 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 2002 Act and this regulation, as having made a claim for the tax credit in question for the current tax 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.

### **Transitional housing payment**

**8A.** Where regulation 8(2A) applies—

(a) the claimant is to be treated for the purposes of the Housing Benefit Regulations 2006 as entitled to universal credit during the fortnight mentioned in that regulation, 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 a fortnight referred to in paragraph (2A); and

(c) *if a claim for universal credit is made by a notified person, then notwithstanding anything in the Housing Benefit Regulations 2006, 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 day mentioned in regulation 8(2)(a) or (b) (whichever is applicable).*

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

**9.-(1)** This regulation applies where a claimant who is a new claimant partner, or who has (in accordance with regulation 26 of the Universal Credit 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, to a welfare benefit (other than universal credit) mentioned in section 96(10) of the Act (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 section 96(10) of the Act.

**Treatment of overpayments**

**10.-(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 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 section 150(3) of the Act or regulation 7, 8, or 14); 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 1988;

(b) the Housing Benefit Regulations 2006; or

(c) the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

**Ongoing awards of tax credits**

**11.-(1)** For the purposes of ~~regulations 7(7) and 8(4)~~ *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 2002 Act 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 2002 Act 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;

*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 the person under section 17 of the 2002 Act 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) and--

(i) the date specified in the notice for the purposes of section 17(2) and (4) 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 paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the 2002 Act;

(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 2002 Act in respect of entitlement to a tax credit for the previous tax year; or

(ca) a final notice has been given and the person made a declaration in response to provision 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 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

(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), 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 2002 Act 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 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 Secretary of State during that period.

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

**12.-(1)** This regulation applies where--

- (a) a claim for universal credit is made, or is treated as having been made;
- (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; and
- (c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to
- (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(2) Where this regulation applies, the 2002 Act 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) at the end insert "or treated as an overpayment of universal credit";
- (b) in subsections (3) and (4), after "repaid" insert "to the Board or, as the case may be, to the Secretary of State";
- (c) omit subsection (5);
- (d) in subsection (6) omit "(apart from subsection (5))".

(4) For section 29(4) substitute- "(4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered--

- (a) subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given; or
- (b) subject to regulations made by the Secretary of State under the Social Security Administration Act 1992--
  - (i) by deductions under section 71ZC of that Act (Deduction from benefit-- including universal credit);

(ii) by deductions under section 71ZD of that Act (Deduction from earnings);  
or

(iii) as set out in section 71ZE of that Act (Court action etc)."

(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 a tax credit terminated,".

(6) In Schedule 2, in paragraph 6(1)(a) and (c) and (2)(a), after "for the tax year" insert "or part tax year".

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

**12A.-(1)** This regulation applies where--

- (a) a claim for universal credit is made, or is treated as having been made;
- (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; and
- (c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to
- (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(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 2002 Act and regulations made under that Act, as modified by the Schedule to these Regulations ("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 2002 Act 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**

**13.-(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 section 9 of the Social Security Act 1998 ("the 1998 Act") or superseded under section 10 of that Act;
- (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 2000; or
- (d) a decision relating to the claimant's entitlement to a tax credit is revised under section 19 or 20 of the 2002 Act, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act.

- (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 7(3), awards of those benefits are to terminate in accordance with regulation 7.
- (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, 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 8.
- (4) The Secretary of State is to consider whether it is appropriate to revise under section 9 of the 1998 Act the decision in relation to entitlement to universal credit or, if that decision has been superseded under section 10 of that Act, the decision as so superseded (in either case, "the UC decision").
- (5) Where it appears to the Secretary of State to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Secretary of State to be necessary to take account of--
- (a) the decision of the First-tier Tribunal, Upper Tribunal or court, or, as the case may be, the decision relating to entitlement to a relevant benefit, as revised, superseded, varied or cancelled; and
  - (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

**Appeals etc relating to universal credit**

**14.-(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 section 9 of the Social Security Act 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 5 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 under which an award would otherwise terminate on a later date except regulation 8(2A) does not apply.
- (3) 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.

## CHAPTER 3

## EFFECT OF TRANSITION TO UNIVERSAL CREDIT

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

**15.-(1)** Where a claim for universal credit is made by a person who was previously entitled to an existing benefit, regulation 26 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) ~~In paragraph (3) of regulation 26, after sub-paragraph (a) insert—~~

~~"(aa) the claimant was previously in receipt of an existing benefit (as defined in the Universal Credit (Transitional Provisions) Regulations 2014) and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant's entitlement expired;"~~

(2) *In paragraph (3) of that regulation (circumstances in which the claimant could not be expected to have made a claim earlier), insert—*

*(aa) the claimant was previously in receipt of an existing benefit (as defined in the Universal Credit (Transitional Provisions) Regulations 2014) and—*

*(i) notification of the expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant's entitlement expired; or*

*(ii) in a case where the Secretary of State has sent a migration notice (as defined in those Regulations) to the claimant, there was an official error (as defined in those Regulations) which caused or contributed to a delay in making the claim.*

(3) *References in these Regulations to a claim being backdated are to the time within which a claim must be made being extended under regulation 26 of the Claims and Payments Regulations (as modified by this regulation).*

**Persons unable to act**

**16.-(1)** Paragraph (2) applies where--

(a) a person ("P2") has been appointed, or treated as appointed, under regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987 ("the 1987 Regulations") (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 ("the 2002 Regulations") (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 Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 57(1) of the Claims and Payments Regulations (persons unable to act) and P2 may carry out the functions set out in regulation 57(4) of those Regulations in relation to P1.

(3) Paragraph (4) applies where a person ("P2") was appointed, or treated as appointed, under regulation 57(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 Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 33(1) of the 1987 Regulations 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 2002 Regulations) may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 18(3) of the 2002 Regulations and P2 may act for P1 in making a claim for a tax credit.

