Draft regulations laid before Parliament under section 43(3)(m) of the Welfare Reform Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

SOCIAL SECURITY

The Universal Credit (Transitional Provisions) Regulations 2013

Made - - - -	***
Coming into force - -	*29th April 2013*

In accordance with section 43(3) and (6)(b) of the Welfare Reform Act 2012(**1**) ("the Act"), a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

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), (b) and (c), 4(1)(a), 5(1), (2)(c) and (d) and (3)(a) and 6 of Schedule 6 to the Act.

This instrument has not been referred to the Social Security Advisory Committee because it contains only regulations made under the Act and is made before the end of the period of 6 months beginning with the coming into force of the Act(**2**).

In accordance with section 176(2)(b) of the Social Security Administration Act 1992(**3**), the Secretary of State has obtained the agreement of organisations appearing to him to be representative of the authorities concerned that proposals in respect of these Regulations should not be referred to them.

PART 1

INTRODUCTION AND INTERPRETATION

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations 2013.

(2) These Regulations come into force on 29th April 2013.

(**1**) 2012 c.5.
(**2**) *See* section 173(5) of the Social Security Administration Act 1992. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the enactment under which the regulations were made.
(**3**) 1992 c.5.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Welfare Reform Act 2012;

"the 2007 Act" means the Welfare Reform Act 2007(**4**);

"assessment period" has the same meaning as in the Universal Credit Regulations(**5**);

"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(**6**);

"contribution-based jobseeker's allowance" has the same meaning as in the Jobseekers Act 1995(**7**) as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act (to remove references to an income-based allowance);

"contributory employment and support allowance" means a contributory allowance under Part 1 of the 2007 Act(**8**) as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

"employment and support allowance" means an allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

"existing benefit" means income-based jobseeker's allowance, income-related employment and support allowance, income support under section 124 of the Social Security Contributions and Benefits Act 1992(**9**), housing benefit under section 130 of that Act and child tax credit and working tax credit under the Tax Credits Act 2002(**10**), but see also regulation 28(2);

"First-tier Tribunal" has the same meaning as in the Social Security Act 1998(**11**);

"income-based jobseeker's allowance" has the same meaning as in the Jobseekers Act 1995(**12**);

"income-related employment and support allowance" means an income-related allowance under Part 1 of the 2007 Act(**13**);

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

"new claimant partner" has the meaning given in regulation 16;

"new style ESA" means an award of employment and support allowance under Part 1 of the 2007 Act as amended by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

"new style JSA" means an award of jobseeker's allowance under the Jobseekers Act 1995 as amended by Part 1 of Schedule 14 to the Act (to remove references to an income-based allowance);

(**4**) 2007 c.5.
(**5**) *See* reg 21.
(**6**) S.I. 2013/XXXX.
(**7**) 1995 c.18. *See* s.1(4).
(**8**) *See* s.1(7).
(**9**) 1992 c.4.
(**10**) 2002 c.21.
(**11**) 1998 c.14.
(**12**) *See* s.1(4).
(**13**) *See* s.1(7).

"tax credit", "tax credits" and "tax year" have the same meanings as in the Tax Credits Act 2002(**14**);

"the Universal Credit Regulations" means the Universal Credit Regulations 2013(**15**);

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

(2) For the purposes of these Regulations, the date on which a claim for universal credit is made is to be determined in accordance with the Claims and Payments Regulations(**16**).

PART 2

FIRST STAGE OF TRANSITION TO UNIVERSAL CREDIT

CHAPTER 1

ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

Entitlement to claim universal credit

3.—(1) Unless a claim may be made by virtue of paragraph (2), or treated as made by virtue of paragraph (4), a person may not make, or be treated as making, a claim for universal credit unless—

(a) the claim is in respect of a period which begins on or after the date on which these Regulations come into force; and

(b) on the date on which the claim is made, or treated as made, the person falls within the Pathfinder Group(**17**).

(2) Subject to paragraph (3), where an award of universal credit to joint claimants terminates because they cease to be a couple, the claimant who is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the requirement to make a claim, may make a claim for universal credit during the period of one month starting with the date on which notification is given to the Secretary of State that the claimants have ceased to be a couple, even if the claimant does not fall within the Pathfinder Group on the date on which the claim is made.

(3) No claim may be made by a person by virtue of paragraph (2) at any time when the person or their partner is entitled to—

(a) state pension credit; or

(b) an existing benefit.

