

SOCIAL SECURITY TEST SPRING 2022

Anne (35) and Brian (33) are a married couple who live with their daughter Charlotte (DoB: 13/01/18). Anne and Brian own their own home and they are not entitled to a housing costs element in their Universal Credit (“**UC**”) award. They do not have any childcare costs and Charlotte is not disabled. They do not receive any other benefits and have not previously received any benefits.

Brian was made redundant in April 2021. After a nasty COVID-19 infection, he fell ill with “long Covid”. For the purposes of UC, he has a limited capability for work, but not limited capability for work-related activity. He has no income. Anne found employment in November 2021 as a part-time receptionist. Her work means that she is too busy to care for Brian and she is not classed as his carer. Anne earns £659 per month, which constitutes her entire employed earnings for UC purposes after relevant deductions have been made. Her payday falls on the 22nd day of each month.

Anne and Brian make a joint claim for UC by telephone on 24th February 2022, which is accepted as validly made.

1. What were the dates of Anne and Brian’s first “assessment period”?
2. How much UC were Anne and Brian entitled to in that “assessment period”?

LEGISLATION

Social Security Administration Act 1992

1. Entitlement depends on making a claim

(1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—

(a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or

(b) he is treated by virtue of such regulations as making a claim for it.

[...]

(4) In this section and section 2 below “benefit” means—

[(za) universal credit;]

[(zb) state pension or a lump sum under Part 1 of the Pensions Act 2014;]

[(zc) bereavement support payment under section 30 of the Pensions Act 2014;]

(a) benefit as defined in section 122 of the Contributions and Benefits Act;

[(aa) a jobseeker's allowance;]

[(ab) state pension credit;]

[(ac) an employment and support allowance;] and

[(ad) personal independence payment.]

(b) any income-related benefit.

(5) This section (which corresponds to section 165A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.

Welfare Reform Act 2012

PART 1 Universal credit

Chapter 1 Entitlement and awards

1. Universal credit

(1) A benefit known as universal credit is payable in accordance with this Part.

(2) Universal credit may, subject as follows, be awarded to—

(a) an individual who is not a member of a couple (a “single person”), or

- (b) members of a couple jointly.
- (3) An award of universal credit is, subject as follows, calculated by reference to—
 - (a) a standard allowance,
 - (b) an amount for responsibility for children or young persons,
 - (c) an amount for housing, and
 - (d) amounts for other particular needs or circumstances.

2. Claims

- (1) A claim may be made for universal credit by—
 - (a) a single person, or
 - (b) members of a couple jointly.
- (2) Regulations may specify circumstances in which a member of a couple may make a claim as a single person.

7. Basis of awards

- (1) Universal credit is payable in respect of each complete assessment period within a period of entitlement.
- (2) In this Part an “assessment period” is a period of a prescribed duration.
- (3) Regulations may make provision—
 - (a) about when an assessment period is to start;

[...]

- (4) In subsection (1) “period of entitlement” means a period during which entitlement to universal credit subsists.

8. Calculation of awards

- (1) The amount of an award of universal credit is to be the balance of—
 - (a) the maximum amount (see subsection (2)), less
 - (b) the amounts to be deducted (see subsection (3)).
- (2) The maximum amount is the total of—
 - (a) any amount included under section 9 (standard allowance),
 - (b) any amount included under section 10 (responsibility for children and young persons),
 - (c) any amount included under section 11 (housing costs), and
 - (d) any amount included under section 12 (other particular needs or circumstances).

(3) The amounts to be deducted are—

(a) an amount in respect of earned income calculated in the prescribed manner (which may include multiplying some or all earned income by a prescribed percentage), and

(b) an amount in respect of unearned income calculated in the prescribed manner (which may include multiplying some or all unearned income by a prescribed percentage).

(4) In subsection (3)(a) and (b) the references to income are—

(a) in the case of a single claimant, to income of the claimant, and

(b) in the case of joint claimants, to combined income of the claimants.

9. Standard allowance

(1) The calculation of an award of universal credit is to include an amount by way of an allowance for—

(a) a single claimant, or

(b) joint claimants.

(2) Regulations are to specify the amount to be included under subsection (1).

(3) Regulations may provide for exceptions to subsection (1).

