STATUTORY INSTRUMENTS

2017 No. 204

SOCIAL SECURITY

The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017

Made - - - -	*23rd February 2017*
Laid before Parliament	*27th February 2017*
Coming into force - -	*3rd April 2017*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12(1), 17(4), 18(3), 19(2)(d), 25(a) and 42(3)(a) of the Welfare Reform Act 2012(**1**) and sections 15(4) and (5) and 34(1) of the Welfare Reform and Work Act 2016(**2**).

In accordance with section 173(5)(b) of the Social Security Administration Act 1992(**3**), this instrument contains only regulations made by virtue of, or consequential upon, sections 15, 16, 17 and 34 of the Welfare Reform and Work Act 2016 and is made before the end of the period of 6 months beginning with the coming into force of those sections.

In accordance with section 176(1) of the Social Security Administration Act 1992(**4**) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation and commencement

1. These Regulations may be cited as the Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 and come into force on 3rd April 2017.

(**1**) 2012 c. 5.
(**2**) 2016 c. 7.
(**3**) 1992 c. 5.
(**4**) Section 176(1) is amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c. 52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 176(1) has been repealed by section 147 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c.5) in so far as it relates to council tax.

PART 1

Employment and Support Allowance: work-related activity component

Amendments to the Employment and Support Allowance Regulations 2008

2.—(1) The Employment and Support Regulations 2008(**5**) are amended as follows.

(2) In regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply)—

(a) in the heading, omit "or the work-related activity component";

(b) in paragraph (1), for "sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(a)" substitute "sections 2(2)(a) and 4(4)(a)";

(c) in paragraph (1B)—

(i) in sub-paragraph (a)(i) for "2(2), 2(3), 4(4) or 4(5)" substitute "2(2) or 4(4)";

(ii) in sub-paragraph (d)(i) for "2(2), 2(3), 4(4) or 4(5)" substitute "2(2) or 4(4)".

(3) In regulation 67 (prescribed amounts), in paragraph (3)—

(a) omit "work-related activity component and the";

(b) for "are" substitute "is".

(4) In Schedule 4 (amounts)—

(a) in Part 1 (prescribed amounts), in paragraph 1, in column (1)—

(i) in sub-paragraph (1)(a) omit "or (3)" and "or (5)";

(ii) in sub-paragraph (2)(a) omit "or (5)";

(iii) in sub-paragraph (3)(c), (f) and (g) omit "or (5)";

(b) in Part 3 (weekly amount of premiums specified in part 2), in paragraph 11(1)—

(i) in paragraph (a)—

(aa) in columns "Premium" and "Amount" omit sub-paragraph (i);

(bb) in column "Premium" for sub-paragraph (iii) substitute—

"(iii) is not entitled to the support component;";

(ii) in paragraph (b)—

(aa) in columns "Premium" and "Amount" omit sub-paragraph (i);

(bb) in column "Premium" for sub-paragraph (iii) substitute—

"(iii) is not entitled to the support component;";

(c) in Part 4 (the components)—

(i) in the heading, for "(the components)" substitute "(the component)";

(ii) omit paragraph 12.

(5) In Schedule 6 (housing costs)—

(a) in paragraph 1, in sub-paragraph (3)(a)(ii) omit "including a work-related activity component under section 2(3) of the Act (amount of contributory allowance: work-related activity component)";

(**5**) S.I. 2008/794; relevant amending instruments are S.I. 2008/2428, 2008/3051, 2009/2655, 2009/3228, 2011/2428, 2012/874, 2012/913, 2012/919, 2013/574, 2013/630, 2014/516, 2015/30, 2015/457 and 2016/242.

(b) in paragraph 19, in sub-paragraph (7)(d) for "which does not include an amount under section 4(2)(b) of the Act" substitute "and they are still in the assessment phase in accordance with regulation 4".

Amendments to the Employment and Support Allowance Regulations 2013

3.—(1) The Employment and Support Allowance Regulations 2013(**6**) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1) in the appropriate place insert—

""member of the work-related activity group" means a claimant who has or is treated as having limited capability for work under either—

(a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations; or

(b) Part 4 of these Regulations other than by virtue of regulation 26;".

(3) In regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply)—

(a) in the heading, omit "or the work-related activity component";

(b) in paragraph (1), omit "and (3)(a)";

(c) in paragraphs (3)(a)(i) and (d)(i)—

(i) omit "or (3)";

(ii) after "of the Act" insert "or they were a member of the work-related activity group".

(4) In regulation 62 (prescribed amounts)—

(a) in paragraph (1)(a) and (b), omit "or (3)";

(b) for paragraph (2) substitute—

"(2) Subject to regulation 63 the amount of the support component is £36.20.".

PART 2

Universal Credit: limited capability for work element

Amendments to the Universal Credit Regulations 2013

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

(2) In regulation 2 (interpretation), for the definition of ""LCW element" and "LCWRA element"" substitute—

""LCWRA element" has the meaning in regulation 27;".