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

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

- (a) the Secretary of State is deciding a claim for universal credit, other than a claim which is treated as having been made, in accordance with regulation 9(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;
- (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 Secretary of State may make an advance payment to the claimant, or joint claimants, of such amount in respect of universal credit as the Secretary of State 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.

### **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 35 of the Social Security (Claims and Payments) Regulations 1987, in accordance with Schedule 9 to those Regulations.

(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;

(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 6 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 section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, 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) 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).

(2) Where, on or before the relevant date, it had been determined that the claimant had limited capability for work (within the meaning of Part 1 of the 2007 Act)--

(a) ...

(b) the claimant is to be treated as having limited capability for work for the purposes of ... section 21(1)(a) of the Act.

(3) ...

(4) Where, on or before the relevant date, it had been determined that the claimant 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--

(a) regulation 27(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 27(1)(b) of those Regulations and section 19(2)(a) of the Act.

(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)(4)(b)--

(a) regulation 28 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 [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 section 150(3) of the Act.

(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 Secretary of State 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 27--

"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 that Act;

"LCWRA element" has the same meaning 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) [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.

(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 Employment and Support Allowance 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 28(2) of the Universal Credit Regulations (period for which the LCWRA element is not to be included) does not apply; and

(b) for the purposes of regulation 28 of those Regulations, the relevant period is-

(i) the period of 13 weeks starting with the first day of the assessment phase; or

(ii) where regulation 5 of the Employment and Support Allowance 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 28 of the Universal Credit Regulations does not apply;

(b) ...

(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 section 150(3) of the Act.

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

**20A.-(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 Jobseeker's Allowance Regulations 1996 or regulation 46A of the Jobseeker's Allowance Regulations 2013 (extended period of sickness).

(2) Where this regulation applies--

(a) regulation 28(2) of the Universal Credit Regulations (period for which LCWRA element is not to be included) does not apply; and

(b) for the purposes of regulation 28 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**

**21.-(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 1975 ("the 1975 Regulations") 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) ...

(b) the claimant is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.

(3) ...

(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 27(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 27(1)(b) of those Regulations and section 19(2)(a) of the Act.

(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 28 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 28(2) of the Universal Credit Regulations does not apply; and

(b) for the purposes of regulation 28 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 28 of the Universal Credit Regulations does not apply;
- (b) ...
- (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 Secretary of State 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 Employment and Support Allowance Regulations 2008 (conditions for treating a claimant as 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) [and 4(4)(a)] 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 1975 Regulations;
- (e) subject to sub-paragraph (f), 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) [and 4(4)(a)] of the 2007 Act had applied;
- (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**

**22.-(1)** This regulation applies where an award of universal credit is made to a claimant [(other than a claimant to whom regulation 23 or 24 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 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;

(ii) regulation 28 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 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;

(ii) regulation 28 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 2010 Regulations**

**23.-(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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No2) Regulations 2010 ("the 2010 Regulations") (notice commencing the conversion phase).

(1A) Where this regulation applies, regulations 27(3) (award to include LCW and LCWRA elements) and 38 (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, or for work and work-related activity, is to be determined, for the purposes of the Act and the Universal Credit Regulations, in accordance with this regulation.

(2) Where it is determined in accordance with the 2010 Regulations 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) ....

(b) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;

(c) regulation 28(1) of those 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 section 21(1)(a) of the Act.

(3) [Where it is determined in accordance with the 2010 Regulations 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)...

(b) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;

(c) regulation 28(1) of those 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 section 19(2)(a) of the Act.

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

**24.-(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 (notice commencing the conversion phase) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No2) Regulations 2010 ("the 2010 Regulations");

(c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations) 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;
- (ii) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 ("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), 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 27(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 27(1)(a) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 21(1)(a) of the Act.

(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 2010 Regulations;
- (c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations) 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;
- (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 27(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 27(1)(b) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 19(2)(a) of the Act.

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

**25.-(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 22, 23 and 24 and this regulation only, incapacity benefit and severe disablement allowance are prescribed benefits under paragraph 1(2)(b) of Schedule 6 to the Act.

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

**26.-(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 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No2) Regulations 2010 within the period of one year; and
- (c) none of regulations 22, 23 or 24 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 24(1)(d) and is not entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d)--

- (a) regulation 27(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 27(1)(a) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 21(1)(a) of the Act.

(3) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d) (whether or not the claimant is also entitled to a payment, allowance or increased rate of pension specified in regulation 24(1)(d))--

- (a) regulation 27(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 27(1)(b) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 19(2)(a) of the Act.

(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 24(1)(d) or regulation 24(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 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;

(ii) regulation 28 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 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;

(ii) regulation 28 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**

**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 force under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits)

Regulations 1975 on the date on which the claim for universal credit was made or treated as made; and

(b) none of regulations 22, 23, 24 or 26 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 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;

(ii) regulation 28 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;

(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 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
- (ii) regulation 28 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"**

**28.-(1)** Where a person who would (apart from the provision made by this regulation) be a "qualifying young person" within the meaning of regulation 5 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 5(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 2014)".

### **Support for housing costs**

**29.-(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 section 150(3) of the Act 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) paragraphs 14 to 16 of Schedule 2 to the Jobseeker's Allowance Regulations 1996 ("the 1996 Regulations");
  - (ii) paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations 2008 ("the 2008 Regulations"); or, as the case may be,
  - (iii) paragraphs 15 to 17 of Schedule 3 to the Income Support (General) Regulations 1987 ("the 1987 Regulations").