10. Responsibility for children and young persons

(1) The calculation of an award of universal credit is to include an amount for each child or qualifying young person for whom a claimant is responsible.

(1A) But the amount mentioned in subsection (1) is to be available in respect of a maximum of two persons who are either children or qualifying young persons for whom a claimant is responsible.

[...]

(3) Regulations are to specify, or provide for the calculation of, amounts to be included under subsection (1) or (2).

(4) Regulations may provide for exceptions to subsection (1) or (1A).

(5) In this Part, “qualifying young person” means a person of a prescribed description.

12. Other particular needs or circumstances

(1) The calculation of an award of universal credit is to include amounts in respect of such particular needs or circumstances of a claimant as may be prescribed.

(2) The needs or circumstances prescribed under subsection (1) may include—

(b) the fact that a claimant has limited capability for work and work-related activity;

(3) Regulations are to specify, or provide for the determination or calculation of, any amount to be included under subsection (1).

Chapter 3 Supplementary and general

37. Capability for work or work-related activity

(1) For the purposes of this Part a claimant has limited capability for work if—

(a) the claimant's capability for work is limited by their physical or mental condition, and

(b) the limitation is such that it is not reasonable to require the claimant to work.

(2) For the purposes of this Part a claimant has limited capability for work-related activity if—

(a) the claimant's capability for work-related activity is limited by their physical or mental condition, and

(b) the limitation is such that it is not reasonable to require the claimant to undertake work-related activity.

39. Couples

(1) In this Part “couple” means—

(a) two people who are married to, or civil partners of, each other and are members of the same household; or

(b) two people who are not married to, or civil partners of, each other but are living together as if they were a married couple or civil partners.

40. Interpretation of Part 1

In this Part—

“assessment period” has the meaning given by section 7(2);

“child” means a person under the age of 16;

“claim” means claim for universal credit;

“claimant” means a single claimant or each of joint claimants;

“couple” has the meaning given by section 39

“joint claimants” means members of a couple who jointly make a claim or in relation to whom an award of universal credit is made;

“limited capability for work” and “limited capability for work-related activity” are to be construed in accordance with section 37(1) and (2);

UC Regulations 2013

PART 1 Introduction

2. Interpretation

In these Regulations—

“the Act” means the Welfare Reform Act 2012;

“child element” has the meaning in regulation 24;

“earned income” has the meaning in Chapter 2 of Part 6;

“LCWRA element” has the meaning in regulation 27;

“partner” means (except in regulation 77) the other member of a couple;

“responsible for a child or qualifying young person” has the meaning in regulation 4;

4. When a person is responsible for a child or qualifying young person

(1) Whether a person is responsible for a child or qualifying young person for the purposes of Part 1 of the Act and these Regulations is determined as follows.

(2) A person is responsible for a child or qualifying young person who normally lives with them.

6. Rounding

(1) Where the calculation of an amount for the purposes of these Regulations results in a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and otherwise it is to be treated as a penny.

PART 3 Awards

21. Assessment periods

(1) An assessment period is... a period of one month beginning with the first date of entitlement and each subsequent period of one month during which entitlement subsists.

(2) Each assessment period begins on the same day of each month except as follows—

(a) if the first date of entitlement falls on the 31st day of a month, each assessment period begins on the last day of the month; and

(b) if the first date of entitlement falls on the 29th or 30th day of a month, each assessment period begins on the 29th or 30th day of the month (as above) except in February when it begins on the 27th day or, in a leap year, the 28th day.

22. Deduction of income and work allowance

(1) The amounts to be deducted from the maximum amount in accordance with section 8(3) of the Act to determine the amount of an award of universal credit are—

(a) all of the claimant's unearned income (or in the case of joint claimants all of their combined unearned income) in respect of the assessment period; and

[(b) the following amount of the claimant's earned income (or, in the case of joint claimants, their combined earned income) in respect of the assessment period—

(i) in a case where no work allowance is specified in the table below (that is where a single claimant does not have, or neither of joint claimants has, responsibility for a child or qualifying young person or limited capability for work), 55% of that earned income; or

(ii) in any other case, 55% of the amount by which that earned income exceeds the work allowance specified in the table.

