STATUTORY RULES OF NORTHERN IRELAND

2016 No. 226

SOCIAL SECURITY

The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

Made - - - -	*5th May 2016*
Laid before Parliament	*10th May 2016*
Coming into operation in accordance with regulation 1	

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 38 and 48(1) and (2) of and paragraphs 1(1) and (2)(b), 3(1)(a) to (c), 4(1)(a), and 5(1), (2)(c) and (d) and (3)(a) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 and come into operation immediately after the coming into operation of the Universal Credit Regulations.

Interpretation

2.—(1) In these Regulations—

"the Claims and Payments Regulations 1987" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**2**);

"the Jobseekers Order 1995" means the Jobseekers (Northern Ireland) Order 1995(**3**);

(**1**) S.I. 2015/2006 (N.I. 1); for the meaning of "prescribed" and "Regulations" see Article 5.
(**2**) S.R. 1987 No. 465.
(**3**) S.I. 1995/2705 (N.I. 15).

"the JSA Regulations 1996" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**4**);

"the Social Security Order 1998" means the Social Security (Northern Ireland) Order 1998(**5**);

"the Housing Benefit Regulations" means the Housing Benefit Regulations (Northern Ireland) 2006(**6**);

"the Housing Benefit (State Pension Credit) Regulations" means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**7**);

"the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007(**8**);

"the ESA Regulations 2008" means the Employment and Support Allowance Regulations (Northern Ireland) 2008(**9**);

"the ESA (Transitional Provisions) Regulations 2010" means the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(**10**);

"the Claims and Payments Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(**11**);

"the Order" means the Welfare Reform (Northern Ireland) Order 2015;

"the Universal Credit Regulations" means the Universal Credit Regulations (Northern Ireland) 2016(**12**);

"Appeal Tribunal" has the same meaning as in Article 39 of the Social Security Order 1998;

"assessment period" has the same meaning as in regulation 22 of the Universal Credit Regulations;

"capital" has the same meaning as in Part 6 of the Universal Credit Regulations;

"Commissioner" has the same meaning as in the Social Security Order 1998;

"couple" has the same meaning as it has in Article 45 of the Order;

"claimant" in relation to an employment and support allowance or a jobseeker's allowance, has the same meaning as in Part 1 of the 2007 Act and the Jobseekers Order 1995 (as it applies apart from the amendments made by Part 1 of Schedule 12 to the Order that remove references to an income-based jobseeker's allowance) respectively and, in relation to universal credit, has the same meaning as in Part 1 of the Order;

"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 Tax Credits Act 2002(**13**) but see also regulation 26(2);

"housing benefit" means housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"income-based jobseeker's allowance" has the same meaning as in Article 3(4) of the Jobseekers Order 1995;

(**4**) S.R. 1996 No. 198.
(**5**) S.I. 1998/1506 (N.I. 10).
(**6**) S.R. 2006 No. 405.
(**7**) S.R. 2006 No. 406.
(**8**) 2007 c. 2 (N.I.).
(**9**) S.R. 2008 No. 280.
(**10**) S.R. 2010 No. 312.
(**11**) S.R. 2016 No. 220.
(**12**) S.R. 2016 No. 216.
(**13**) 2002 c. 21.

"income-related employment and support allowance" means an income-related allowance under section 1(7) in Part 1 of the 2007 Act;

"income support" means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"joint-claim jobseeker's allowance" means old style JSA, entitlement to which arises by virtue of Article 3(2B) of the Jobseekers Order 1995(**14**);

"joint claimants" in relation to universal credit has the same meaning as in Part 2 of the Order;

"new claimant partner" has the meaning given in regulation 5;

"new style ESA" means an allowance under Part 1 of the 2007 Act as amended by Schedule 3, and Part 1 of Schedule 12, to the Order to remove references to an income-related allowance;

"new style JSA" means an allowance under the Jobseekers Order 1995 as amended by Part 1 of Schedule 12, to the Order to remove references to an income-based allowance;