(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;

(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 1996 Regulations;

(b) paragraph 8(1)(c) or 9(1)(b) of Schedule 6 to the 2008 Regulations; or, as the case may be,

(c) paragraph 6(1)(c) or 8(1)(b) of Schedule 3 to the 1987 Regulations.

(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 1996 Regulations;

(ii) paragraph 15 of Schedule 6 to the 2008 Regulations; or, as the case may be,

(iii) paragraph 14 of Schedule 3 to the 1987 Regulations, 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 section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, 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 section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before that date.

**Sanctions: transition from old style ESA**

**30.-(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 Employment and Support Allowance Regulations 2008 ("the 2008 Regulations").

(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 section 27 of the Act;

(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 section 27 of the Act.

(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 fixed period applicable to the person under regulation 63(7) of the 2008 Regulations 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

(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 101 of the Universal Credit Regulations (general principles for calculating reduction periods) applies in relation to the ESA failure as if, in paragraphs (1) and (3), for "in accordance with regulations 102 to 105", there were substituted "in accordance with regulation 30 of the Universal Credit (Transitional Provisions) Regulations 2014".

(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 2008 Regulations 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 section 150(3) of the Act.

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

**31.-(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 104 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 30--

(a) a reduction of universal credit in accordance with regulation 30; and

(b) any reduction of old style ESA under the Employment and Support Allowance Regulations 2008 ("the 2008 Regulations") which did not result in a reduction under regulation 30, 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 2008 Regulations.

(3) In determining a reduction period under regulation 104 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 30 if, at any time after that reduction, the claimant was entitled to an existing benefit;

(b) a reduction of old style ESA under the 2008 Regulations 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**

**32.-(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 section 19 (as it applied either before or after substitution by the Act) or section 19A of the Jobseekers Act 1995 ("the 1995 Act"), or under regulation 69B of the Jobseeker's Allowance Regulations 1996 ("the 1996 Regulations"); and

(c) if the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the reduction related to--

(i) in the case of a reduction under section 19 as it applied before substitution by the Act, circumstances relating to only one member of the couple; or,

(ii) in the case of a reduction under section 19 as it applied after substitution by the Act, 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;
  - (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 section 26 of the Act, where the reduction was under section 19 of the 1995 Act; or
    - (ii) a failure which is sanctionable under section 27 of the Act, where the reduction was under section 19A of the 1995 Act or regulation 69B of the 1996 Regulations;
  - (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 section 26 or, as the case may be, section 27 of the Act.
- (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 1996 Regulations, 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 101 of the Universal Credit Regulations applies in relation to the JSA failure as if, in paragraphs (1) and (3), for "in accordance with regulations 102 to 105", there were substituted "in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014".
- (6) Where the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of the Universal Credit Regulations is the amount calculated in accordance with regulation 70(3) of the 1996 Regulations in respect of the JSA award, divided by seven and rounded down to the nearest 10 pence, unless regulation 111(2) or (3) of the Universal Credit Regulations (daily reduction rate) applies.
- (7) Where the daily reduction rate is to be determined in accordance with paragraph (6), regulation 111(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 determined in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014".

(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 1996 Regulations 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 section 150(3) of the Act.

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

**33.-(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 102 (higher-level sanction), 103 (medium-level sanction) or 104 (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 32--

(a) a reduction of universal credit in accordance with regulation 32; and

(b) any reduction of old style JSA under section 19 or 19A of the Jobseekers Act 1995 ("the 1995 Act"), or under regulation 69B of the 1996 Regulations which did not result in a reduction under regulation 32, 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, 69A or 69B of the 1996 Regulations.

(3) In determining a reduction period under regulation 102, 103 or 104 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 32 if, at any time after that reduction, the claimant was entitled to an existing benefit;

(b) a reduction of old style JSA under section 19 or 19A of the 1995 Act, or under regulation 69B of the 1996 Regulations 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**

**34.-(1)** If an award of universal credit terminates while there is an outstanding reduction period (within the meaning of regulation 107 of the Universal Credit Regulations) and the claimant becomes entitled to old style JSA, old style ESA or income support ("the relevant benefit") during that period--

(a) regulation 107 of the Universal Credit Regulations (reduction period to continue where award terminates) 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**

**35.-(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 section 150(3) of the Act 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 6B (loss of benefit in case of conviction, penalty or caution for benefit offence), 7 (repeated benefit fraud) or 8 (effect of offence on joint-claim jobseeker's allowance) of the 2001 Act.

(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 9 (effect of offence on benefits for members of offender's family) of the 2001 Act.

(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 6B, 7, 8 or, as the case may be, 9 of the 2001 Act.

(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 36; and
- (b) regulation 3ZB of the 2001 Regulations 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 8(2) of the 2001 Act; 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 36--

"the 2001 Act" means the Social Security Fraud Act 2001;

"the 2001 Regulations" means the Social Security (Loss of Benefit) Regulations 2001;

"disqualification period" has the meaning given in the 2001 Act, interpreted in accordance with the 2001 Regulations;

"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 36, 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 the 2001 Act;

"offender's family member" has the same meaning as in the 2001 Act;

"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 section 150(3) of the Act (in so far as it was an award of income-based jobseeker's allowance or income-related employment and support allowance), regulation 7 or, as the case may be, regulation 8.

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

**36.-(1)** Subject to paragraph (6) [and to regulation 38], where regulation 35 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 35 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 6B or 7 of the 2001 Act or, as the case may be, regulation 3, 3ZA or 17 of the 2001 Regulations in respect of the last complete week before the relevant date (within the meaning of regulation 35);
- (b) multiplied by 52;
- (c) divided by 365; and
- (d) rounded down to the nearest 10 pence.

