

**EXPLANATORY MEMORANDUM
FOR THE SOCIAL SECURITY ADVISORY COMMITTEE FROM THE
DEPARTMENT FOR WORK AND PENSIONS**

**THE UNIVERSAL CREDIT (WAITING DAYS) AMENDMENT
REGULATIONS 2014**

Introduction

1. The Department proposes to make amendments to two sets of Regulations that support the introduction of Universal Credit, namely

Universal Credit Regulations 2013 (SI 2013/376)

**Universal Credit (Transitional Provisions) Regulations 2014
(SI 2014/1230)**

2. As the Committee will recall, current secondary legislation ensures that a claim to Universal Credit (UC) may only be made by a person who meets specified criteria (“the gateway conditions”) and who lives in one of the postcode districts in which Live Service operates. In the next stage of UC rollout, the Department will also begin to test an enhanced online Digital Service, which will be capable of delivering the full scope of UC and will make provision for the full range of claimants’ circumstances. The Department intends to eventually roll out the Universal Credit Digital Service more widely to deliver the full scope of UC nationally.
3. The proposed UC amendments will apply to all UC claimants, whether under the Live Service or the Digital Service arrangements. However there is an exception to this set out in paragraph 15 below in the different way exemption to serving waiting days would apply in Live Service and Digital Service to claimants who leave UC and come back on again within 6 months.

Equalities considerations

4. Some of the provisions contained in the Regulations may affect people with characteristics protected under the public sector equality duty but any impact is proportionate. Attached is a copy of the separate equalities assessment which has been produced in respect of the draft Universal Credit (Waiting Days) Amendment Regulations 2014.

Universal Credit – waiting days

5. The Chancellor of the Exchequer announced in the 2013 Autumn Statement, the introduction of 7 waiting days into UC¹. The 7 waiting days are to be served following a new award of UC to claimants who are in the all work-related requirements group on or after 27th April 2015.
6. The Chancellor subsequently confirmed in the Budget statement of 19th March 2014 that the number of waiting days in Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) would be increased from 3 to 7. Following discussion of the JSA and ESA proposals at the May meeting, the Committee has recently consulted on the draft Social Security (Waiting Days) Amendment Regulations 2014 that relate to the JSA and ESA changes.
7. The principle behind the waiting days policy is that benefits are not intended to provide financial support for very brief breaks in employment or periods of sickness. Many people come to benefits directly from employment and it is reasonable to expect them to use those earnings to budget for an initial period of unemployment. This measure will apply to single claimants who on the first day of the waiting day period are in the all work-related requirements group and to joint claimants where one or both members of the couple are in this group.
8. The change is primarily a cost-saving measure. We estimate it will generate savings of approximately £200m plus per annum from 2016/17 onwards as UC rolls out. As with the JSA and ESA provisions, these savings are being invested in new measures to get people off benefit and into work. For example, the money will be spent on measures to improve English language skills of claimants and provide more resources to support lone parents to return to employment.
9. Regulation 2(1)(a) proposes to insert new Regulation 19A into the Universal Credit Regulations to support the introduction of 7 waiting days. Waiting days are the days at the start of an award of UC in respect of which claimants (who otherwise satisfy the conditions of entitlement) are not entitled to benefit.
10. Regulation 1 provides that these amendments will come into force on 27th April 2015. These provisions would therefore apply to new awards made in respect of a period which starts on or after 27th April 2015.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263942/35062_Autumn_Statement_2013.pdf

11. Waiting days will not apply to claimants who have earnings that are equal to or exceed the conditionality earnings threshold provided by Regulation 90 (claimants subject to no work-related requirements) of the Universal Credit Regulations.
12. The reason for exempting these claimants is that the policy intent is to apply waiting days only to those in the all work-related requirements group and not to those who are already in full-time employment and earning as much as they can. If the waiting days provision applied to this category of claimant it would not incentivise them to stay in full-time employment. In the legacy benefit system, these claimants would be in full-time work and claiming Tax Credits and/or Housing Benefit, which are not subject to serving waiting days.
13. We propose to make provision in new Regulation 19A(3) for certain categories of claimant to be exempt from serving waiting days. These exceptions are:
 - A new award of UC made to single claimants who were previously part of a couple and the UC award ends when they cease to be a member of that couple, and joint claimants who were previously single and their UC awards ended when they became a couple;
 - Other claimants who have a new UC award that begins on the same day of each month as the assessment period in relation to a previous award. These are the claimants who return to UC within 6 months via the re-award process discussed at the July SSAC meeting – see paragraph 15 below;
 - Claimants who are terminally ill;
 - Claimants who have recently been a victim of domestic violence (as determined in accordance with Regulation 98(2) of the Universal Credit Regulations 2013);
 - Care leavers (as defined in Regulation 2 of the Universal Credit Regulations);
 - Young persons aged 16 or 17 who are without parental support (as determined in accordance with Regulation 8(3));
 - Former prisoners who have left prison within the past month (the term “prisoner” is defined in Regulation 2 of the Universal Credit Regulations);
 - Claimants who were entitled to new style JSA or new style ESA within 3 months of their claim to UC.
14. We propose to exempt single claimants who were previously part of a couple where the UC award ended when they ceased to be a couple and joint claimants who were previously single and their UC awards ended when they became a couple. They will be exempt because they are already in receipt of UC and may have previously served waiting days. Nor will waiting days apply to people who move into the all work-related requirements group while already receiving UC. This is because these are not new claims to UC.

