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STATUTORY INSTRUMENTS

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**2013 No. 2070**

**SOCIAL SECURITY**

**The Universal Credit (Transitional Provisions) and  
Housing Benefit (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>20th August 2013</i>
<i>Laid before Parliament</i>		<i>29th August 2013</i>
<i>Coming into force</i>	- -	<i>28th October 2013</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 32 and 42(2) and (3)(a) of, and paragraphs 1(1), 3(1)(a), (b) and (c) and 4(1)(a) of Schedule 6 to, the Welfare Reform Act 2012<sup>(1)</sup> (“the 2012 Act”).

This instrument has not been referred to the Social Security Advisory Committee because it is made before the end of the period of 6 months beginning with the coming into force of the provisions of the 2012 Act under which the regulations are made<sup>(2)</sup>.

In accordance with section 176(1) of the Social Security Administration Act 1992<sup>(3)</sup>, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned in respect of provisions in these Regulations which are relevant to housing benefit.

**Citation and commencement**

1. These Regulations may be cited as the Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 and come into force on 28th October 2013.

**Amendment of the Universal Credit (Transitional Provisions) Regulations 2013**

2. The Universal Credit (Transitional Provisions) Regulations 2013<sup>(4)</sup> are amended in accordance with regulations 3 to 6.

**Amendments relating to payment of housing benefit in respect of exempt accommodation**

3.—(1) In regulation 2(1) (interpretation)—

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(1) 2012 c.5.

(2) See section 173(5) of the Social Security Administration Act 1992. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument made before the end of the period of 6 months beginning with the coming into force of the enactment under which the regulations are made.

(3) 1992 c.5.

(4) S.I. 2013/386, amended by S.I. 2013/803.

- (a) after the definition of “employment and support allowance” insert—
  - ““exempt accommodation” has the same meaning as in paragraph 1 of Schedule 1 to the Universal Credit Regulations;”;
- (b) in the definition of “existing benefit” omit “under section 130 of that Act”; and
- (c) after the definition of “First-tier Tribunal” insert—
  - ““housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992;”.
- (2) In regulation 3 (entitlement to claim universal credit)—
  - (a) in paragraphs (3)(b) and (5)(a)(ii) at the end insert “(but see paragraph (6))”; and
  - (b) after paragraph (5) insert—
    - “(6) For the purposes of paragraphs (3)(b) and (5)(a)(ii), “existing benefit” does not include housing benefit in respect of exempt accommodation.”.
- (3) In regulation 14(3)(b) (awards of universal credit without a claim) at the end insert “(other than housing benefit in respect of exempt accommodation)”.
- (4) In regulation 15 (exclusion of entitlement to existing benefits)—
  - (a) in paragraph (1) at the beginning insert “Subject to paragraph (2A),”; and
  - (b) in paragraph (2)(b) omit “under section 130 of that Act”; and
  - (c) after paragraph (2) insert—
    - “(2A) Entitlement to universal credit does not preclude the claimant from entitlement to housing benefit in respect of exempt accommodation.”.
- (5) In regulation 16 (termination of awards of existing benefits)—
  - (a) in paragraph (3) at the beginning insert “Subject to paragraph (3A),”; and
  - (b) after paragraph (3) insert—
    - “(3A) An award of housing benefit to which the new claimant partner is entitled in respect of exempt accommodation does not terminate by virtue of this regulation.”.
- (6) In regulation 18(3) (ongoing appeals etc)—
  - (a) in sub-paragraph (a) after “existing benefit” insert “(other than housing benefit in respect of exempt accommodation)”; and
  - (b) in sub-paragraph (b) after “existing benefit” insert “(other than a payment of housing benefit to which the new claimant partner is entitled in respect of exempt accommodation)”.

#### **Amendment relating to credit union accounts**

- 4. In regulation 12 (other requirements), in paragraph (e) at the end insert “or a current account with a Credit Union (within the meaning of the Credit Unions Act 1979(5))”.

#### **Amendments relating to awards of universal credit without a claim**

- 5. In regulation 14—
  - (a) in paragraph (1) for “Subject to paragraphs (2) and (3)” substitute “Subject to paragraph (3)”; and
  - (b) omit paragraph (2).

### **Revocation and saving relating to application of the benefit cap**

6.—(1) Regulation 20 (benefit cap) is revoked, subject to the saving in paragraph (2).

(2) Subject to paragraph (3), regulation 20 continues to have effect in relation to a person who is entitled to universal credit on the date on which these Regulations come into force (“the commencement date”) for the duration of the assessment period in relation to the person which includes the commencement date.

(3) Paragraph (2) does not apply where the commencement date is the first day of an assessment period in relation to the person.

(4) In this regulation, “assessment period” has the same meaning as in the Universal Credit Regulations 2013(6).

### **Amendment of the Housing Benefit Regulations 2006**

7.—(1) The Housing Benefit Regulations 2006(7) are amended as follows.