(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 150 of the Social Security Administration 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 applicable to the joint claimants under regulation 36 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**

**37.-(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 the 2002 Act.

(2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations 2001 apply as if in regulation 3ZB of those Regulations--

- (a) in paragraph (1) at the beginning there were inserted "Subject to regulation 38 of the Universal Credit (Transitional Provisions) Regulations 2014,";
- (b) "disqualification period" includes a disqualification period within the meaning of the 2002 Act;
- (c) "offender" includes an offender within the meaning of the 2002 Act; and
- (d) "offender's family member" includes a person who is a member of the family (within the meaning of section 137(1) of the Social Security Contributions and Benefits Act 1992) of a person who is an offender within the meaning of the 2002 Act.

**Loss of benefit penalties: maximum total reduction]**

**38.-(1)** Where regulations 35 and 37 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under--

- (a) regulation 36; and
- (b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations 2001, must not exceed the amount of the standard allowance which is applicable to the claimant in respect of that period.

**PART 3 ARRANGEMENTS REGARDING CHANGES TO THE CHILD ELEMENT FROM APRIL 2017**

**Restriction on claims for universal credit during the interim period]**

**39.-(1)** During the interim period, no claim may be made for universal credit by a person who is responsible for more than two children or qualifying young persons, unless it is--

- (a) a claim to which regulation 21(3C) of the Universal Credit Regulations (new claim within 6 months of a previous award terminating) applies; or
- (b) a claim made by a single person within one month of an award of universal credit terminating because that person ceased to be a member of a couple.

(2) For the purposes of this regulation and regulation 40, the interim period is the period beginning with 6th April 2017 and ending with 31st October 2018, but may be extended by the Secretary of State if the Secretary of State considers it necessary to do so in order to protect the efficient administration of universal credit.

**Availability of the child element where maximum exceeded--transitionally protected children and qualifying young persons**

**40.-(1)** A child or qualifying young person for whom the claimant is responsible ("A") is transitionally protected for the purposes of regulation 24A of the Universal Credit Regulations (availability of the child element where maximum exceeded) in the following circumstances.

(2) For the purposes of calculating an award of universal credit in respect of an assessment period in which the interim period begins or that falls wholly within the interim period, the circumstances are that--

- (a) A was born before 6th April 2017; and
- (b) there are at least two other children or qualifying young persons for whom the claimant (or either of joint claimants) is responsible who were born before 6th April 2017 and who precede A in the order determined by regulation 24B of the Universal Credit Regulations (order of children and qualifying young persons).

(3) For the purposes of calculating an award of universal credit in respect of an assessment period in which the interim period ends or that begins after the end of the interim period, the circumstances are that--

- (a) A was born before 6th April 2017;
- (b) the claimant (or either of joint claimants) meets the following condition in respect of A--
  - (i) on the last day of the interim period, the claimant was entitled to an award of universal credit (or was in a period of non-entitlement between connected awards) and was responsible for A; or
  - (ii) if paragraph (i) does not apply, within the 6 months immediately preceding the first day on which the claimant first became entitled to an award of universal credit after the interim period ended, the claimant was in receipt of an individual element of child tax credit for A or was entitled to an award of income support or old style JSA where an amount in respect of A was included in the applicable amount, and since the day mentioned in paragraph (i) or (ii) (whichever is applicable), the claimant has not ceased to be responsible for A or ceased to be entitled to universal credit (apart from a period of non-entitlement between connected awards); and

(c) there are at least two other children or qualifying young persons born before 6th April 2017--

- (i) in respect of whom the claimant (or either of joint claimants) meets the condition in sub-paragraph (b); and
- (ii) who precede A in the order determined by regulation 24B of the Universal Credit Regulations.

(4) In paragraph (3)(b) two awards are connected awards if the later award was made--

- (a) as a consequence of the earlier award having terminated when the claimant ceased to be a member of a couple or became a member of a couple; or
- (b) in any other circumstances in which the assessment periods for the later award begin on the same day of each month as the assessment periods for the earlier award under regulation 21 of the Universal Credit Regulations (assessment periods).

**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**

**41.-(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 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**

**42.-(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 Secretary of State may treat the condition in sub-paragraph (3)(a) of that paragraph 5 as met if the Secretary of State 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**

**43.-(1)** Section 14(5)(b) of the Welfare Reform and Work Act 2016 (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.

**PART 4 MANAGED MIGRATION TO UNIVERSAL CREDIT***The migration process***Migration notice**

**44.**—(1) *The Secretary of State 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 an existing benefit 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 Secretary of State considers appropriate.*

(3) *The deadline day must not be within the period of one month 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 Secretary of State must also issue a migration notice to the other member (or members) specifying the same deadline day.*

(5) *The Secretary of State may cancel a migration notice issued to any person—*

- (a) *if it has been issued in error;*
- (b) *if the Secretary of State has made a determination in accordance with regulation 4 (discretion to determine that claims for universal credit may not be made); or*
- (c) *in any other circumstances where the Secretary State 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.*

**Extension of the deadline day**

**45.**—(1) *The Secretary of State may determine that the deadline day should be changed to a later day either—*

- (a) *on the Secretary of State’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) *If a determination is made under paragraph (1) the Secretary of State must inform the notified person or persons of the new deadline day.*

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

**46.**—(1) *All awards of an existing benefit to which a notified person is entitled that have not already terminated by virtue of the provisions mentioned in paragraph (2) or regulation 47(2) are to terminate on the day before the deadline day.*

(2) *The provisions are—*

(a) *in the case of an award of a tax credit, income support or housing benefit, regulation 8 (termination of awards of certain existing benefits: other claimants); or*

(b) *in the case of an award of income-based jobseeker's allowance or income-related employment and support allowance, the order under section 150(3) of the Act which brings section 33(1)(a) or (b) of the Act (abolition of benefits) into force in relation to that award(2).*