15. Claimants in Live Service who leave UC because of earnings or in Digital Service who leave UC because of earnings or a non earnings-related change of circumstances and come back on again if their earnings fall or circumstances change again within 6 months will be re-awarded UC without having waiting days applied. This is to encourage claimants to find work or increase their hours without fear of having to serve a longer break in their entitlement due to waiting days.
16. We are not excluding those who may ultimately be excluded from the all work group because of limited capability for work. However claimants who are terminally ill will be exempted from serving waiting days. This is consistent with the way claimants are treated in ESA.
17. Claimants who have recently been a victim of domestic violence are a proposed exemption because they are people in very vulnerable circumstances, likely to be in need of immediate financial support when making their claim. There is a risk that these claimants could be exposed to hardship if they had to serve 7 waiting days before they could receive help, particularly if they have children. This approach is consistent with conditionality requirements where the initial all work-related requirement is immediately reduced for 13 weeks once we establish the claimant has recently been a victim of domestic violence.
18. We similarly propose to exempt care leavers because they are a potentially vulnerable group who have to live independently at a much younger age and have more abrupt transitions to adulthood than their peers. Without the support of family to fall back on, having access to timely financial help at the point where they leave care is crucial. The Government, through the cross-departmental Care Leaver Strategy published 29th October 2013, is committed to ensuring care leavers are adequately supported financially in their transition from care to adulthood to enable them to have the same opportunities to fulfil their potential as their peers.² Serving the seven day waiting period would result in care leavers facing immediate financial distress at the very start of the transition to independent living because they would not have any previous income/earnings or family support to tide them over.
19. We propose to exempt young persons aged 16 or 17 who are without parental support. This is a vulnerable group who have no access to financial help. Serving seven waiting days before they could receive help would expose this group to immediate hardship.
20. Claimants who claimed UC within 3 months of entitlement to new style JSA or new style ESA will have served waiting days already. If we did not apply this exemption we could be applying waiting days twice to the same claimant in the same period of sickness or unemployment and this would penalise claimants who have made NI contributions.

² <https://www.gov.uk/government/publications/care-leaver-strategy>

21. Ex prisoners will be exempted because enforcing the 7 day wait on this group could be construed as being particularly counter-productive in supporting prisoners during the first few days and weeks on leaving custody when the immediate risk of re-offending is highest. This supports the Ministry of Justice initiative “Transforming Rehabilitation” published on 9th May 2013.³
22. The purpose of the provision in new Regulation 19A(4) is to determine the appropriate conditionality group for an employed single claimant or joint claimant, in order to decide whether waiting days will apply. We first have to decide what the claimant’s earnings are and in order to do this it is necessary to determine what assessment period we will use to assess these earnings. Because the start of an assessment period is affected by the application of waiting days, it is necessary to fix an assessment period to do this. For the purpose of this Regulation the assessment period that will be used to do this will be based on the expected earnings in the first month after the claim (which would be the first assessment period if waiting days were not applied).
23. Regulation 2(1)(b) amends Regulation 21 to make it clear that where waiting days apply, the assessment period begins on the first day of entitlement which is the first day after the expiry of the 7 waiting days.

Waiting days transitional arrangements

24. The Universal Credit (Transitional Provisions) Regulations 2014 are amended to cater for claimants who move from current benefits to UC.
25. Regulation 2(2) amends these Regulations by inserting new Regulation 16A. This provides that waiting days will not be applied to claimants who have left a legacy benefit (Income Support or old style ESA or old style JSA) for paid jobs and become entitled to UC within 3 months. This will help encourage claimants to leave benefit for short-term work experience as they will not be penalised if they return.
26. Regulation 2(2) also exempts those in receipt of Income Support, old style ESA, old style JSA, Tax Credits or Housing Benefit who, because of a change of circumstances, have to stop claiming or cannot renew their current benefit and make a claim for UC instead. This will be time-limited to within 1 month of entitlement to the legacy benefit ceasing.

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