Chapter K8 – When a reduction is to have effect

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Legislation Used in Chapter K8

Abbreviation	Full Title
UC Regs (NI) 16	The Universal Credit Regulations (Northern Ireland) 2016 No. 216
National Minimum Wage Regs	The National Minimum Wage Regulations 1999 No. 584

Chapter K8: When a reduction is to have effect

Introduction

K8001 This Chapter provides guidance on when a reduction is to have effect and how to determine

1. the start date of a reduction period

2. the reduction period where the award of Universal Credit terminates

3. the suspension of a reduction where a fraud penalty applies

4. when a reduction is to be terminated.

K8002 – K8004

Start of the reduction

K8005 The reduction period takes effect from

1. the first day of the assessment period in which the decision maker determines that a reduction should be imposed **or**

2. if the Universal Credit award is not reduced as in **1.**, the first day of the next assessment period **or**

3. if the Universal Credit award is already subject to a reduction as in **1.** or **2.**, the first day for which the award is no longer subject to a reduction[1].

Note 1: For the definitions of sanctionable failure, current sanctionable failure, previous sanctionable failure and the general principles for calculating reduction periods see ADM Chapter K1 (Sanctions – general principles).

Note 2: For detailed guidance on assessment periods see ADM Chapter E2 (Benefit unit, awards and maximum amounts).

Note 3: The decision maker's decision is the starting point from which to consider the reduction period. Once the decision is made the reduction must be made from the first day of the current assessment period or the first day of the following assessment period. If a sanction reduction has not taken effect in either the assessment period in which the decision is made, or the assessment period following it, there will be an overpayment of Universal Credit.

1 UC Regs (NI) 16, reg 103

Example

Nazir has been entitled to Universal Credit since 8.5.18. His assessment period runs from the 8th of each month.

He fails for no good reason to attend a work placement of a prescribed description on 23.6.18, and on 1.7.18 the decision maker imposes a higher–level sanction for 91 days. The reduction takes effect from 8.6.18.

Nazir fails to attend for his fortnightly interview on 13.8.18. He comes in to the Jobcentre on 15.8.18, saying that he forgot about the interview, and provides evidence of his fortnight's work search and work availability. The decision maker decides to impose a low–level sanction for a reduction period of 9 days (2 days non-compliance, followed by a 7 day fixed period).

Nazir's 91 day higher–level sanction is due to finish on 6.9.18. The payment due on 7.9.18 only has one day not affected by the higher–level sanction, so the low–level

reduction starts on 7.9.18. The remaining 8 days reduction period take effect in the next assessment period starting on 8.9.18.

K8006 – K8010

Reduction period to continue where award terminates

K8011 If an award of Universal Credit terminates while there is an outstanding reduction period, the reduction period continues to run as if a daily reduction were being applied. If the claimant becomes entitled to a new award of Universal Credit before the period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period[1].

Note 1: All sanctions run consecutively, i.e. one sanction period follows immediately after the other, see detailed guidance on total outstanding reduction period in ADM Chapter K1 (Sanctions - general principles).

Note 2: For detailed guidance on assessment periods see ADM Chapter E2 (Benefit unit, awards and maximum amounts).

1 UC Regs (NI) 16, reg 104(1)

Example 1

Jonathan is entitled to Universal Credit and has a 91 day reduction period imposed on his Universal Credit award from 12.5.18 - 10.8.18.

On 2.6.18 Jonathan starts a 2 month temporary work contract and receives his first earnings on 13.6.18. His award of Universal Credit terminates from 12.6.18 (the first day of the assessment period in which his earnings exceed his individual threshold to Universal Credit).

He finishes work on 1.8.18 and re-claims Universal Credit on 4.8.18. However as Jonathan worked for less than 6 months he will be paid Universal Credit from 12.7.18 (i.e. the beginning of the assessment period in which the change occurred).

A 30 day reduction period will be imposed on his new award for the balance of the outstanding reduction period as follows:

1. sanctionable days already served 12.5.18 - 11.6.18 = 31 days.

60 days in total outstanding reduction period **minus**

2. period off Universal Credit 12.6.18 - 11.7.18 = 30 days

30 days balance in total outstanding reduction period to be imposed on the new award of Universal Credit from 12.7.18.

Example 2

Judy is entitled to Universal Credit and has 273 days total outstanding period imposed on the award which is due to run until 7.4.19. Judy's assessment period starts on the 2nd of each month.

On 3.11.18 she moves in with her boyfriend who is in full time work and her Universal Credit award terminates from 2.11.18. (the first day of the assessment period in which she moved in with her boyfriend).

On 5.1.18 Judy reclaims Universal Credit as she has separated from her boyfriend.

A 93 day sanction is imposed on her new claim for the outstanding reduction period.

