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Denise Whitehead  
Secretary, Social Security Advisory Committee  
Caxton House  
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23rd November 2021

Dear Denise

### **The Universal Credit (Transitional Provisions) Amendment Regulations 2022**

In accordance with section 172 of the Social Security Administration Act 1992, I am putting the above Regulations before the Committee for consideration. The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (“the 2022 Regulations”) make amendments to:

- The Universal Credit (Transitional Provisions) Regulations 2014 (‘the 2014 Regulations’) <sup>1</sup> and
- The Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 <sup>2</sup> (‘the 2019 Regulations’).

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<sup>1</sup> [http://www.legislation.gov.uk/uksi/2014/1230/pdfs/uksi\\_20141230\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/1230/pdfs/uksi_20141230_en.pdf)

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2019/1152/contents/2020-08-04>

The Committee is invited to consider whether the Regulations may be made without formal referral.

These negative Regulations amend the existing legal framework for supporting claimants who naturally migrate from existing benefits to Universal Credit (UC) and those who will be notified by DWP that they must move from their existing benefits to Universal Credit (UC). These regulations have been produced in advance of the resumption of this 'managed migration' process (referred to as Move to UC) and revoke provisions that are no longer necessary or have been superseded.

These amendments will allow the Department to complete the movement of remaining existing benefit claimants to Universal Credit (UC) by the end 2024, in line with the Manifesto commitment made by this Government.

We can discuss these regulatory changes at the SSAC meeting of 8<sup>th</sup> December 2021 if you require further detail.

The effects of the proposed amendments are summarised as follows:

**Regulation 2** removes regulation 4 of the 2014 regulations that permits the Secretary of State to suspend taking new UC claims in any area or specified category of case. This discretion on the grounds of safeguarding the efficient administration or to ensure the effective testing of the UC systems is no longer required. Consequential amendments to this change are contained in the **Schedule**.

**Regulation 3** removes regulation 6 of the 2014 regulations (exclusion of claims for certain existing benefits), which excluded UC claimants from claiming Income Support, Housing Benefit or tax credits. This is because the provisions in regulation 6 have been superseded by article 7 of the Welfare Reform Act 2012 (Commencement no 23 and Transitional and Transitory Provisions) Order no 23<sup>3</sup>. This means that regulation 6 is no longer required.

**Regulation 4** amends regulation 8 of the 2014 regulations so there is no longer a requirement that the Secretary of State is satisfied that the basic conditions of eligibility for UC relating to age, being in Great Britain and not being in education have been met before awards of Income Support, Housing Benefit or Tax Credits can be terminated when UC is claimed. This mirrors the approach taken in Commencement Orders for income-based Jobseeker's Allowance and income-related Employment and Support Allowance. It also makes certain consequential amendments to ensure references in other regulations are removed

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<sup>3</sup> [https://www.legislation.gov.uk/ukxi/2015/634/pdfs/ukxi\\_20150634\\_310319\\_en.pdf](https://www.legislation.gov.uk/ukxi/2015/634/pdfs/ukxi_20150634_310319_en.pdf)

**Regulation 5** resolves concerns relating to changes in couple status between the issuing of a migration notice and the new UC claim. It revokes regulation 47 of the 2014 Regulations, which makes provision for claimants who are being treated as a couple or as members of a polygamous marriage when they are issued with a migration notice (and therefore part of the same existing award) but are single for the purposes of a UC claim (and therefore must claim separately).

Regulation 47 currently provides for the existing awards to terminate when the first member of the former couple makes a UC claim and for a subsequent claim by the other member to be backdated to that date. Revoking regulation 47 will stop the termination of existing awards on the earlier date if the person who has not yet claimed has continuing entitlement. This will re-align with the position for couples on certain existing benefits who separate before they have been issued with a migration notice.

**Regulation 5(2)** clarifies that if a claimant has a change in couple status i.e. a couple separate or a single claimant forms a couple after being issued with a migration notice, they will not qualify for transitional protection.

**Regulation 6** ensures that a reassessment from Limited Capability for Work (LCW) to Limited Capability for Work-related Activity (LCWRA) is treated as an increase in the claimant's health related addition, therefore reducing any Transitional Protection (TP) by the amount of the difference between the LCW and the LCWRA, rather than treating it as a separate new payment which would reduce TP by the full amount.

**Regulation 7** clarifies the position for a sub-set of claimants who are in full-time education and would not meet the basic UC entitlement condition "not receiving education" when they are moved to UC. The current regulations provide an exemption from that condition until their course ends. (The full-time student protection.) The effect of the amendment in regulation 4 is that the full-time student protection will be treated in the same way as other forms of transitional protection. Specifically, if their UC award ceases and they make a new UC claim the exemption will not be re-applied. It also provides that the full-time student protection will cease for the same reasons (as prescribed in regulation 56 of the 2014 Regulations.)

**Regulation 8** removes the ability for a managed migrating claimant to request a Discretionary Hardship Payment. This provision was only used to provide for a payment equivalent to the two-week run-on of income-related Employment and Support Allowance, and Income Support and income-based Jobseeker's Allowance prior to the two week run on being deliverable. Since July 2020 the two week run on has been in place and so regulation 64 of the 2014 Regulations can be removed.

**Regulation 9** removes the restriction on the number of existing benefit claimants that can be moved to UC from legacy benefits before the regulations then have to be amended – referred to as the 10,000 limit.

The Committee are here provided with:

**ANNEX A:** The Explanatory Memorandum on the draft regulations;

**ANNEX B:** The draft Universal Credit (Transitional Provisions) Amendment Regulations 2022;

**ANNEX C:** A Keeling Schedule showing how the amendments will revise the source regulations.

Yours sincerely,

*By email*

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