

Draft Regulations laid before the Scottish Parliament under sections 1(3)(a) and 2(3)(a) of the Welfare Reform (Further Provision) (Scotland) Act 2012, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

SOCIAL SECURITY

**The Welfare Reform (Consequential Amendments)
(Scotland) (No. 2) Regulations 2013**

Made - - - - 2013

Coming into force - - 29th April 2013

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1 to 3 of the Welfare Reform (Further Provision) (Scotland) Act 2012⁽¹⁾ and all other powers enabling them to do so.

In accordance with sections 1(3)(a) and 2(3)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Welfare Reform (Consequential Amendments) (Scotland) (No. 2) Regulations 2013 and come into force on 29th April 2013.

⁽¹⁾ 2012 asp 10.

PART 2

Amendment of primary legislation

Social Work (Scotland) Act 1968

2. In section 78(2A) of the Social Work (Scotland) Act 1968(2) (duty to make contributions in respect of children in care etc.), after “receipt of” insert “universal credit under Part 1 of the Welfare Reform Act 2012(3).”

Legal Aid (Scotland) Act 1986

3.—(1) The Legal Aid (Scotland) Act 1986(4) is amended as follows.

(2) In section 8(b)(5) (availability of advice and assistance), after “receipt of” insert “universal credit under Part 1 of the Welfare Reform Act 2012.”

(3) In section 11(2)(b)(6) (clients’ contributions), after “receipt of” insert “universal credit under Part 1 of the Welfare Reform Act 2012.”

Housing (Scotland) Act 1988

4. In section 18 of the Housing (Scotland) Act 1988(7) (orders for possession)—

- (a) in subsection (3A)(b), after “benefit” insert “or relevant universal credit”;
- (b) in subsection (4A), after “benefit” insert “or relevant universal credit”; and
- (c) in subsection (8)—

(i) after paragraph (a), insert—

“(aa) “relevant universal credit” means universal credit to which the tenant was entitled which includes an amount under section 11 of the Welfare Reform Act 2012 in respect of the rent;” and

(ii) in paragraph (b), after “benefit” insert “or relevant universal credit”.

Children (Scotland) Act 1995

5. In section 22(4) of the Children (Scotland) Act 1995(8) (promotion of welfare of children in need), after “receipt of—” insert—

“(za) universal credit under Part 1 of the Welfare Reform Act 2012;”.

(2) 1968 c.49; subsection (2A) was inserted in section 78 by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 19(6)(b) and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraph 41(1), the Jobseekers Act 1995 (c.18), Schedule 2, paragraph 1 and the Welfare Reform Act 2007 (c.5), Schedule 3, paragraph 1. Section 78(2A) is prospectively amended by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1.

(3) 2012 c.5.

(4) 1986 c.47.

(5) Section 8(b) was amended by the Tax Credits Act 2002 (c.21), Schedule 3, paragraph 11 and the Welfare Reform Act 2007, Schedule 3, paragraph 4(2). It is prospectively amended by the Welfare Reform Act 2012, Schedule 14, Part 1.

(6) Section 11(2)(b) was amended by the Tax Credits Act 2002, Schedule 3, paragraph 12 and the Welfare Reform Act 2007, Schedule 3, paragraph 4(3). It is prospectively amended by the Welfare Reform Act 2012, Schedule 14, Part 1.

(7) 1988 c.43; section 18 was amended by the Homelessness etc. (Scotland) Act 2003 (asp 10), section 12, the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), section 100 and the Housing (Scotland) Act 2006 (asp 1), section 180.

(8) 1995 c.36; section 22(4) was amended by the Tax Credits Act 1999 (c.10), Schedule 1, paragraph 6(j), the Tax Credits Act 2002, Schedule 3, paragraph 50 and the Welfare Reform Act 2007, Schedule 3, paragraph 14. It is prospectively amended by the Welfare Reform Act 2012, Schedule 14, Part 1.

Adults with Incapacity (Scotland) Act 2000

6.—(1) The Adults with Incapacity (Scotland) Act 2000(9) is amended as follows.

