

**IS/JSA/ESA - ABOLITION OF URGENT CASE AND  
DISABLED WORKER PAYMENTS**

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**INTRODUCTION**

- 1 This memo gives guidance on the effect of the Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009 (SI 2009/3228) which come into force on 25 January 2010.

**BACKGROUND TO THE CHANGES IN THE REGULATIONS**

- 2 Urgent case payments, which take the form of reduced amounts of benefit, are payments which are made to certain sponsored immigrants, asylum seekers or persons whose income is temporarily interrupted, to prevent hardship.

- 3 Following changes to asylum seeker rules the number of claimants using the urgent case payment (UCP) scheme has, in recent years, dramatically reduced. As a consequence of this reduction it has been decided to withdraw the UCP scheme.
- 4 Disabled workers and employed persons living in residential accommodation who are in full time remunerative work, have been exempted from satisfying certain conditions that would otherwise mean that they, or for ESA where they are one of a couple, their partner would not be entitled to IS/JSA/ESA(IR). It has become apparent that these provisions are now rarely used due to the introduction of the National Minimum Wage and Human Rights legislation. The need to retain these provisions therefore no longer exists.

## **CHANGES**

- 5 The changes
  1. amend provisions enabling certain persons who are subject to immigration control to claim IS, JSA(IB) or ESA(IR)
  2. abolish UCPs for IS, JSA(IB) and ESA(IR)
  3. remove the disabled workers concessions
  4. make transitional arrangements.

## **CURRENT CASES**

### **Prescribed categories**

- 6 From 25.1.10 the following categories have been substituted for a PSIC<sup>1</sup> in the list of prescribed categories of persons who can be entitled to IS
  1. a person with limited leave to remain whose funds from abroad are temporarily suspended but their IS entitlement shall be limited to a period of 42 days<sup>2</sup>
  2. certain asylum seekers<sup>3</sup>

*1 IS (Gen) Regs, Sch 1B, para 21; 2 para 22B; 3 SS (Immigration and Asylum) Consequential Amendments Regulations 2000, reg 2(5)*

- 7 From 25.1.10 disabled workers in full time remunerative work and people in work living in a care home, Abbeyfield Home or an independent hospital are removed from the list of
1. prescribed persons entitled to IS
  2. those who are treated as not engaged in remunerative work for IS/JSA
  3. categories of members of joint-claim couples where one member is not required to satisfy the joint-claim conditions for JSA
  4. partners of claimants to ESA(IR) who are not to be treated as engaged in remunerative work<sup>1</sup>.

*1 SS (Miscellaneous Amendments) (No. 5) Regulations 2009 (SI 2009/3228), reg 4(1)*

### **Asylum seekers**

- 8 Asylum seekers who have been entitled to and receiving UCPs since before 3.4.00<sup>1</sup> will be entitled to transfer to the full rate of benefit<sup>2</sup> from the first day of the first benefit week to commence for that person on or after 25.1.10.

*1 SS (Immigration and Asylum) Consequential Amendments Regulations 2000, reg 12(4) & (5); 2 reg 2(5)*

### **ESA(IR) temporarily without funds**

- 9 A person is entitled to the urgent case payment rate of ESA(IR) if they, during a period of limited leave, are temporarily without funds from abroad. From 25.1.10 there will be a 42 day maximum period<sup>1</sup> of entitlement to these payments during any one period of limited leave.

*1 reg 2(8)*

### **UCPS**

- 10 The provisions enabling the payment of a UCP are revoked<sup>1</sup> for new claims made on or after 25.1.10. The guidance in DMG chapter 31 should no longer be followed.

*1 Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009 (SI 2009/3228), reg 2(1)*

## TRANSITIONAL ARRANGEMENTS

### Disabled workers

11 Where the provisions in paragraph 7 above apply to an IS or JSA claimant or in the case of ESA, the claimant's partner, for a period including 24.1.10, they shall continue to be entitled under those provisions until they first cease to

1. fall within that provision **or**
2. be entitled to IS/JSA/ESA

whichever date is the earlier<sup>1</sup>.

*1 Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009 (SI 2009/3228), reg 4(3) - (7)*

### Interruption of funds from abroad

12 Where a person is in receipt of UCPs under IS or ESA(IR) on 24.1.10 because their funds from abroad have been interrupted then they will continue to receive UCPs for

1. a total of 42 days during any one period of leave **or**
2. until funds from abroad resume<sup>1</sup>

whichever is the earlier.

*1 reg 2(3)*

### Income due but not paid

13 DMG 31300 - 31301 and DMG 54720 - 54721 provide guidance on when UCPs may be payable to IS, JSA and ESA claimants who are treated as possessing notional income in situations where an income is due but has not been paid<sup>1</sup>.

*1 JSA Regs, reg 147(2)(b); IS (Gen) Regs, reg 70(2)(b); ESA Regs, reg 162(2)*

14 On the day before these changes come into force a person who is in receipt of UCPs under IS, JSA(IB) or ESA(IR) because

1. income that the claimant is treated as having is not readily available to the claimant **and**
2. the UCP is more than the normal amount of IS, JSA(IB) or ESA(IR) that would be payable **and**

3. the DM is satisfied that the claimant or their family will suffer hardship if a UCP is not made<sup>1</sup>

will continue to receive UCPs for so long as 1., 2. and 3. apply to the claimant<sup>1</sup>.

*1 Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009 (SI 2009/3228), reg 2(4)*

- 15 UCPs will not be available again for these claimants in the future once paragraph 13 (above) has first ceased to apply to them after 24.1.10<sup>1</sup>.

*1 reg 2(1)*

## **ANNOTATIONS**

Please annotate the number of this memo (DMG 1/10) against DMG paragraphs 20081, 20152, 20153, 20178, 28649, 31001, 31300, 41317, 41511, 41516, 51571, 54700, 54720, 78940.

## **CONTACTS**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 26/08](#) - Obtaining legal advice and guidance from DMA Leeds.

**DMA Leeds: January 2010**