K8012 – K8015

Award terminates before determination made

K8016 Where the award of Universal Credit terminates before a sanction determination is made, for example, when an award has ended due to earnings, the sanction decision must be 'reserved' as the claimant is not entitled to Universal Credit but may become entitled to Universal Credit again in the future. This is to enable a decision on the outstanding failure to be made and, if appropriate,

1. a sanction **or**

2. the balance of a sanction

to be applied to any future entitlement to Universal Credit.

Note 1: 'Reserved' is used to mean the sanction decision is put on hold as it cannot be made because the claimant is not entitled to Universal Credit.

Note 2: If a claimant is not receiving Universal Credit because of a sanction reduction, there is still an underlying entitlement to benefit and therefore the claimant is still subject to conditionality and sanctions where applicable and a sanction decision can be made as normal. The award of Universal Credit has to have ended for a sanction determination to be 'reserved'.

K8017 If an award of Universal Credit terminates as in K8016

1. before the decision maker determines that the award will be subject to a reduction **and**

2. that determination is being made **after** the claimant becomes entitled to a new award of Universal Credit

the reduction period in relation to that failure is to have effect as if the determination had been made on the day **before** the previous award of Universal Credit terminated[1] (i.e. the last day of the claimant's previous award to Universal Credit).

Note 1: In effect any time away from benefit is treated as served towards the reduction period if when the claimant reclaims Universal Credit a sanction is appropriate, i.e the sanction runs during the gap between the old and new awards and the claimant's new award is then only reduced for any period of the sanction not covered by the gap[2].

Note 2: The date any appropriate reduction period starts will depend on whether the claimant has already been paid Universal Credit in the new award[3] (also see K8005). The sanction should start to run from the beginning of the first assessment period of the new award.

1 UC Regs (NI) 16, reg 104(2); 2 reg 104(1); 3 reg 103(b)

Example

Josie makes a new claim to Universal Credit on 16.10.18. Her previous award of Universal Credit terminated on 30.7.18 due to earnings. When her previous award terminated there was an outstanding determination for a failure to apply for an advertised vacancy.

On 19.10.18 the decision maker determines that a 91 day reduction period would have been appropriate if the decision had been made during the previous award of Universal Credit. A 91 day reduction period is therefore determined from 29.7.18 (the day before the date the last award of Universal Credit ended) and runs to 27.10.18. The period 29.7.18 to 15.10.18 are days that have already been served towards the sanction reduction period.

A 12 day reduction period is to be imposed which will start at the beginning of the first assessment period in the new award.

K8018 Even if the total period of the sanction is extinguished by the period in which the claimant was not receiving Universal Credit, a sanction determination must be made for the outstanding failure in the event of the claimant re-qualifying for Universal Credit. Although this may not result in any subsequent financial penalty, it may be important when determining the length of any future sanctions at the same level which could occur within 365 days of the date of the failure.

Note: For further guidance on the escalation of sanctions see ADM Chapter K3 (Higher-level sanctions), K4 (Medium-level sanctions) and K5 (Low-level sanctions).

Example

Jools makes a new claim to Universal Credit on 7.11.18. His previous award of Universal Credit ended due to earnings on 30.9.18. When his previous award terminated there was an outstanding determination for a failure to attend a work-focused interview on 27.9.18.

On 9.11.18 the decision maker determines that an 11 day sanction would have been appropriate (i.e a 4 day open-ended sanction from the date of failure to the date the award terminated plus a 7 day fixed period sanction as there have been no other previous low-level sanctions) which would be attributed to the period from 29.9.18 to 9.10.18 (i.e from the day before the date the previous award of Universal Credit terminated). As the new claim begins from 7.11.18 there is no balance of sanction to serve on the new award of Universal Credit as the sanction period has extinguished. However, the decision is recorded and notified to the claimant as a sanctionable failure as normal as it could count for deciding the duration of a sanction period if there are any more low-level sanctionable failures that occur within 365 days of the sanctionable failure on 27.9.18.

K8019 – K8020

Suspension of a reduction where a fraud penalty applies

K8021 A reduction period for a sanctionable failure is suspended for any period during which a fraud penalty also applies to that award of Universal Credit[1].

Note: For detailed guidance on fraud penalties see ADM Chapter B2 (Restrictions on payment of benefit). For the definition of sanctionable failure see ADM Chapter K1 (General Principles).

1 UC Regs (NI) 16, reg 105(1)

K8022 The reduction

1. ceases to have effect on the day on which the period of the fraud penalty begins **and**

2. begins again on the day after that period ends[1].

1 UC Regs (NI) 16, reg 105(2)

Example 1

On 8.12.17 Mo fails without good reason to comply with a work preparation requirement and the decision maker decides to impose a low–level sanction for a reduction period of 9 days (2 days non-compliance, followed by a 7 day fixed period) for a first low level failure.