(2) The amount of the work allowance is—

(a) if the award contains no amount for the housing costs element, the applicable amount of the higher work allowance specified in the table below; and

(b) if the award does contain an amount for the housing costs element, the applicable amount of the lower work allowance specified in that table.

(3) In the case of an award where the claimant is a member of a couple, but makes a claim as a single person, the amount to be deducted from the maximum amount in accordance with section 8(3) of the Act is the same as the amount that would be deducted in accordance with paragraph (1) if the couple were joint claimants.

Higher work allowance

Single claimant—

responsible for one or more children or qualifying young persons and/or has limited capability for work [£557.00]

Joint claimants

responsible for one or more children or qualifying young persons and/or where one or both have limited capability for work [£557.00]

Lower work allowance

Single claimant—

responsible for one or more children or qualifying young persons and/or has limited capability for work [£335.00]

Joint claimants—

responsible for one or more children or qualifying young persons and/or where one or both have limited capability for work [£335.00]

PART 4 Elements of an award

23. Introduction

(1) This Part contains provisions about the amounts (“the elements”) under—

(a) section 9 (the standard allowance);

(b) section 10 (responsibility for children and young persons);

(c) section 11 (housing costs); and

(d) section 12 (particular needs and circumstances),

of the Act that make up the maximum amount of an award of universal credit, as provided in section 8(2) of the Act.

(2) The elements to be included in an award under section 12 of the Act in respect of particular needs or circumstances are—

- (a)... the LCWRA element (see regulations 27 and 28);
- (b) the carer element (see regulations 29 and 30); and
- (c) the childcare costs element (see regulations 31 to 35).

24. The child element

24.—(1) The amount to be included in an award of universal credit for each child or qualifying young person for whom a claimant is responsible and in respect of whom an amount may be included under section 10] (“the child element”) is given in the table in regulation 36.

(2) An additional amount as shown in that table is to be included in respect of each child or qualifying young person who is disabled and that amount is—

(a) the lower rate, where the child or qualifying young person is entitled to disability living allowance, [child disability payment],[adult disability payment] or personal independence payment (unless sub-paragraph (b) applies); or

(b) the higher rate where the child or qualifying young person is—

(i) entitled to the care component of disability living allowance at the highest rate[, the care component of child disability payment at the highest rate in accordance with regulation 11(5) of the DACYP Regulations][the daily living component of adult disability payment at the enhanced rate in accordance with regulation 5(3) of the Disability Assistance for Working Age People (Scotland) Regulations 2022] or the daily living component of personal independence payment at the enhanced rate

24A. Availability of the child element where maximum exceeded

(1) Where a claimant is responsible for more than two children or qualifying young persons, the amount mentioned in section 10(1) of the Act is to be available in respect of—

(a) the first and second children or qualifying young persons in the claimant’s household; and

(b) the third and any subsequent child or qualifying young person in the claimant’s household if—

(i) the child or qualifying young person is transitionally protected; or

(ii) an exception applies in relation to that child or qualifying young person [in the circumstances set out in paragraph 2 (multiple births), paragraph 5 (non-consensual conception) or, except where sub-paragraph (za)(ii) applies, paragraph 6 (continuation of existing exception in a subsequent award) of Schedule 12].

27. Award to include LCWRA element

[(1) An award of universal credit is to include an amount in respect of the fact that a claimant has limited capability for work and work-related activity (“the LCWRA element”).]

(2) The [amount of that element is] given in the table in regulation 36.

(4) In the case of joint claimants, where each of them has limited capability for work and work-related activity, the award is only to include one LCWRA element.]

36. Table showing amounts of elements

(1) The amounts of the standard allowance, the child element, the [LCWRA element] and the carer element (which are all fixed amounts) and the maximum amounts of the childcare costs element are given in the following table.

[...]

(3) In the case of an award where the claimant is a member of a couple, but claims as a single person, the amounts are those shown in the table for a single claimant.