(3) *Paragraph (1) does not affect the continuation of housing benefit by virtue of paragraph (2A) (two week extension) or paragraph (3) (specified accommodation or temporary accommodation) of regulation 8(3).*

(4) *Where paragraph (1) applies to an award of income-based jobseeker's allowance or income-related employment and support allowance "terminate" in relation to that award means treating it as if section 33(1)(a) or (b) of the Act had been brought into force.*

(5) *For the avoidance of doubt, the day on which a benefit terminates is the last day of entitlement to that benefit.*

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

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

(a) *notified persons who are a members of a couple for the purposes of an award of an existing benefit are single persons for the purposes of a claim universal credit; or*

(b) *notified persons who are members of a polygamous marriage for the purposes of an award of an existing benefit are a couple or single persons for the purposes of a claim for universal credit.*

(2) *Where this regulation applies, all existing benefits to which any of those notified persons are entitled are to terminate on the day before the earliest day on which an award of universal credit is to commence by virtue of claim by any of those persons (and paragraphs (3) to (5) of regulation 46 also apply for the purposes of this paragraph).*

(3) *If, where this regulation applies—*

(a) *a notified person makes a claim for universal credit—*

(i) *on or before the deadline day; or*

(ii) *after the deadline day, but the award of universal credit is to commence on or before the deadline day because the claim has been backdated, and*

(b) *because of an earlier claim by another notified person, there would otherwise be a gap between the day on which those benefits terminate and the commencement of the award of universal credit,*

*then, notwithstanding anything in the Claims and Payments Regulations, as modified by regulation 15, the award is to commence on the day after those benefits terminate.*

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(2) The order is the Welfare Reform Act 2012 (Commencement No.9 and Transitional and Transitory Provisions and Commencement No.8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I.2013/983) which has been amended by S.I. 2014/1452.

(3)

*Transitional Protection*

**Meaning of “qualifying claim”**

**48.**—(1) 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 following conditions are met—

(a) the claim is made—

(i) on or before the deadline day; or

(ii) after the deadline day, but the award is to commence on or before the deadline day because claim has been backdated; and

(b) none of the circumstances in paragraph (2) applies.

(2) The circumstances are—

(a) before the claim is made (and after the issue of the migration notice) the notified person has made another claim for universal credit that is defective and the Secretary of State has not (because the defect has not been corrected or the claim has not been completed in accordance within the Secretary of State’s instructions within the required time) treated that claim as if properly made in the first instance by virtue of regulation 8(6) of the Claims and Payments Regulations;

(b) before the claim is made (and after the issue of the migration notice) the notified person has made another claim for universal credit in respect of which the Secretary of State has required further evidence or information which the person has not provided within one month (or any extension of one month) in accordance with regulation 37 of the Claims and Payments Regulations; or

(c) the claimant was a prisoner on the migration day.

**Meaning of “migration day”**

**49.** “Migration day” in relation to a qualifying claim means the day on which, subject to regulation 8(2A) and (3) (continuation of housing benefit), all awards of an existing benefit are to terminate as a consequence of that claim in accordance the provisions mentioned in regulation 46(2).

**Secretary of State to determine whether transitional protection applies**

**50.**—(1) Before making a decision on a qualifying claim the Secretary of State 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 Secretary of State need not determine whether a transitional element is to be included in a case where regulation 47 (qualifying persons who claim as different benefit unit) or regulation 8(3) (continuation of housing benefit in respect of specified accommodation or temporary accommodation) applies.

***The transitional capital disregard***

**51.**—(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 section 5(1)(a) or 5(2)(a) of the Act (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 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***

**52.**—(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 53 (“the total legacy amount”) is greater than the amount of an award of universal credit determined in accordance with regulation 54 (“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 section 8 of the Act (calculation of awards), as if it were an additional amount to be included in the maximum amount under section 8(2) before the deduction of income under section 8(3).*

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

**53.**—(1) *The total legacy amount is the sum of the representative monthly rates of any awards of an existing benefit 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 in accordance with section 13 of the 2002 Act and the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(4) 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*

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(4) S.I. 2002/2008 as amended.

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

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

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

(i) *Part 1 of the Jobseekers Act 1995(5) and the Jobseeker's Allowance Regulations 1996(6),*

(ii) *Part 1 of the 2007 Act (7), the Employment and Support Allowance Regulations 2008(8) and the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010(9);*

(iv) *Part VII of the Social Security Contributions and Benefits Act 1992(10) and the Income Support (General) Regulations 1987(11),*

*on the basis of information held by the Secretary of State on that day; and*

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

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

(5) *Where —*

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

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

*then, despite section 4(8) to (11) of the Jobseekers Act 1995 and section 6(5) to (7) of the 2007 Act (excess over the contributory allowance to treated as attributable to the income-based, or income-related, allowance) the weekly rate in paragraph (3) is to be calculated as the applicable amount(12) less the claimant's income (if any).*

*Housing benefit*

(6) *To calculate the representative monthly rate of an award of housing benefit—*

(a) *take the weekly rate on the migration day calculated in accordance with Part VII of the Social Security Contributions and Benefits Act 1992 and the Housing Benefit Regulations 2006(13), on the basis of the information held by the Secretary of State 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 had 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.*

(5) 1995 c.18.

(6) S.I. 1996/207, as amended.

(7) 2007 c.5.

(8) S.I. 2008/794, as amended.

(9) S.I. 2010/1907 as amended by S.I.2010/2430.

(10) 1992 c.6.

(11) S.I. 1987/1967, as amended.

(12) See section 4 of the Jobseekers Act 1995 and section 7 of the 2007 Act for the meaning of "applicable amount".

(13) S.I. 2006/

(7) For the purposes of paragraph (6), 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.