Mo already has a fraud penalty imposed on his Universal Credit of 26 weeks which is due to expire on 4.3.18. The reduction period is suspended and can be imposed from 5.3.18.

Example 2

Mary has a 182 day reduction period imposed on her Universal Credit from 6.1.18. On 15.4.18 a fraud penalty of 26 weeks is imposed on her claim to Universal Credit. The reduction period is suspended from 15.4.18 - 13.10.18. An 83 day reduction period will be imposed, which is the balance of the reduction period still to be served, from 14.10.18, the day after the fraud penalty ends.

K8023 – K8030

When a reduction is to be terminated

K8031 A reduction imposed for a sanctionable failure will be terminated where

1. since the date of the most recent sanctionable failure which resulted in a reduction being imposed, the claimant has been in paid work for

1.1 a period of at least six assessment periods **or**

1.2 at least one period of employment where the total of those periods amounts to more than six assessment periods **and**

2. the claimant's weekly earnings during each period, or periods, was equal to or exceeded the

2.1 claimant's individual threshold (also see K8036 where the claimant is self-employed) **or**

2.2 threshold where the claimant is employed under a contract of apprenticeship[1].

Note: For detailed guidance on paid work and earnings thresholds see ADM Chapter J3 (Work-related requirements) and ADM Chapter H4 (Earned income: self-employed earnings).

1 UC Regs (NI) 16, reg 106(1)

K8032 The termination of the reduction has effect from the beginning of the

1. assessment period in which the conditions in K8031 fall **or**

2. first assessment period in relation to any subsequent award where the conditions in K8031 fall outside a period of entitlement to Universal Credit[1].

1 UC Regs (NI) 16, reg 106(2)

Example

On 18.11.17 Jack fails without good reason to comply with a requirement to attend his work placement and the decision maker determines a 546 day reduction period is to be imposed on his award of Universal Credit as this is Jack's third higher-level sanctionable failure. The reduction period is imposed from 4.12.17 - 2.6.19.

On 2.1.18 Jack starts work. When he receives his first wage at the start of February, his award of Universal Credit terminates because the level of his earnings mean that he is not entitled to Universal Credit.

On 1.10.18 Jack makes a further claim to Universal Credit. His contract of employment ended on 30.9.18.

The balance of the previous sanctionable failure outstanding on the previous award of Universal Credit cannot be applied to his new award as Jack has been in employment for more than six assessment periods and his earnings from that employment exceeded his individual threshold for Universal Credit.

Termination of reduction period in prescribed circumstances

K8033 Those claiming Universal Credit who are expected to work have an earnings threshold (CET - Conditionality Earnings Threshold) which is the amount they should be aiming to earn if working as many hours as they are able. Recoverable hardship payments are suspended in any assessment period in which the claimant is earning at or over their threshold (Conditionality Earnings Threshold) and if repayment is suspended due to earnings for a period of 6 months, any outstanding reduction period is written off[1].

1 UC Regs (NI) 16, reg 106(1)(b)(ia)

K8034 This provision is extended to those Universal Credit claimants who

1. are not required to work or undertake any work-related activity **and**

2. choose to work **and**

3. earn a weekly amount equal to or over 16 hours per week at the national minimum wage for a person of the same age converted to a monthly amount by multiplying by 52 and dividing by 12, for

3.1 a period of 6 months **or**

3.2 more than one period where the total of those periods amounts to at least 6 months[1].

Note 1: Only those claimants who choose to work will be affected. There will be no requirement for claimants to do any work in order to continue receiving Universal Credit payments whilst in this conditionality group.

Note 2: See ADM Chapter L1 – Hardship for further guidance on where hardship payments cease to be recoverable.

Note 3: This does not take away the status of any sanctionable failure(s) on which the terminated reduction period was based and thus for the purpose of asking the question whether there have been other sanctionable failures within 365 days of a new sanctionable failure all such sanctionable failures will count.

1 UC Regs (NI) 16, reg 106; reg 114(3)

National Minimum Wage

K8035 Any reference to national minimum wage means the hourly rate specified in relevant legislation[1].

1 The National Minimum Wage Regs 1999

Self-employed

K8036 Where a claimant is treated as having earned income at the level of the minimum income floor from gainful self-employment, that claimant is to be taken to have monthly earnings equal to their individual threshold in respect of that assessment period[1].

Note: For detailed guidance on gainful self-employment and minimum income floor see ADM Chapter H4 (Earned income: self-employed earnings).

1 UC Regs (NI) 16, reg 106(3)

The content of the examples in this document (including use of imagery) is for illustrative purposes only