

UC: ABOLITION OF TAX CREDITS, ESA(IR) AND JSA(IB)

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INTRODUCTION

1. This memo gives guidance on the WR Act 12 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019¹. The Order

1. abolishes WTC and CTC from 1.2.19 (see paragraph 3) **and**
2. provides for the abolition not to apply in certain cases (see paragraphs 4 - 22) **and**
3. abolishes ESA(IR) and JSA(IB) and commences UC legislation for claims for UC, ESA or JSA made on or after 1.2.19 from people living outside GB except for frontier workers (see paragraphs 23 - 27).

2. The memo should be read with Memo ADM 1/19 (UC: Claimants entitled to Severe Disability Premium), which gives guidance on restrictions on claims for UC on or after 16.1.19 from people who are, or within the past month have been, entitled to an existing benefit which includes the severe disability premium (SDP)¹. Where a claim for UC may not be made, claims for existing benefits, including TCs, may be made instead.

1 UC (TP) Regs, reg 4A

ABOLITION OF TAX CREDITS

3. The abolition of tax credits comes into effect on 1.2.19¹. Claims for CTC and WTC cannot be made from this date, unless any of the savings in paragraphs 11 – 22 apply¹.

Note: Decisions relating to TC entitlement will continue to be made by HMRC. The following guidance in paragraphs 4 – 22 is for information only.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 2; WR Act 12, s 33(1)(f)

SAVINGS

Definitions

Meaning of couple

4. A TC couple is¹

1. two people who are married to each other and are not separated

1.1 under a court order **or**

1.2 in circumstances in which the separation is likely to be permanent
or

2. two people who are not married to each other but are living together as a married couple **or**

3. two people of the same sex who are civil partners of each other and are not separated

3.1 under a court order **or**

3.2 in circumstances in which the separation is likely to be permanent
or

4. two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.

Note: Unlike UC², there is no requirement for members of a TC couple to be members of the same household.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2); TC Act 02, s 3(5A); 2 WR Act 12, s 39(1)

Meaning of mixed-age couple

5. A mixed-age couple is¹ a TC couple where one member of the couple has reached the qualifying age and the other is under qualifying age.

1 WR Act 12 (Commencement No. 33 etc.) Order, art 1(2)

Meaning of single claimant

6. A single claimant is a person who makes a single claim for a TC, and is not entitled to make a joint claim for a TC as a member of a couple¹.

WR Act 12 (Commencement No. 32 etc.) Order, art 1(2); TC Act 02, s 3(3)(b)

Meaning of qualifying age

7. Qualifying age means the qualifying age for SPC which is¹

- 1.** pensionable age for a woman **or**
- 2.** for a man, the age which would be pensionable age for a woman born on the same date as the man.

Since 6.12.18, pensionable age for a man or a woman is 65.

Note: See DMG Chapters 74 (State pension) and 75 (Retirement pension) for further guidance on pensionable age.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2); SPC Act 02, s 1(6)

Meaning of polygamous unit

8. Polygamous unit means

- 1.** a “polygamous couple”, which is a man and a woman who are married under a law which permits polygamy where

1.1 they are not separated under a court order or in circumstances in which the separation is likely to be permanent **and**

1.2 either of them has an additional spouse **and**

2. any person who is married to either member of the polygamous couple and who is not separated from that member under a court order or in circumstances in which the separation is likely to be permanent.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2); TC (Polygamous Marriages) Regs 2003, reg 2

Meaning of tax year

9. Tax year means the period

1. beginning on 6 April in one year **and**

2. ending on 5 April in the following year¹.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2); TC Act 02, s 48(1)

Meaning of final notice

10. Where a claim for a TC is made, an initial decision is made as to whether an award should be made¹. If an award is made following the end of the tax year, HMRC notifies the claimant or claimants that

1. they are required to declare

1.1 that their circumstances are as detailed in the notice **or**

1.2 where their circumstances are not as detailed in the notice

by a specified date **or**

2. they are treated as having made a declaration as in **1.1** unless they state otherwise by a specified date².

This is known as a final notice. After the date specified in the final notice, a decision on entitlement for the tax year for which the award was made is given³.

1 TC Act 02, s 14; 2 s 17; 3 s 18

When the abolition of tax credits does not apply

11. The abolition of tax credits does not apply in any of the cases in paragraphs 13 - 22¹.

Note: For guidance on the date of claim for a TC in Cases 2 – 4 below, see M6026.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(1)

12. DMs are reminded that from 16.1.19, claims for UC may not be made by people who are, or within the past month have been, entitled to an existing benefit which includes the severe disability premium (SDP)¹ – see Memo ADM 1/19.

1 UC (TP) Regs, reg 4A

Case 1

13. Case 1¹ is an award of a TC that has effect for a period which includes 31.1.19.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(2)

Case 2

14. Case 2¹ is an award of a TC where

1. the award has effect for a period which begins on or after 1.2.19 **and**
2. the claim for that award is made by

2.1 a TC single claimant who is, or a TC couple where both are, aged under the qualifying age on the day on which the claim is made **or**

2.2 a mixed-age couple which is also a UC couple **or**

2.3 a polygamous unit where all the members are people who are under the qualifying age and could claim UC (ignoring the restrictions on claims for UC²) as

2.3.a UC joint claimants and one or more UC single claimants
or

2.3.b a number of UC single claimants.

Note 1: See Chapter E2 (Benefit unit, awards and maximum amount) for guidance on the meaning of UC single claimants, joint claimants, couples and polygamous marriages.