(3) In regulation 23 (introduction), in paragraph (2)(a) omit "the LCW element and".

(4) In regulation 27 (award to include LCW and LCWRA elements)—

(a) in the heading, for "LCW and LCWRA elements" substitute "LCWRA element";

(b) for paragraph (1) substitute—

(**6**) S.I. 2013/379; relevant amending instruments are S.I.2015/30 and SI 2015/457.
(**7**) S.I. 2013/376; relevant amending instruments are S.I. 2015/30, 2015/457 and 2015/1754. Regulation 36 is also amended by section 14(5)(b) of the Welfare Reform and Work Act 2016 from a date to be appointed.

"(1) An award of universal credit is to include an amount in respect of the fact that a claimant has limited capability for work and work-related activity ("the LCWRA element").";

(c) in paragraph (2), for "amounts of those elements are" substitute "amount of that element is";

(d) in paragraph (3), omit "work or for";

(e) for paragraph (4), substitute—

"(4) In the case of joint claimants, where each of them has limited capability for work and work-related activity, the award is only to include one LCWRA element.".

(5) In regulation 28 (period for which the LCW or LCWRA element is not to be included)—

(a) in the heading and in paragraphs (1), (2)(a) and (3)(a), omit "LCW or";

(b) in paragraph (5)(b)(i), omit "or the work-related activity component";

(c) omit paragraph (6).

(6) In regulation 29 (award to include the carer element), for paragraph (4) substitute—

"(4) Where an amount would, apart from this paragraph, be included in an award in relation to a claimant by virtue of paragraphs (1) to (3), and the claimant has limited capability for work and work-related activity (and, in the case of joint claimants, the LCWRA element has not been included in respect of the other claimant), only the LCWRA element may be included in respect of the claimant.".

(7) In regulation 36 (table showing amounts of elements)—

(a) in paragraph (1), for "LCW and LCWRA elements" substitute "LCWRA element";

(b) in the table—

(i) for the row "LCW and LCWRA elements" substitute "LCWRA element";

(ii) omit the row under "LCWRA element" (as amended by paragraph (i)) showing the amount for limited capability for work.

Amendments to the Universal Credit (Transitional Provisions) Regulations 2014

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

(2) In regulation 19 (transition from old style ESA)—

(a) in paragraph (1), for sub-paragraph (b) substitute—

"(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).";

(b) in paragraph (2)—

(i) for "was entitled to the work-related activity component" substitute "had limited capability for work (within the meaning of Part 1 of the 2007 Act)";

(ii) omit sub-paragraph (a);

(iii) in sub-paragraph (b) omit "regulation 27(1)(a) of those Regulations and";

(c) omit paragraph (3);

(**8**) S.I. 2014/1230; relevant amending instruments are S.I. 2014/1626 and 2015/339.

(d) in paragraph (4), for "was entitled to the support component" substitute "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";

(e) in paragraph (6), for "was entitled to the work-related activity component or, as the case may be, the support component" substitute "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)";

(f) in paragraph (8)—

(i) for the definition of ""assessment phase", "support component" and "work-related activity component"" substitute—

""assessment phase" has the same meaning as in the 2007 Act;";

(ii) for the definition of ""LCW element" and "LCWRA element"" substitute—

""LCWRA element" has the same meaning as in the Universal Credit Regulations.";

(g) in paragraph (9) for ", 2(3)(a), 4(4)(a) and 4(5)(a)" substitute "and 4(4)(a)";

(h) after paragraph (9) insert—

"(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).".

(3) In regulation 20 (transition from old style ESA before the end of the assessment phase)—

(a) in paragraph (2), in sub-paragraph (a) omit "LCW or";

(b) in paragraph (3), omit sub-paragraph (b).

(4) In regulation 20A (transition from jobseeker's allowance following an extended period of sickness), in paragraph (2)(a) omit "LCW or".

(5) In regulation 21 (other claimants with limited capability for work: credits only cases)—

(a) in paragraph (2)—

(i) omit sub-paragraph (a);

(ii) in sub-paragraph (b) omit "regulation 27(1)(a) of those Regulations and";

(b) omit paragraph (3);

(c) in paragraph (7), omit sub-paragraph (b);

(d) in paragraph (9), in sub-paragraphs (d) and (e) for ", 2(3)(a), 4(4)(a) and 4(5)(a)" substitute "and 4(4)(a)".

PART 3

Universal Credit: work-related requirements

Amendments to the Universal Credit Regulations 2013

6. In regulation 88 of the Universal Credit Regulations 2013 (expected hours), in paragraph (2)—

(a) in sub-paragraph (a)(i) after "responsible carer" insert "(subject to the following sub-paragraphs)";

(b) after sub-paragraph (a) insert—