

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (HOUSING COSTS ELEMENT FOR CLAIMANTS
AGED 18 TO 21) (AMENDMENT) REGULATIONS 2017

2017 No. 252

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument removes automatic entitlement to housing costs in Universal Credit Full Service¹ for some 18 to 21 year-olds. There are a number of exemptions to protect vulnerable claimants so that they continue to receive the housing support that they need.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument delivers the Government's intention² to remove automatic entitlement to the housing costs element in Universal Credit for 18-21 year-olds so that young people in the benefit system face the same choices as other young people who go out to work and cannot yet afford to leave the parental home. This instrument is intended to encourage young people who can stay at home to do so. It makes the system fairer as these people will not move out by simply passing the costs on to the taxpayer.

4.2 This instrument also introduces some exemptions. There are two reasons for the exemptions: to protect vulnerable young claimants and to take account of the reasonable choices young people can make when deciding to move out of their parents' home such as when they have earnings that allows them to pay their rent.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

¹ Universal Credit Full Service means the service in areas where no restrictions have been imposed in order for the universal credit provisions to come into force on a claim for universal credit and where claims are made via the digital service computer system.

² p.18, Conservative Party Manifesto 2015, <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf>

5.3 Corresponding regulations are to be made in Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

Removing automatic entitlement

7.1 The main features of Universal Credit are set out in the Welfare Reform Act 2012³ and in the Universal Credit Regulations 2013 (SI 2013/376) (“the 2013 Regulations”)⁴.

7.2 Section 11(1) of the Welfare Reform Act 2012⁵ (Housing Costs) provides that an award of Universal Credit is to include an amount for housing costs if a claimant is liable to make payments in respect of their home (e.g. rent or a mortgage).

7.3 This instrument amends the 2013 Regulations to specify that section 11(1) does not apply to certain renters who are: (i) at least 18 but under 22 years old, (ii) a single person and (iii) subject to ‘all work related requirements’ (required to look for and be available for full time work (see section 22 of the 2012 Act⁶)). For those claimants, this removes automatic entitlement to Housing Costs in Universal Credit Full Service areas.

Exemptions

7.4 The exemptions to the policy are set out in paragraphs 4B and 4C of Schedule 4 (Housing Costs for Renters) of the 2013 Regulations, as inserted by regulation 2(3)(c) of the instrument.

7.5 The Government recognises that, whilst the majority of young people can live at home, there will be some who are unable to do so. This policy will not apply where the claimant is an orphan or their parents live abroad. It will also not apply where, in the opinion of the Secretary of State, it would be inappropriate for the claimant to live in the parental home including where there would be a serious risk to the claimant’s physical or mental health, or the claimant would suffer significant harm, if the claimant lived with them.

7.6 It is also recognised that it would be unreasonable to remove entitlement where the claimant is vulnerable. The instrument therefore sets out, in paragraph 4B, a range of additional exemptions. These exemptions mean that the policy will not apply where the claimant:

- is responsible for a child or a qualifying young person;
- was a care leaver before reaching the age of 18;
- receives the care component of disability living allowance at the middle or highest rate or the daily living component of personal independence payment;

³ <http://www.legislation.gov.uk/ukpga/2012/5/contents/enacted>

⁴ <http://www.legislation.gov.uk/uksi/2013/376/contents>

⁵ <http://www.legislation.gov.uk/ukpga/2012/5/section/11/enacted>

⁶ <http://www.legislation.gov.uk/ukpga/2012/5/section/22/enacted>

- is subject to active multi-agency management (arrangements for managing risks posed by certain offenders). It also covers certain claimants in Scotland who are considered by the Secretary of State to be a person who may cause serious harm to the public;
 - is in temporary accommodation provided by a local authority pursuant to their homelessness duties;
 - has been subject to, or threatened with, domestic violence by their partner, former partner, or a family member.
- 7.7 In addition an exemption will apply where, due to caring responsibilities or physical or mental impairment, the number of hours the claimant is expected to work is less than 35 per week. We will also exempt those on whom a work-search requirement cannot be imposed due to the range of time-limited circumstances prescribed in subparagraphs (3) and (4) of regulation 99 of the 2013 Regulations (Circumstances in which requirements must not be imposed). These include where the claimant has suffered a bereavement within the past 6 months (in relation to certain people), they are undertaking treatment for an addiction, or where they have provided medical evidence that they are currently unfit for work (for up to 14 days).
- 7.8 This policy will only apply to people who are ‘job seekers’. That means that people who are not in the all work-related requirement group of UC (which, broadly speaking, are those who are expected to be available for and actively seeking work) will not be affected by this policy.
- 7.9 The policy will not apply to those claimants who are currently in work and have net earnings in an assessment period above a prescribed amount. This amount is set at the monthly equivalent that a person would earn working sixteen hours per week at the National Minimum Wage for a person aged 18 to 20 years (that is, £89.60 a week from April 2017). If the claimant is under a contract of apprenticeship, the amount is set at the monthly equivalent of sixteen hours per week at the National Minimum Wage of apprentices (that is, £56 a week from April 2017). In addition, there will be a time-limited exemption of 6 months for those who do not satisfy this requirement in an assessment period but whose earnings were at this level or above for a prescribed six month period (paragraph 4C). This will provide a buffer period to give them time to find alternative employment.
- 7.10 There are two separate roll-out strategies for Universal Credit. The first, Live Service, takes applications from only a very limited selection of claimants, predominantly single job seekers. Live Service now operates across Great Britain so the newly unemployed no longer have access to the old (legacy) system (Jobseeker’s Allowance, Housing Benefit etc.) and have to claim Universal Credit. The second roll out, Full Service, places no restriction on the type of claimant that may apply for Universal Credit. Any working age person wishing to claim benefit and who lives in a Full Service area has to claim Universal Credit rather than a legacy benefit. Full Service is gradually rolling out across the country, replacing both legacy and Live Service systems. The provisions in these Regulations will apply only in Universal Credit Full Service areas. They will not apply to claimants:
- in receipt of Housing Benefit or those receiving Universal Credit in Live Service areas;
 - receiving help with housing costs (via Housing Benefit or the Universal Credit Live Service) immediately prior to a move to Full Service; and

- in Full Service areas whose award of Universal Credit includes the housing costs element when this instrument comes into force.