[Element	Amount for each assessment period
Standard allowance—	
single claimant aged under 25	£257.33
single claimant aged 25 or over	£324.84
joint claimants both aged under 25	£403.93
joint claimants where either is aged 25 or over	£509.91
Child element—	
first child or qualifying young person	£282.50
second and each subsequent child or qualifying young person	£237.08
Additional amount for disabled child or qualifying young person—	
lower rate	£128.89
higher rate	£402.41
LCW and LCWRA elements—	
limited capability for work	£128.89
limited capability for work and work-related activity	£343.63
Carer element	£163.73
Childcare costs element—	
maximum amount for one child	£646.35
maximum amount for two or more children	£1108.04]

PART 6 Calculation of capital and income

Chapter 2

54. Calculation of earned income - general principles

(1) The calculation of a person's earned income in respect of an assessment period is, unless otherwise provided in this Chapter, to be based on the actual amounts received in that period.

55. Employed earnings

(1) This regulation applies for the purposes of calculating earned income from employment under a contract of service or in an office, including elective office (“employed earnings”).

(2) Employed earnings comprise any amounts that are general earnings, as defined in section 7(3) of ITEPA, but excluding—

(a) amounts that are treated as earnings under Chapters 2 to 11 of Part 3 of ITEPA (the benefits code); and

(b) amounts that are exempt from income tax under Part 4 of ITEPA.

(3) In the calculation of employed earnings the following are to be disregarded—

(a) expenses that are allowed to be deducted under Chapter 2 of Part 5 of ITEPA; and

(b) expenses arising from participation as a service user (see regulation 53(2)).

[...]

(5) In calculating the amount of a person's employed earnings in respect of an assessment period, there are to be deducted from the amount of general earnings or benefits specified in paragraphs (2) to (4)—

(a) any relievable pension contributions made by the person in that period;

(b) any amounts paid by the person in that period in respect of the employment by way of income tax or primary Class 1 contributions under section 6(1) of the Contributions and Benefits Act; and

(c) any sums withheld as donations to an approved scheme under Part 12 of ITEPA (payroll giving) by a person required to make deductions or repayments of income tax under the PAYE Regulations.

The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013

PART 2 Claims

8. Making a claim for universal credit

(1) Except as provided in paragraph (2), a claim for universal credit must be made by means of an electronic communication in accordance with the provisions set out in Schedule 2 and completed in accordance with any instructions given by the Secretary of State for that purpose.

(2) A claim for universal credit may be made by telephone call to the telephone number specified by the Secretary of State if the claim falls within a class of case for which the Secretary of State accepts telephone claims or where, in any other case, the Secretary of State is willing to do so.

(3) A claim for universal credit made by means of an electronic communication in accordance with the provisions set out in Schedule 2 is defective if it is not completed in accordance with any instructions of the Secretary of State.

(4) A claim made by telephone in accordance with paragraph (2) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for universal credit is defective the Secretary of State must inform the claimant of the defect and of the relevant provisions of regulation 10 relating to the date of claim.

(6) The Secretary of State must treat the claim as properly made in the first instance if—

(a) in the case of a claim made by telephone, the person corrects the defect; or

(b) in the case of a claim made by means of an electronic communication, a claim completed in accordance with any instructions of the Secretary of State is received at an appropriate office,

within one month, or such longer period as the Secretary of State considers reasonable, from the date on which the claimant is first informed of the defect.

10. Date of claim for universal credit

(1) Where a claim for universal credit is made, the date on which the claim is made is—

(a) subject to sub-paragraph (b), in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), the date on which the claim is received at an appropriate office;

(b) in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), where the claimant receives assistance at home or at an appropriate office from the Secretary of State, or a person providing services to the Secretary of State, which is provided for the purpose of enabling that person to make a claim, the date of first notification of a need for such assistance;

(c) subject to sub-paragraph (d), in the case of a claim made by telephone in accordance with regulation 8(2), the date on which that claim is properly completed in accordance with regulation 8(4); or

(d) where the Secretary of State is unable to accept a claim made by telephone in accordance with regulation 8(2) on the date of first notification of intention to make the claim, the date of first notification, provided a claim properly completed in accordance with regulation 8(4) is made within one month of that date,

or the first day in respect of which the claim is made if later than the above.

(2) In the case of a claim which is defective by virtue of regulation 8, the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 8(6).

SCHEDULE 1 Powers exercised in making these Regulations

1. The following provisions of the Social Security Administration Act 1992—

(a) section 1(1),