Draft Regulations laid before Parliament under section 80(1)(a) of the Social Security Act 1998 and section 43(5) of the Welfare Reform Act 2012 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

SOCIAL SECURITY

The Universal Credit (Managed Migration) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 12(2)(a) of the Social Security Act 1998(**1**), section 4(2) and 42(1), (2) and (3) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, and paragraph 1(1), 3(1)(a), 4(1), (2)(a), (c) and (d) and (3) and 6(a) of Schedule 6 to, the Welfare Reform Act 2012(**2**).

In accordance with section 80(1)(a) of the Social Security Act 1998 and section 43(5) of the Welfare Reform Act 2012, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

In accordance with section 172(1) of the Social Security Administration Act 1992(**3**) ("the 1992 Act"), the Secretary of State has referred the 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 her to be representative of the authorities concerned in respect of the proposals for these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit (Managed Migration) Regulations 2018.

(2) Regulations 2 and 3 and this regulation and come into force on 16th January 2019.

(3) Regulations 4 and 5 come into force on 22nd July 2020.

(4) Regulation 6 comes into force on 23rd September 2020.

(**1**) 1998 c.14
. Section 12(2) has been amended by section 102(2) of the Welfare Reform Act 2012.
(**2**) 2012 c.5
.
(**3**) 1992 c.5
.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014: managed migration (including provision for persons with a severe disability premium)

2.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(**4**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) insert at the appropriate places—

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

""deadline day" has the meaning in regulation 44;"

""earned income" has the meaning in Chapter 2 of Part 6 of the Universal Credit Regulations;"

""final deadline" has the meaning in regulation 46;"

""HMRC" means Her Majesty's Revenue and Customs;"

""indicative UC amount" has the meaning in regulation 54;"

""migration day" has the meaning in regulation 49:"

""migration notice" has the meaning in regulation 44;"

""notified person" has the meaning in regulation 44;"

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

""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;"

(ii) in the definition of "existing benefit", before "regulation 25(2)" insert "paragraph (3) and";

(b) after paragraph (2) insert—

"(3) In these Regulations—

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

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

(4) In regulation 46 (termination of existing benefits if no claim before the deadline) and regulation 47 (notified persons who claim as a different benefit unit) "terminate" in relation to an award of income-based jobseeker's allowance or income-related employment and support allowance means treating that award as if the following provisions had come into force (including where a saving provision has ceased to apply) in relation to that award—

(**4**) S.I. 2014/1230. Relevant amending instruments are S.I. 2014/1626, 2017/376 and 2018/65.

(a) section 33(1)(a) and (b) and (2) of the Act (abolition of benefits);

(b) paragraphs 22 to 26 of Schedule 3 to the Act (abolition of benefits: consequential amendments) and section 33(3) of the Act in so far as it relates to those paragraphs; and

(c) the repeals in Part 1 of Schedule 14 to the Act (abolition of benefits superseded by universal credit) that come into force if a claim is made for universal credit.".

(3) In regulation 5(2)(a) (exclusion of entitlement to certain benefits) after "8(2A)" insert ", 46(1) or 47(2)".

(4) In regulation 8A (transitional housing payment)(**5**)—

(a) after "regulation 8" insert ", 46 or 47";

(b) in paragraphs (a) and (b) after "8(2A)" insert ", 46(1) or 47(2)"; and

(c) at the end of paragraph (a) omit "and", and at the end of paragraph (b) insert—

"; and

(c) if a claim for universal credit is made by a notified person then, notwithstanding anything in the Housing Benefit Regulations 2006(**6**), the weekly amount of housing benefit to which the person is entitled for that period of two weeks is the same as the weekly amount they were entitled to on the first day of that period.".

(5) In regulation 11(1) for "regulations 7(7) and 8(4)" substitute "these Regulations" and after sub-paragraph (b) add the following words—

"and references to an award of a tax credit are to be read accordingly"".

(6) After regulation 43(**7**) insert—

"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 any existing benefits to which they are entitled are to terminate and that they will need to make a claim for universal credit; and

(b) specifying a day ("the deadline day") by which a claim for universal credit must be made.

(**5**) Regulation 8A was inserted by S.I. 2018/65.

(**6**) S.I. 2006/213.

(**7**) Regulation 43 was inserted by S.I. 2017/376.

(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 three months beginning with the day on which the migration notice is issued.

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

(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) that would affect a claim by that person; 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) 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) Where a notified person has not made a claim for universal credit on or before the deadline day, all awards of any existing benefits to which the person is entitled terminate—

(a) in the case of housing benefit, on the last day of the period of two weeks beginning with the deadline day; and

(b) in the case of any other existing benefit, on the day before the deadline day.

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

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

(a) after the deadline day; and

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

then, notwithstanding anything in regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made)(**8**) as modified by regulation 15 of these Regulations, the award is to commence on the deadline day.

(**8**) Regulation 26 was amended by S.I. 2014/2887
.

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

(5) This regulation is subject to regulation 47.

Notified persons who claim as a different benefit unit

47.—(1) This regulation applies where—

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

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

(2) If any of those notified persons makes a claim for universal credit on or before the deadline day then, notwithstanding anything in regulation 8 (termination of awards of certain existing benefits: other claimants), all awards of any existing benefits to which any of those persons is entitled terminate—

(a) in the case of housing benefit, on the last day of the period of two weeks beginning with the earliest day on which any of those persons is entitled to universal credit in connection with a claim (or, in a case where the person is not entitled to universal credit, on the day they would have been entitled if all the basic and financial conditions had been met); or

(b) in the case of any other existing benefit, on the day before the "earliest day" referred to in sub-paragraph (a).

(3) If, where paragraph (2) 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 before the "final deadline" referred to in regulation 46(4); and

(b) there would otherwise be a gap between the termination of existing benefits and the commencement of the award,

the award is to commence on the "earliest day" referred to in paragraph (2)(a).

(4) If none of those notified persons makes a claim for universal credit on or before the deadline day, all awards of any existing benefits to which any of them is entitled terminate in accordance with regulation 46(1), and regulation 46(3) applies in relation to any subsequent claim by any of those persons.

(5) 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.

Transitional Protection

Meaning of "qualifying claim"

48. A "qualifying claim" is a claim for universal credit by a single claimant who is a notified person or by joint claimants, both of whom are notified persons, where the claim is made before the final deadline (see regulation 46(4)).