(2) In section 39(1)(a)(10) (matters which may be managed), for “or Part 1 of the Welfare Reform Act 2007(11)” substitute “, Part 1 of the Welfare Reform Act 2007 or Part 1 or 4 of the Welfare Reform Act 2012”.

(3) In section 41(a)(12) (duties and functions of managers of authorised establishment), for “or Part 1 of the Welfare Reform Act 2007” substitute “, Part 1 of the Welfare Reform Act 2007 or Part 1 or 4 of the Welfare Reform Act 2012”.

Housing (Scotland) Act 2006

7. In paragraph 6(5) of schedule 2 to the Housing (Scotland) Act 2006(13) (recording and notification of decisions), after “housing benefit” in each place where these words occur insert “or universal credit”.

PART 3

Amendment of secondary legislation

High Court of Justiciary Fees Order 1984

8. In article 2A of the High Court of Justiciary Fees Order 1984(14) (exemption of certain persons from fees), after paragraph (b) insert—

“(ba) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012;”.

Advice and Assistance (Scotland) Regulations 1996

9.—(1) The Advice and Assistance (Scotland) Regulations 1996(15) are amended as follows.

(2) In regulation 4(a) (applications for advice and assistance), after “support allowance” insert “, universal credit”.

(3) In regulation 16(2)(a) (payment of fees and outlays from property recovered or preserved), after sub-paragraph (x) insert—

“(xi) by way of universal credit under Part 1 of the Welfare Reform Act 2012.”.

(4) In paragraph 5(d) of Schedule 2 (assessment of disposable capital and income), after head (k) insert—

“(l) universal credit”.

(9) 2000 asp 4.

(10) Section 39(1)(a) was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1, paragraph 5(b) and the Welfare Reform Act 2007, Schedule 3, paragraph 22(2).

(11) 2007 c.5.

(12) Section 41(a) was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1, paragraph 5(c) and the Welfare Reform Act 2007, Schedule 3, paragraph 22(3).

(13) 2006 asp 1.

(14) S.I. 1984/252; relevant amending instruments are S.S.I. 2007/321 and 2009/87.

(15) S.I. 1996/2447; relevant amending instruments are S.I. 1997/726, 1998/724 and 2008/1879 and S.S.I. 2003/163 and 421 and 2011/134

Sheriff Court Fees Order 1997

10. In article 7(1) of the Sheriff Court Fees Order 1997(**16**) (exemption of certain persons from fees), after sub-paragraph (b) insert—

“(ba) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012;”.

Court of Session etc. Fees Order 1997

11. In article 5 of the Court of Session etc. Fees Order 1997(**17**) (exemption of certain persons from fees), after paragraph (b) insert—

“(ba) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012;”.

National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998

12.—(1) The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(**18**) are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of “tax credit” insert—

““universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012;”.

(3) In regulation 8(3) (eligibility – supply of optical appliances)—

(a) omit “or” immediately after sub-paragraph (o); and

(b) at the end of sub-paragraph (p), insert—

“; or

(q) he is in receipt of universal credit.”.

Civil Legal Aid (Scotland) Regulations 2002

13.—(1) The Civil Legal Aid (Scotland) Regulations 2002(**19**) are amended as follows.

(2) In regulation 33(a) (payments out of property recovered or preserved: exceptions), after sub-paragraph (xii) insert—

“(xiii) by way of universal credit under Part 1 of the Welfare Reform Act 2012”.

(3) In paragraph 5 of Schedule 2 (rules for computing disposable income), after sub-paragraph (f) insert—

“(g) universal credit paid under Part 1 of the Welfare Reform Act 2012”.

(4) In paragraph 7 of Schedule 3 (rules for computing disposable capital), after “support allowance” insert “or universal credit under Part 1 of the Welfare Reform Act 2012”.

Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003

14. In article 4(2) of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003(**20**) (the severely mentally impaired)—

(a) omit “and” immediately after sub-paragraph (k); and

(16) S.I. 1997/687; relevant amending instruments are S.S.I. 2007/321 and 2009/87.

