

2014/1230

Universal Credit (Transitional Provisions) Regulations 2014

Universal Credit (Transitional Provs) Regs

Made 12 May 2014

Laid before Parliament 14 May 2014

Coming into force 16 June 2014

[PREA

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.

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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.

Part 2 Transition to Universal Credit

Chapter 2 Entitlement to Other Benefits

11 Ongoing awards of tax credits

- (1) For the purposes of regulations 7(7) and 8(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 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.

- (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
 - (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.

12 Modification of tax credits legislation: overpayments and penalties

- (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) in paragraph (b), for the words from “as if it were” to the end substitute “as an overpayment of universal credit”];²
 - (b) in subsections (3) and (4), after “repaid” insert “to the Board or, as the case may be, to the Secretary of State”;²
 - (c) omit subsection (5);

(d) in subsection (6) omit “(apart from subsection (5))”.

[(4) For section 29(4) substitute—

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“(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).”.2

[ISOE

(5) In section 48 after the definition of “overpayment” insert—

[ISOB

““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.”.

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

Amendments—

- 1 Para 4 substituted by the Universal Credit (Transitional Provisions) (Amendment) Regulations, SI 2016/232 reg 2 with effect from 1 April 2016.
- 2 Para (3)(a)(ii) substituted, and paras (3)(b), (4) revoked by the Tax Credits (Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments) Order, SI 2017/781 art 7 with effect from 25 September 2017. Para (3)(a)(ii) previously read as follows—

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“(ii) at the end insert “or treated as an overpayment of universal credit”;”.

[12A Modification of tax credits legislation: finalisation of tax credits

(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.¹

Amendments—

- 1 Reg 12A inserted by the Universal Credit (Transitional Provisions) (Amendment) Regulations, SI 2014/1626 reg 4 with effect from 13 October 2014.

13 Appeals etc relating to certain existing benefits

(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.

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MODIFICATION OF TAX CREDITS LEGISLATION (FINALISATION OF TAX CREDITS)

Modification ... (finalisation of tax credits)

Amendments—

- 1 Schedule inserted by the Universal Credit (Transitional Provisions) (Amendment) Regulations, SI 2014/1626 reg 4 with effect from 13 October 2014.

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—

[ISOB

“(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.”.

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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—

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“(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.”;

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- (d) for subsection (6) substitute—

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“(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.”;

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- (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—

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- “(b) the notice of the decision under subsection (1) of section 18,”.

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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—

[ISOB

“(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.”.

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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—

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““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;”.

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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—

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“(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.”.

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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.

25

In regulation 2 (interpretation)—

- (a) after the definition of “the income threshold” insert—

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““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;”;

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- (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)”.

34

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”.¹

Amendments—

- 1 Schedule inserted by the Universal Credit (Transitional Provisions) (Amendment) Regulations, SI 2014/1626 reg 4 with effect from 13 October 2014.