"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 12, to the Order that remove references to an income-related allowance;

"old style JSA" means a jobseeker's allowance under the Jobseekers Order 1995 as that Order has effect apart from the amendments made by Part 1 of Schedule 12 to the Order that remove references to an income-based allowance;

"partner" in relation to a person ("A") means a person who forms part of a couple with A(**15**);

"personal independence payment" means an allowance under Part 5 of the Order;

"specified accommodation" means accommodation to which one or more of sub-paragraphs (2) to (5) of paragraph 4 of Schedule 1 to the Universal Credit Regulations applies;

"tax credit" (including "child tax credit" and "working tax credit"), "tax credits" and "tax year" have the same meaning as in the Tax Credits Act 2002.

(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 regulation 9 of the Claims and Payments Regulations;

(b) where a couple is treated, in accordance with regulation 8(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 3, 5 and 6 or termination of an award of the benefit before that date by virtue of an order made under Article 2 of the Order;

(d) notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**16**), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(**14**) Subsection (2B) was inserted by paragraph 3(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and repealed by Part 1 of Schedule 12 to the Order.
(**15**) *See* Article 46 of the 2015 Order for the meaning of "couple".
(**16**) 1954 c. 33 (N.I.).

PART 2

CHAPTER 1

ENTITLEMENT TO OTHER BENEFITS

Exclusion of entitlement to certain benefits

3.—(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 (Northern Ireland) 2002(**17**),

in respect of any period when the claimant is entitled to universal credit(**18**).

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

(a) to housing benefit in respect of specified accommodation; 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 5(4), after the first date of entitlement to universal credit,

(ii) housing benefit, where regulation 5(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 Tax Credits Act 2002, after the first date of entitlement to universal credit.

Exclusion of claims for certain existing benefits

4.—(1) Except as provided in paragraphs (5) to (9) a universal credit claimant may not make a claim for income support, housing benefit or 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 Article 2(2) of the Order) that he or she is not entitled to claim 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 8(6) of the Claims and Payments Regulations (claims for universal credit by members of a couple)) 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 Department that he or she ceased to be a member of a couple, has not expired;

(**17**) 2002 c.14 (N.I.).

(**18**) A person who is entitled to universal credit is not entitled to old style JSA or old style ESA (other than in certain circumstances where the person is a member of a couple at the time of entitlement), by virtue of orders made under Article 2 of the Order, which brings into operation repeals of the legislation relating to those benefits.

(d) the person may be entitled to an award of universal credit in circumstances where, by virtue of regulation 8(6), (7) or (10) of the Claims and Payments Regulations, 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;

(e) 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; and

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

(i) the Department is considering whether to revise that decision under Article 10 of the Social Security Order 1998, whether on an application made for that purpose, or on its own initiative, or

(ii) the person has appealed against that decision to the Appeal Tribunal and that appeal and any subsequent appeal to the Commissioner 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 (7), 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 Claims and Payments Regulations 1987;

(b) in relation to a claim for housing benefit, the Housing Benefit Regulations or as the case may be, the Housing Benefit (State Pension Credit) Regulations; and

(c) in relation to a claim for tax credit, the Tax Credits (Claims and Notifications) Regulations 2002(**19**).

(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 regulations 6(1A)(c) or 6A of the Claims and Payments Regulations 1987(**20**), before the date on which the claim for universal credit was made or treated as made; and

(b) in accordance with the Claims and Payments Regulations 1987, 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 5(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 81(5)(d) of the Housing Benefit Regulations(**21**) or, as the case may

(**19**) S.I. 2002/2014.
(**20**) Regulation 6(1A) was inserted by regulation 3(4)(b) of S.R. 1997 No. 156 and regulation 6A was inserted by paragraph 4 of Schedule 3 to S.R. 2001 No. 176.
(**21**) Regulation 81(5)(d) was substituted by regulation 2(2)(j) of S.R. 2008 No.371.