(2) In regulation 2 (interpretation) after paragraph (3A)(8) insert—

“(3B) For the purposes of these Regulations, a person (“P”) is on universal credit on any day in respect of which P is entitled to universal credit (whether it is in payment or not).”.

(3) In regulation 5(1)(b)(9) (persons who have attained the qualifying age for state pension credit) before “on income support” insert “on universal credit”.

(4) In regulation 7(6)(a)(i) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), for “housing benefit should be paid” substitute “payments should be made (whether by way of housing benefit or universal credit)”.

(5) In regulation 56(2) (full-time students to be treated as not liable to make payments in respect of a dwelling), after sub-paragraph (a) insert—

“(aa) who is a person on universal credit, except where the award of universal credit to that person includes an amount in respect of a liability to make payments in respect of the accommodation they occupy as their home, in accordance with section 11 of the Welfare Reform Act 2012 (housing costs);”.

(6) In regulation 83(5)(10) (time and manner in which claims are to be made)—

(a) after sub-paragraph (a) insert—

“(aa) in a case where an award of universal credit has been made to the claimant and the claim for housing benefit is made—

(i) within one month of the date on which the claim for universal credit was made in accordance with regulation 8 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(11) (“the Claims and Payments Regulations”); or

(ii) in a case where the award of universal credit was made without a claim in accordance with regulation 6 (claims not required for entitlement to universal credit in certain cases) or 9(6), (7) or (10) (claims for universal credit by members of a couple) of the Claims and Payments Regulations, or the claimant was treated as making a claim for universal credit under

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(6) S.I. 2013/376. See reg 21.

(7) S.I. 2006/213.

(8) Paragraph (3A) was inserted by S.I. 2008/1082.

(9) Paragraph (1)(b) was amended by S.I. 2008/1082.

(10) Paragraph (5) was amended by S.I. 2007/2911, 2008/1082 and 2008/2299.

(11) S.I. 2013/380.

regulation 9(8) of those Regulations, within one month of the date on which the Secretary of State sent notification of the award to the claimant,

the first day of entitlement to universal credit arising from the award;”;

(b) in sub-paragraph (b), insert “universal credit,” before “income support”; and

(c) in sub-paragraph (d), for “sub-paragraph (a), (b) or (c)” substitute “sub-paragraph (a), (aa), (b) or (c)”.

(7) In Schedule 4 (sums to be disregarded in the calculation of earnings) in paragraph 12(12) before “income support” insert “universal credit,”.

(8) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings) in paragraph 4(13) before “income support” insert “universal credit,”.

(9) In Schedule 6 (capital to be disregarded) in paragraph 5(14) before “income support” insert “universal credit,”.

#### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

8.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(15) are amended as follows.

(2) In regulation 5(2) (persons who have attained the qualifying age for state pension credit) before “on income support” insert “on universal credit,”.

Signed by authority of the Secretary of State for Work and Pensions

20th August 2013

*Freud*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

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(12) Paragraph 12 was amended by [S.I. 2008/1082](#).

(13) Paragraph 4 was amended by [S.I. 2008/1082](#).

(14) Paragraph 5 was amended by [S.I. 2008/1082](#).

(15) [S.I. 2006/214](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Universal Credit (Transitional Provisions) Regulations 2013 ([S.I. 2013/386](#)). They also make amendments to the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 ([S.I. 2006/214](#)) (“the Housing Benefit (SPC) Regulations”) which are consequential upon the introduction of universal credit.

The amendments made by regulation 3 allow for claimants to be entitled to both universal credit and housing benefit, where the housing benefit is paid in respect of exempt accommodation (for which the universal credit element for housing costs is not payable).

Regulation 4 amends the criteria for entitlement to claim universal credit during the first stage of transition from existing benefits. It allows for claims by persons who have a current account with a credit union (in addition to certain other types of account).

Regulation 5 relates to a person who claims universal credit, but is not entitled for the first assessment period because of the level of their earned income. The effect of the amendment is that a person in this position will be able to benefit from provisions in the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 ([S.I. 2013/380](#)) under which they might become entitled to universal credit without a further claim if their income falls during the following 6 months.

Regulation 6 removes the temporary exemption for universal credit claimants from the application of the benefit cap. However, the benefit cap will not apply to existing claimants until their next assessment period starting on or after the date on which these Regulations come into force.

Regulation 7 makes amendments to the Housing Benefit Regulations 2006 to allow for circumstances where a claimant or a claimant’s partner is in receipt of universal credit and housing benefit at the same time.

Regulation 8 amends the Housing Benefit (SPC) Regulations to ensure that where a claimant is on universal credit and is also receiving housing benefit to cover some or all of their housing costs, the Housing Benefit Regulations 2006, rather than the Housing Benefit (SPC) Regulations, apply.

An assessment has been made of the introduction of universal credit. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA or from the GOV.UK website at [www.gov.uk/government/publications/universal-credit-impact-assessment](https://www.gov.uk/government/publications/universal-credit-impact-assessment).