(8) In paragraphs (6) and (7) “rent free period” has the meaning in regulation 81 of the Housing Benefit Regulations 2006.

*The benefit cap*

(9) Where—

- (a) the existing benefits do not include an award of housing benefit, or they include an award of housing benefit that has been reduced to the minimum amount by virtue of Part 8A of the Housing Benefit Regulations 2006<sup>(14)</sup> (the benefit cap);
- (b) Part 7 of the Universal Credit Regulations (the benefit cap) is to apply in the calculation of the indicative UC amount; and
- (c) the claimant’s total entitlement to welfare benefits (as defined in section 96(10)<sup>(15)</sup> of the Act) on the termination day is greater than the relevant amount, the total legacy amount is to be the relevant amount.

(10) For the purposes of paragraph (9)—

- (a) the amount of each welfare benefit is the monthly equivalent calculated in the manner set out in regulation 73 of the Universal Credit Regulations; and
- (b) the “relevant amount” is the amount referred to in regulation 80A<sup>(16)</sup> of those Regulations which is applicable to the claimant.

**The transitional element - indicative UC amount**

**54.—**(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 section 8 of the Act 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 a 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 for the purposes of regulation 53(2), converted to a monthly amount by multiplying by 52 and dividing by 12;
- (c) if the claimant is entitled to an award of housing benefit, the relevant payments for the purposes of Schedule 4 to the Universal Credit Regulations (housing costs element for renters) are equal to the appropriate maximum housing benefit for the purposes of regulation 53(6)<sup>(17)</sup> converted to a monthly amount by multiplying by 52 and dividing by 12.
- (d) the amount of the claimant’s earned income is—

<sup>(14)</sup>

<sup>(15)</sup> The definition of welfare benefit was amended by the Welfare Reform and work Act 2016 (c.7) s.8.

<sup>(16)</sup> Regulation 80A was inserted by

<sup>(17)</sup> See regulation 70 of the Housing Benefit Regulations 2006 (S.I. 2006/231) for the meaning of “appropriate maximum”.

- (i) if the claimant had 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(18)) by reference to which the representative monthly rate of that tax credit is calculated for the purposes of regulation 52(2) converted to a net monthly amount by—
  - (aa) dividing by 12, and
  - (ab) deducting such amount for income tax and national insurance contributions as the Secretary of State considers appropriate;
- (ii) if paragraph (i) does not apply and the claimant had 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 monthly rate of that benefit was calculated for the purposes of regulation 52 (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 52 (including nil if none were taken into account) converted to monthly amount by multiplying by 52 and dividing by 12.

(3) If the claimant would not meet the financial condition in section 5(1)(b) of the Act (or, in the case of joint claimants they would not meet the condition in section 5(2) (b)) 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, any capital exceeding £16,000 is to be disregarded.

(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 section 26 (higher-level sanctions) or 27 (other sanctions) of the Act.

(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 termination day, calculated in accordance with paragraph (2)(d), is equal to or exceeds the amount specified in paragraph (1)(a) of regulation 82 (exceptions – earnings) of the Universal Credit Regulations.

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

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

55.—(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 section 8(3) of

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(18) S.I.2002/2006.

*the Act (that is 63% of earned income above the work allowance and 100% of unearned income) 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 sub-paragraph (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 an increase in any of the amounts that are included in the maximum amount under sections 9 to 12 of the Act (including any of those amounts that is included for the first time), apart from the childcare costs element.*

#### *Ending of transitional protection*

#### ***Circumstances in which transitional protection ceases***

**56.—***(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 99(6)(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 99(6)(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) For the purposes of paragraph (2) a claimant is to be treated as having earned income equal to or more than the single administrative threshold (or, as the case may be, the couple administrative threshold) in any assessment period in respect of which regulation 62 (minimum income floor) of the Universal Credit Regulations applies to that claimant or would apply but for regulation 62(5) of those Regulations (minimum*

*income floor not to apply in a start-up period) or regulation 59 of these Regulations (minimum income floor not to apply for the first 6 months.).*

*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(3) of the Universal Credit Regulations (claimant with an ineligible partner), claim as a single person.*

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

*57.—(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*
- (b) the Secretary State determines (in accordance with regulation 49) that a transitional capital disregard is to apply, or 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 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 section 5(1)(b) or 5(2)(b) of the Act (income is such that the amount payable is at least 1p) was not met; and*
- (b) the claimant (or joint claimants) become entitled to an award within the period of 3 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 51 (transitional capital disregard), 52 (transitional element), 55 (transitional element – initial amount and adjustment where other elements increase) and 56 (circumstances in which transitional protection ceases) as if it were a continuation of that award.*

*Miscellaneous*

***Qualifying claim – Secretary of State may set later commencement day***

*58. Where the Secretary of State decides a qualifying claim that was made on or before the deadline day, and it is not a case where the award is to start earlier than the date of claim by virtue of regulation 26 of the Claims and Payment Regulations, as modified by regulation 15, or by virtue of regulation 47(3), the Secretary of State 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 6 months**

59.—(1) *Where universal credit is awarded to a claimant who is a notified person, regulation 62 of the Universal Credit Regulations (minimum income floor) does not apply in relation to that claimant in respect of an assessment period falling wholly or partly within the period of six months beginning with the day on which the award commences.*

(2) *In a case where the Secretary of State has determined that the claimant is in gainful self-employment, but is not taking active steps to increase the earnings from that employment to the level of their individual threshold, the Secretary of State may terminate the period mentioned in paragraph (1).*

(3) *In this regulation “gainful self-employment” and “individual threshold” have the meaning in regulation 64 and 90 respectively of the Universal Credit Regulations.*

