

Universal Credit – Changes to the limited capability for work and work-related activity element

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Introduction

1. This memo provides guidance on the Universal Credit Act 2025 and The Universal Credit and Employment and Support Allowance (Rates of Allowances) (Amendment and Modification) Regulations (Northern Ireland) 2026, in so far as they relate to the limited capability for work and work-related activity element of Universal Credit. The relevant sections of the Act come into force and the regulations come into operation on **6.4.26** and the relevant regulations have effect only in relation to assessment periods commencing on or after **6.4.26**¹.

¹ UC Act 2025, sec 6; UC & ESA (Rates) (Amdt) Regs (NI) 26, reg 1(2) & 1(4)

2. The main change is that there will now be two rates for the limited capability for work and work-related activity element - a lower rate for those who are newly determined to have limited capability for work and work-related activity on or after 6.4.26 and a higher rate for those who were already determined to have limited capability for work and work-related activity prior to 6.4.26 (or who meet certain other criteria set out in paragraph 4).

The lower rate limited capability for work and work-related activity element

3. If a claimant has a determination of limited capability for work and work-related activity made **on or after** 6.4.26, and they do not fall into any of the groups listed in paragraph 4 below, they will receive the lower rate of the limited capability for work and work-related activity element. From 6.4.26 to 5.4.27 that lower rate is **£217.26** per assessment period¹.

1 UC Regs (NI) 16, reg 38

The higher rate limited capability for work and work-related activity element

4. The limited capability for work and work-related activity element will be paid at a higher rate for those claimants who are
 - 4.1 a 'pre-2026 claimant' **or**
 - 4.2 terminally ill **or**
 - 4.3 a severe conditions criteria claimant¹.

1 UC Regs (NI) 16, reg 28(2)

5. From 6.4.26 to 5.4.27 that higher rate is **£429.80** per assessment period¹.

1 UC Regs (NI) 16, reg 38

Pre-2026 claimant

6. A pre-2026 claimant is someone who

6.1. was entitled to the limited capability for work and work-related activity element before 6.4.26 **and**

6.2 has been entitled to an award of Universal Credit which included the limited capability for work and work-related activity element continuously¹.

1 UC Regs (NI) 16, reg 28A(1)

7. When deciding whether the Universal Credit award with the limited capability for work and work-related activity element is 'continuous' no account is to be taken of a period of non-entitlement due to not meeting the financial condition of entitlement (i.e. the award would be less than a penny), as long as that period of non-entitlement has a duration of fewer than six months¹.

1 UC Regs (NI) 16, reg 28A(2)

8. A claimant will also be classed as a pre-2026 claimant, where

8.1 a claimant's pending assessment is yet to be undertaken on 5.4.26, and a determination of limited capability for work and work-related activity is made on or after 6.4.26 **or**

8.2 a claimant has limited capability for work and is awaiting a further assessment on 5.4.26, and a determination of limited capability for work and work-related activity is made on or after 6.4.26 **or**

8.3 a claimant has been determined to have limited capability for work and work-related activity but on 6.4.26 the relevant period is yet to be served **or**

8.4 a claimant had an award of Employment and Support Allowance which included the support component prior to 6.4.26 and continued to be entitled to Employment and Support Allowance with the support component after 6.4.26 and up to the date on which a Universal Credit award which includes a limited capability for work and work-related activity element is made **and**

the claimant has been continuously entitled to the limited capability for work and work-related activity element since¹.

1 UC Regs (NI) 16, Schedule 5A

Terminally ill claimant

9. A terminally ill person is someone suffering from a progressive disease where death in consequence of that disease can reasonably be expected within 12 months¹. A terminally ill person is treated as having limited capability for work and work-related activity².

1 UC Regs (NI) 16, reg 2; 2 Sch 9, para 1

Severe conditions criteria claimant

10. A severe conditions criteria claimant is someone who
- 10.1** has been determined to have limited capability for work and work-related activity on the basis of an assessment using the limited capability for work and work-related activity schedule¹ **and**
 - 10.2** at least one of the descriptors in the limited capability for work and work-related activity schedule will apply to the claimant constantly and for the rest of their life² **and**
 - 10.3** the specific bodily disease or disablement, or specific mental illness or disablement, which gave rise to the satisfaction of the descriptor, must be one the claimant will have for the rest of their life³ **and**
 - 10.4** the specific bodily disease or disablement, or specific mental illness or disablement, must have been diagnosed by an appropriately qualified health care professional in the course of the provision of health and social care services⁴.

1 UC Regs (NI) 16, reg 41A(2)(a), Sch 7; 2 reg 41A(2)(b);

3 reg 41(A)(3)(a)(i), (b)(i); 4 reg 41(A)(3)(a)(ii), (b)(ii)

Note: 'Health and social care services' means health and social care services within the meaning of the *Health and Social Care (Reform) Act (Northern Ireland) 2009*, provided for the purpose set out at sec 2(1) of that Act and sec 1(1) of the *National*

*Health Service Act 2006, sec 1(1) of the National Health Service (Wales) Act 2006, sec 1(1) of the National Health Service (Scotland) Act 1978*¹.

1 UC Regs (NI) 16, reg 41A(5)

11. In **10.2** 'constantly' means the descriptor applies to the claimant at all times or, as the case may be, on all occasions on which the claimant undertakes or attempts to undertake the activity described that descriptor¹.

1 UC Regs (NI) 16, reg 41A(4)

12. Once a claimant has been determined as being a severe conditions criteria claimant, or as **not** being a severe conditions criteria claimant, no further assessment for this purpose is to be carried out unless evidence suggests that

12.1 the determination was made in ignorance of, or based on a mistake as to, some material fact **or**

12.2 there has been a relevant change of circumstances in relation to the claimant's physical or mental condition¹.

1 UC Regs (NI) 16, reg 42(4), (5)

13. Where a claimant fails to provide information requested for a severe conditions criteria assessment (without good reason) the claimant may be treated as not being a severe conditions criteria claimant (providing the claimant was sent a further request to provide the information at least 3 weeks after the date of the first request and at least 1 week has passed since the further request was sent)¹.

1 UC Regs (NI) 16, reg 44

14. A claimant can be called to attend a medical examination for the purposes of a severe conditions criteria assessment and a failure to attend or submit to that examination (without good reason) will result in them being treated as not being a severe conditions criteria claimant (providing notice of the date, time and place of the examination was given 7 days in advance, or if the notice was for fewer than 7 days the claimant had agreed to that)¹.

1 UC Regs (NI) 16, reg 45

Annotations

The number of this memo (ADM Memo 4/26) should be noted at ADM paragraph:

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