Note 2: See Memo ADM 1/19 for where claims for UC may not be made.

Case 3

15. Case 3¹ is an award of a TC where

1. the award has effect for a period which begins on or after 1.2.19 **and**

2. the claim for that award is made by

2.1 a mixed-age couple other than in paragraph 14 **2.2 or**

2.2 a polygamous unit other than in paragraph 14 **2.3**

where a claim for UC could be made if it were not for the restrictions on claims for UC¹.

Note: See Memo ADM 1/19 for where claims for UC may not be made.

Case 4

16. Case 4¹ is a case which does not fall within Case 2 or 3 and which is an award of

1. CTC where

1.1 the period for which it has effect begins on or after 1.2.19 **and**

1.2 on the date the claim was made, the claimant has or claimants have an award of WTC **or**

2. WTC where

2.1 the period for which it has effect begins on or after 1.2.19 **and**

2.2 on the date the claim was made, the claimant has or claimants have an award of CTC **or**

3. CTC or WTC where

3.1 the period for which it has effect begins on or after 1.2.19 **and**

3.2 the claimant or claimants had a previous award of the same TC for the previous tax year.

Note: See paragraphs 17 - 21 for further guidance on when a person is treated as having an award of CTC or WTC in **1.** or **2.**

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(5)

When is a person treated as entitled to a TC

17. A person is treated as having an award of a TC from the beginning of the current tax year even though a decision has not been made on a claim for that year if

1. the person was entitled to a TC for the previous tax year **and**
2. any of the cases in paragraphs 18 - 21 apply¹.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(6); TC Act 02, s 14

Case A

18. Case A¹ is where a final notice has not been given to the person in respect of the previous tax year.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(7)(a); TC Act 02, s 17

Case B

19. Case B¹ is where a final notice has been issued and

1. the date or later of the dates specified in the notice has not been reached and no claim for CTC or WTC has been made or treated as made² **or**
2. a claim for CTC or WTC has been made or treated as made before the date or later of the dates specified in the notice, but no initial award has been made on that claim³.

*1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(7)(b);
TC Act 02, s 17(2), (4) & (6); 2 s 17(2) & (4); 3 s 14(1)*

Case C

20. Case C¹ is where

1. a final notice has been given **and**

2. no claim for CTC or WTC for the current tax year has been made or treated as made **and**

3. no decision on entitlement for the previous tax year has been made².

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(7)(c); 2 TC Act 02, s 18(1)

Case D

21. Case D¹ is where

1. a final notice has been given **and**

2. the person made a declaration as in paragraph 10 **1.1**²

2.1 by the specified date **or**

2.2 if not as in **2.1**, within 30 days of notification that payment of TC had ceased because of a failure to make the declaration by the specified date³ or

2.3 if not as in **2.1** or **2.2**, by 31 January in the tax year following the period to which the final notice relates and in the opinion of HMRC the claimant had good reason for not making the declaration as in **2.1** or **2.2**.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(7)(d);

2 TC Act 02, s 17(2)(a), (4)(a) or (6)(a); 3 s 24(4)

Case 5

22. Case 5 is an award of a TC that had effect for a period which ended on or before 30.1.19¹.

1 1 WR Act 12 (Commencement No. 32 etc.) Order, art 3(9)

ABOLITION OF ESA(IR) AND JSA (IB)

Meaning of frontier worker

23. A frontier worker is a person who for the purposes of UC is in GB¹, but does not reside in GB or NI, except for crown servants and members of Her Majesty's forces posted overseas¹.

Note: See Chapter C1 (UC: International issues) for detailed guidance on the meaning of “in GB”, crown servant, member of Her Majesty’s forces and “posted overseas”.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2) & (3); WR Act 12, s 4(1); UC Regs, reg 10(2)

Claims for UC, ESA and JSA

24. Since 12.12.18 (see Memo ADM 18/18) the abolition of ESA(IR) and JSA(IB), and the introduction of UC, have already come into force for all postcodes in GB where a claim for those benefits is made or treated as made.

Note: See Chapter M5 (Claims for UC – Digital service area) for detailed guidance on when claims for UC may be made, Memo ADM 1/19 for restrictions on claiming UC, and Chapter M6 (Effects of transition to UC – Digital Service area) for detailed guidance about entitlement to, claims for and termination of existing awards.

25. A claim for UC made on or after 1.2.19 for a period beginning on or after that date may be made by a claimant, or in the case of joint claimants, either claimant, who resides outside GB¹. This includes crown servants and members of Her Majesty’s forces posted overseas. But see paragraph 27 for when UC claims may not be made by frontier workers who reside outside GB.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 4(1) – (4)

26. No claims for old style ESA or JSA made on or after 1.2.19 for a period beginning on or after that date may be made by a claimant, or in the case of joint claimants, either claimant, who resides outside GB¹. This includes crown servants and members of Her Majesty’s forces posted overseas.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 4(5) – (10)

27. A UC claim may not be made on or after 1.2.19 by a single claimant who, or in the case of joint claimants, each of whom, is a frontier worker¹. A claim for a TC may be made instead.

1 WR Act 12 (Commencement No. 32 etc.) Order, art 1(2) & 4(11)

ANNOTATIONS

Please annotate the number of this memo (Memo ADM 03/19) against the following ADM paragraphs and ADM Memos:

M5006 heading, M5090 heading, Memo ADM 18/18, Memo ADM 1/19

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3rd Floor East, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 23/16](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: February 2019

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