**Students**

60. *Where a notified person does not meet the basic condition in section 4(1)(d) of the Act (receiving education) on the day on which all existing awards terminate in accordance with the provisions mentioned in regulation 46(2) 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.*

**Rounding**

61. *Regulation 6 of the Universal Credit Regulations (rounding) applies for the purposes of calculating any amount under this Part.*

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

62. *Nothing in regulation 53 (total legacy amount) or 54 (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 Secretary of State 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 Secretary of State 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) *an application to revise or supersede a decision in relation to an award of an existing benefit (including the report of a change of circumstances), or an appeal from such a decision, that was outstanding on the migration day has since been concluded.*

**Claimants in receipt of severe disability premium: restriction on new claims for UC and transitional payments**

63.—(1) *No claim may be made for universal credit on or after [date of coming into force of the MM regs] by a single claimant who, or joint claimants either of whom,—*

- (a) *is, or has been within the past month, entitled to an award of an existing benefit that includes a severe disability premium (“SDP”);*
- (b) *during that month continues to satisfy the conditions for eligibility for an SDP; and*
- (c) *is not a notified person.*

(2) *Where it comes to the attention of the Secretary of State on or after [date of coming into force of MM regs] that—*

- (a) *a claimant, or joint claimants, became entitled to an award of universal credit as a consequence of a claim made before that date and the Secretary of State is satisfied that paragraph (1) would have prevented the claim from being made if it had been in force at that time;*
- (c) *that award has not since terminated (whether by a claimant ceasing to meet the conditions of entitlement to universal credit or becoming, or ceasing to be, a member of a couple);*
- (d) *the claimant has not (or neither of joint claimants has) ceased to be entitled to the care component, the daily living component, armed forces independence payment or attendance allowance (all as defined in paragraph 6 of Schedule 4 to the Employments and Support Allowance Regulations 2008(19)); and*
- (e) *no person has become a carer for—*
  - (i) *in the case of a single claimant, the claimant, or*
  - (ii) *in the case of joint claimants—*
    - (aa) *if SDP was payable at the higher rate, both of them*
    - (bb) *if SDP was payable at the lower rate, the claimant who was the qualifying partner,*

*the Secretary of State must determine, in accordance with paragraph (3), the amount of a transitional SDP payment in respect of each assessment period of the award that began, or is to begin, before the conversion day.*

(3) *The amount for each assessment period is—*

- (a) *in the case of a single claimant —*
  - (i) *£80, if the LCWRA element is included in the award; or*
  - (ii) *£280, if the LCWRA element is not included;*
- (b) *in the case of joint claimants—*
  - (i) *£360 if the higher SDP rate was payable and no person has become a carer for either or both of them,*
  - (ii) *£80, if paragraph (i) does not apply and the LCWRA element is included in the award in respect of either or both of them, or*
  - (iii) *£280, if the LCWRA element is not included in respect of either or both of them and—*
    - (aa) *the lower SDP rate was payable, or*
    - (bb) *the higher SDP was payable but a person has become a carer for one of them.*

*(4) If the LCWRA element is not included in the award at the time of the determination under paragraph (3), but is included in a later assessment period (and sub-paragraph (b)(i) does not apply), the amount for that assessment period, and each subsequent assessment period beginning before the conversion day, is £80 (and the Secretary of State may make a further determination).*

*(5) The transitional SDP payment is to be treated as an additional amount of universal credit and may be paid by way of a lump sum or periodic payments, as the Secretary of State determines.*

*(6) In the assessment period that begins after the conversion day, the calculation of the award is to include the amount of the transitional SDP payment as if it were the initial amount of a transitional element calculated under regulation 55(1).*

*(7) In respect of each subsequent assessment period, the award is to be treated, for the purposes of regulation 55(2) (adjustment where other elements increase), regulation 56 (circumstances in which transitional protection ceases) and regulation 57 (application of transitional protection to a subsequent award), as if the transitional SDP payment had been converted into a transitional element.*

*(8) The conversion day for all cases to which this regulation applies is to be determined by the Secretary of State having regard to the efficient administration of universal credit.*

*(9) Any amount paid as a lump sum as a consequence of a determination under this regulation is to be disregarded in the calculation of capital for the duration of the award or, if longer, 12 months from the date of that payment.*

*(10) In this regulation—*

*“the lower SDP rate” and “the higher SDP rate” are the rates specified in sub-paragraph (i) and (ii) respectively of paragraph 11(2)(b) of Schedule 4 to the Employment and Support Allowance Regulations 2008 or the corresponding rates in relation to income support, old style JSA or housing benefit;*

*“the qualifying partner”, in relation to a couple in respect of whom the lower SDP rate was payable is the partner who had no carer or, as the case may be, was not the partner who satisfied the qualifying condition for SDP only by virtue of being a patient,*

*and references to a person being a carer for another person are to the person being entitled to, and in receipt of, a carer's allowance or having an award of universal credit which includes the carer element in respect of caring for that other person.*

***Amendment consequential on restriction on claims by certain severely disabled persons***

***3.—(1) In paragraph (2) of article 7 (transitional provision: claims for housing benefit, income support or a tax credit) of the Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015(b) .....[Amendment to allow legacy claimants who are subject to the hard gateway to claim legacy benefits].***

**SCHEDULE**

**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 2002 Act where regulation 12A 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) in subsection (4)-

(i) for "current year" substitute "current part year";

(ii) in paragraphs (a) and (b), before "tax year" insert "part";

(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 2002**

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

(a) in paragraph (1)-

(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), 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)-

(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)-**

- (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)-**

- (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";
- (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 the rules in Chapter 15 of Part 2 of ITTOIA) ending during the tax year in which the claimant made, or was treated as making, a claim for universal credit.