(17) S.I. 1997/688; relevant amending instruments are S.S.I. 2007/319 and 2009/88.

(18) S.I. 1998/642; relevant amending instruments are S.S.I. 2003/218 and 431, 2004/97 and 168, 2005/119, 2006/138, 2008/289 and 2011/55

(19) S.S.I. 2002/494; relevant amending instruments are S.S.I. 2007/59, 2010/166 and 2011/134 and S.I. 2008/1879.

(20) S.S.I. 2003/176; relevant amending instruments are S.I. 2008/1879 and S.S.I. 2013/65.

(b) at the end of sub-paragraph (l), insert—

“; and

(m) universal credit under Part 1 of the Welfare Reform Act 2012”.

National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003

15.—(1) The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(**21**) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of “trade dispute” insert—

““universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012;”.

(3) In regulation 4(2) (description of persons entitled to full remission and payment), after sub-paragraph (b) insert—

“(ba) a person who is in receipt of universal credit;”.

Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003

16. In regulation 13(6)(a) of the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003(**22**) (manner in which financial assistance is provided), after “allowance” insert “, universal credit”.

Education Maintenance Allowances (Scotland) Regulations 2007

17. In paragraph 3(e) of Schedule 2 to the Education Maintenance Allowances (Scotland) Regulations 2007(**23**) (ordinary residence), after “income support” insert “, universal credit”.

Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc.) Regulations 2008

18. In regulation 2(2) of the Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc.) Regulations 2008(**24**) (debtor’s weekly income), after “2002” insert “or universal credit under Part 1 of the Welfare Reform Act 2012”.

Housing (Scotland) Act 2006 (Scheme of Assistance) Regulations 2008

19.—(1) The Housing (Scotland) Act 2006 (Scheme of Assistance) Regulations 2008(**25**) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of “subsidised loan” insert—

““universal credit” means universal credit payable under Part 1 of the Welfare Reform Act 2012.”.

(3) In regulation 4(3) (minimum percentage grant), after sub-paragraph (b) insert—

“(ba) universal credit;”.

(21) S.S.I. 2003/460; relevant amending instruments are S.S.I. 2004/102 and 166, 2007/259, 2008/27 and 288, 2009/124 and 2011/55

(22) S.S.I. 2003/608.

(23) S.S.I. 2007/156; relevant amending instrument is S.I. 2008/1879.

(24) S.S.I. 2008/81.

(25) S.S.I. 2008/406.

Adoption Support Services and Allowances (Scotland) Regulations 2009

20.—(1) The Adoption Support Services and Allowances (Scotland) Regulations 2009⁽²⁶⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) omit “and” immediately after the definition of “jobseeker’s allowance”; and

(b) after the definition of “kinship carer”, insert—

““universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012.”.

(3) In regulation 14(c) (termination of adoption allowances), after “support” insert “, universal credit”.

Individual Learning Account (Scotland) Regulations 2011

21. In regulation 3(6)(b) of the Individual Learning Account (Scotland) Regulations 2011⁽²⁷⁾ (qualifying persons)—

(a) omit “or” immediately after head (vi); and

(b) at the end of head (vii), insert—

“; or

(viii) universal credit payable under Part 1 of the Welfare Reform Act 2012”.

Justice of the Peace Court Fees (Scotland) Order 2012

22. In article 3(1) of the Justice of the Peace Court Fees (Scotland) Order 2012⁽²⁸⁾, after subparagraph (b) insert—

“(ba) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012;”.

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Date

Name
A member of the Scottish Government

⁽²⁶⁾ S.S.I. 2009/152.

⁽²⁷⁾ S.S.I. 2011/107; relevant amending instrument is S.S.I. 2012/172.

⁽²⁸⁾ S.S.I. 2012/292.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to various pieces of existing legislation in consequence of the introduction of the benefit known as universal credit under Part 1 of the Welfare Reform Act 2012. Part 2 of the Regulations makes amendments of primary legislation and Part 3 of the Regulations makes amendments of secondary legislation.