(4) Subject to paragraph (5), where regulation 9(8) of the Claims and Payments Regulations (Claims for universal credit by members of a couple) applies to a couple, they may be treated as making a claim for universal credit in accordance with that regulation, even though they do not fall within the Pathfinder Group on the date on which the claim is treated as made.

(5) No claim is to be treated as made by a couple by virtue of paragraph (4) at any time when—

(a) the member of the couple who was previously entitled to universal credit as a single claimant is entitled to—

(i) state pension credit; or

(ii) an existing benefit;

(**14**) *See* ss.1(2) and 48(1).
(**15**) S.I. 2013/XXXX.
(**16**) *See* reg 10.
(**17**) *See* reg 4.

(b) the member of the couple who did not previously have an award of universal credit as a single person is entitled to state pension credit.

CHAPTER 2

THE PATHFINDER GROUP

The Pathfinder Group

4.—(1) A person falls within the Pathfinder Group if they meet the requirements of regulations 5 to 12.

(2) Any declaration which is required by regulation 6(3)(c), 9(1), or 12(a) or (b) is to be made by such method as may be required by the Secretary of State in relation to the person.

Personal characteristics

5. The person must be—

(a) aged at least 18 years, but under 60 years and six months;

(b) a single person;

(c) a British citizen who—

(i) has resided in the United Kingdom throughout the period of two years ending with the date on which the claim for universal credit is made; and

(ii) has not, during that period, left the United Kingdom for a continuous period of four weeks or more.

Fitness to work

6.—(1) The person must not—

(a) be pregnant; or

(b) have been pregnant, if the date of her confinement occurred during the period of 15 weeks ending with the date on which the claim for universal credit is made.

(2) In this regulation, "confinement" has the same meaning as in regulation 8(4) of the Universal Credit Regulations.

(3) The person—

(a) must not have obtained from a doctor a statement given in accordance with the rules set out in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976(**18**) ("a statement of fitness for work") in respect of the day on which the claim for universal credit is made, unless it has been determined, since the statement was given, that the person does not have limited capability for work within the meaning of the 2007 Act;

(b) must not have applied for a statement of fitness for work;

(c) must declare that they do not consider themselves to be unfit for work; and

(d) must not have been the subject of a determination that they have limited capability for work within the meaning of the 2007 Act, unless it has subsequently been determined that they do not have limited capability for work within the meaning of that Act.

Existing benefits

7.—(1) The person must not be entitled to—

(**18**) S.I. 1976/615. Sch 1 was substituted by S.I. 2010/137.

(a) any existing benefit;

(b) contribution-based jobseeker's allowance;

(c) contributory employment and support allowance;

(d) incapacity benefit or severe disablement allowance, as defined in Schedule 4 to the 2007 Act;

(e) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992(**19**); or

(f) personal independence payment(**20**).

(2) The person must not be treated by regulation 8 as being entitled to a tax credit.

(3) The person must not be awaiting—

(a) a decision on a claim for any benefit mentioned in paragraph (1)(a) to (c); or

(b) the outcome of an application—

(i) to the Secretary of State to consider whether to revise, under section 9 of the Social Security Act 1998(**21**), a decision that the person is not entitled to jobseeker's allowance, employment and support allowance or income support; or

(ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000(**22**)) to consider whether to revise, under Schedule 7 to that Act, a decision that the person is not entitled to housing benefit.

(4) If the person has appealed against a decision that they are not entitled to a benefit mentioned in paragraph (1)(a) to (c), the Secretary of State must be satisfied—

(a) that the appeal to the First-tier Tribunal, and any subsequent appeal to the Upper Tribunal or to a court, is not ongoing; and

(b) where an appeal has been finally determined, that there is no possibility of a further appeal by any party.

(5) If the person was previously entitled to jobseeker's allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made.

(6) If the person was previously entitled to employment and support allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made, unless the award terminated as a result of a decision which incorporated a determination that the person no longer had limited capability for work within the meaning of the 2007 Act.

Existing benefits: ongoing awards of tax credits

8.—(1) For the purposes of regulations 7(2) and 16(4)—

(a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 ("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

(**19**) 1992 c.4.
(**20**) *See* the Act, s.77.
(**21**) 1998 c.14. *See*, in relation to consideration of revision under s.9, s.12(2)(b) and (3A), inserted by the Act.
(**22**) 2000 c.19.