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

- (a) taking the figure for the actual or estimated taxable income earned in the basis period;
- (b) dividing that figure by the number of days in the basis 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) 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), 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)-**

- (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)-**

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

**21. In regulation 12(1) (foreign income), 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), after "means income" insert "received in the part tax year".**

**Modifications to the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002**

**24.** Paragraphs 25 to 27 prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 where regulation 12A of these Regulations applies.

**2.5 In regulation 2 (interpretation)-**

- (a) after the definition of "the income threshold" 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;"

(b) in the definition of "the relevant income" insert "as modified by the Universal Credit (Transitional Provisions) Regulations 2014" at the end.

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

(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) in Step 3--

(i) in the definition of "I", before "tax year" insert "part";

(ii) in the definition of "N1", before "tax year" insert "part".

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

(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) in Step 3-

(i) in the definition of "I", before "tax year" insert "part";

(ii) in the definition of "N1", before "tax year" insert "part".

### **Modifications to the Tax Credits (Claims and Notifications) Regulations 2002**

**28.** Paragraphs 29 to 34 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002 where regulation 12A of these Regulations applies.

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

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

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

**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), after "prescribed by paragraph" omit "(2) or";

(b) omit paragraph (2).

**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)".

**3.4** In regulation 33 (dates to be specified in notices)--

(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 2002**

**35.** Paragraph 36 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002 where regulation 12A of these Regulations applies.

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

**Modification to the Tax Credits (Residence) Regulations 2003**

**37.** Paragraph 38 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003 where regulation 12A of these Regulations applies.

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

**EXPLANATORY NOTE**

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 Act 2012 (c 5). 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. The Regulations revoke the Universal Credit (Transitional Provisions) Regulations 2013 (SI 2013/386), which related to the first phase of implementation of the change. They replace Part 3 of those Regulations, which dealt with the effect of transition to universal credit. It is intended that Part 2 of those Regulations, which dealt with entitlement to claim universal credit, will be replaced with provision made by order under section 150 of the Welfare Reform Act 2012.

Regulation 3 provides for revocation of the Universal Credit (Transitional Provisions) Regulations 2013, subject to certain savings. These concern claimants who claimed universal credit before the date on which these Regulations come into force.

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 4 provides a discretion for the Secretary of State temporarily to exclude claims in any area, or in any category of case, if he considers that this is necessary in order to safeguard the efficient administration of universal credit, or to ensure the effective testing of administrative systems.

Regulation 5 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 Commencement Orders made under section 150(3) of the Act, which bring into force 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.

Regulation 5A 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 was entitled to universal credit with the housing costs element.

Universal credit claimants are excluded from claiming income support, housing benefit or tax credits by regulation 6, 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 orders made under section 150(3) of the Act.

Under regulation 7, 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 8 in relation to other claimants, although in this case awards of tax credits also terminate, by virtue of regulation 8, 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 8A provides that, pending the decision on the claim, the claimant is treated as entitled to universal 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 a fortnight.

Regulation 9 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 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).

Regulation 11 provides for a claimant to be treated as entitled to an award of a tax credit in certain cases, for the purposes of regulations 7 and 8. 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 orders made under section 150(3) of the Act. It also enables 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.

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 10. Where a claim for universal credit is made by a claimant who was previously entitled to a tax credit, regulation 12 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 13 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 7 or 8 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 14 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 15 modifies the application of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (SI 2013/380) 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 16, 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*.

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 21, 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.

Transition to universal credit from existing incapacity benefits is dealt with in regulations 22 to 25. Transition from income support awarded on the grounds of incapacity for work or disability is dealt with in regulation 22 and transition from incapacity benefit or severe disablement allowance is dealt with in regulations 23 to 25.

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 26 and 27 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 1975 (SI 1975/556) on the grounds of incapacity for work.

Regulation 28 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 29 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 30 to 34 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 35 and 36 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.

Regulation 37 provides for a penalty applied to an award of working tax credit to continue where the claimant moves to universal credit during the period of the penalty. Regulation 38 ensures that, where a claimant is entitled to both working tax credit and to another existing benefit when they move to universal credit, the total penalty transferred to the award of universal credit does not exceed the amount of the claimant's standard allowance.

Regulation 39 prevents a new claim for universal credit being made by any person with more than two children or qualifying young persons during the period beginning with 6th

April 2017 and ending with 31st October 2018 (“the interim period”). The interim period may be extended by the Secretary of State.

Regulation 40 set out the circumstances in which a child or qualifying young person, who is the third or subsequent child or qualifying young person in the claimant’s household, is transitionally protected for the purpose of entitlement to the child element. Different criteria apply during and after the interim period. During the interim period (as for child tax credit) the protection depends on the child or qualifying young person being born before 6th April 2017. After the interim period it also depends on their having been part of an award of universal credit since the end of the interim period or part of an award of child tax credit, income support or a jobseeker’s allowance in the six months before becoming part of a universal credit award.

Regulation 41 provides for the exception in paragraph 6 of the new Schedule 12 to the Universal Credit Regulations (continuation of an existing exception in a subsequent award) to apply in respect of a child or qualifying young person in a universal credit award, where a relevant exception previously applied in relation to an award of child tax credit, income support or an income related jobseeker’s allowance.

Regulation 42 provides that the Secretary of State may rely on evidence previously provided to HMRC (in the context of a child tax credit claim) in order to make a determination for the purposes of the non-consensual conception exception in paragraph 5 of the new Schedule 12 to the Universal Credit Regulations.

Regulation 43 provides that the higher amount of the child element payable in respect of the first child or qualifying young person (abolished by section 14(5)(b) of the 2016 Act) continues to be payable to claimants who are responsible for a child or qualifying young person born before 6th April 2017.

An assessment has been made of the impact of the introduction 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 or from the DWP website