7.11 However, where a claimant is on the Full Service and benefits from the above saving, the claimant will come within the scope of the policy following a break in entitlement to Universal Credit or a break in entitlement to the housing costs element subsequent to these Regulations coming into force.

Consolidation

7.12 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archives’ website <http://www.legislation.gov.uk/>.

8. Consultation outcome

8.1 While the Department did not conduct a public consultation on the principle of removing automatic entitlement to housing costs for 18 to 21 year olds, there was extensive consultation with stakeholders with respect to the exemptions.

8.2 Informal engagement took place with a wide range of relevant stakeholders on a one-to-one basis. The vast majority of suggested exemptions have been accepted by the Department.

8.3 The draft regulations, including provisions on the exemptions, were shared with the Social Security Advisory Committee (SSAC). Some recommendations from stakeholders have not been accepted, one example being 18-21 year-olds who had not been in the care of their local authority as such but were described as being ‘on the edge of care’. SSAC suggested young people in this category were often vulnerable and needed the protection of being exempt. The Department decided it would be difficult to accurately describe such a group and doing so would introduce significant complexity. The Committee also asked the Department to consider whether the threshold for the in-work exemption was set at too high a level, particularly for those on zero earnings contracts. As a result the Department reduced the threshold from 35 to 16 times the National Minimum Wage (see paragraph 7.9 above). The Department also addressed the Committee’s concerns that that comprehensive guidance should be provided to work coaches, particularly with respect to claimants who state that they unable to live with their parents.

8.4 SSAC decided not to take the proposals on formal reference (in November 2016). The Committee stated that it was “impressed by the Department’s thoroughness in consulting stakeholders and drawing up exemptions which have been based on information received from those with direct involvement with those who stood to be affected by the policy.”⁷ The Committee suggested that further contact with stakeholders with a special interest in physical and mental health issues would be useful. Having followed up with the contacts which the Committee provided, no further issues were raised.

9. Guidance

9.1 We are preparing comprehensive guidance for our staff with respect to this instrument. This will be particularly important where entitlement to the exemption

⁷ Full minutes available at: <https://www.gov.uk/government/organisations/social-security-advisory-committee/about/membership#minutes-of-meetings>

requires consideration of an individual's circumstances. For example, we can readily determine that a claimant is in receipt of one of the specified a disability benefits but establishing whether it would be inappropriate for a young person to live in the parental home will be less straightforward. To ensure that we get this guidance right we are undertaking further consultation with key stakeholders who will have a direct input into how this guidance is framed. There will also be information made available for claimants online via <https://www.gov.uk/>. Both the guidance for UC staff and the information for claimants will be made available before the Regulations are in force. Guidance is also to be issued to all Universal Credit staff advising them of the new policy that will apply before the regulations come into force on 1 April 2017.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is through benefit expenditure as set out in the costings analysis published by HM Treasury for the Summer Budget 2015⁸, and scrutinised by the Office for Budget Responsibility. Since that time, the costings analysis has been revised. Savings attributable to the measure are estimated to be £105 million over the course of this Parliament. The provision is expected to affect 1,000 young people in the first year rising to 11,000 in steady state.
- 10.3 An Impact Assessment has not been prepared for this instrument, as there is no direct impact on business. However, in addition to the public sector impacts, the impact on claimants has also been considered as part of the policy development:
- Any losses at the individual level will be largely notional. This is because the Government expect anyone affected will either secure an early return to work (day-one support from the new Youth Obligation will help here) or return to the parental home. From April 2017, the new Youth Obligation will provide intensive employment support for young people from day one of their claim. After six months under the Youth Obligation, claimants who have not found sufficient work will be required to apply for an Apprenticeship, Traineeship or undertake a work placement. In the longer term it is anticipated that removing automatic entitlement to housing costs in Universal Credit will mean young adults on benefit will not leave home in the first place.
 - The level of notional loss at the individual level is dependent on the claimant's rental liability, which can vary widely depending on where they live. Claimants in scope for this policy have their housing costs limited to the Shared Accommodation Rate of Local Housing Allowance, which varies between £45.00 a week in parts of the North East to £136.52 in Central London. This gives a reasonable indication of the level of notional loss, though it should be borne in mind that an individual's rental liability may be lower than the Local Housing Allowance rate.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443195/Policy_costings_summer_budget_2015.pdf

12. Monitoring & review

- 12.1 The Department is committed to monitoring its policies, both in terms of equality and diversity, and in relation to the quality and accessibility of services for our customers. This impact of this provision will be considered as part of the overarching monitoring and evaluation of Universal Credit.

13. Contact

- 13.1 Geoff Scammell at the Department for Work and Pensions (telephone: 020 7449 5763 or email: geoff.scammell@dwp.gsi.gov.uk) can answer any queries regarding the instrument.