

## Housing Benefit Circular

Department for Work and Pensions  
6th Floor, Caxton House, Tothill Street, London SW1H 9NA

# HB A19/2013

### ADJUDICATION AND OPERATIONS CIRCULAR

<b>WHO SHOULD READ</b>	All Housing Benefit (HB) staff
<b>ACTION</b>	For information
<b>SUBJECT</b>	The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013

### Guidance Manual

The information in this circular affects the content of the HB Guidance Manual. Please annotate this circular number against A4.1010 "Exempt accommodation" and the title of HB Circular A13/2013.

### Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
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# The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013

## Introduction

1. These regulations amend the Universal Credit (Transitional Provisions) Regulations 2013 (“the Transitional Regulations”)<sup>1</sup>, the Housing Benefit Regulations 2006<sup>2</sup> and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the Housing Benefit (SPC) Regulations”)<sup>3</sup>. The regulations will come into force on 28 October 2013.
2. The Universal Credit (Transitional Provisions) Regulations 2013 provided for the introduction of Universal Credit on a ‘Pathfinder’ basis from 29 April 2013. The regulations specified criteria to be satisfied in order to be entitled to Universal Credit so that Pathfinder should start processing claims for Universal Credit from people in prescribed circumstances.
3. In summary, the Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 amend the Transitional Regulations as follows:
  - enable Universal Credit and Housing Benefit (HB) to be paid simultaneously where the claimant is in “exempt accommodation”
  - provide for the benefit cap to be applied to existing Universal Credit claimants from the start of their first assessment period beginning after 28 October; and anyone who makes a new claim for Universal Credit after 28 October from the date of their Universal Credit claim
  - remove the existing restriction that prevents a Universal Credit claimant whose first month award of Universal Credit is nil as a result of earnings from being able to benefit from the ‘six-month re-award’ process (awards of Universal Credit without a claim)
  - enable people with a current account with a Credit Union to claim Universal Credit.

## Amendments relating to those living in “exempt accommodation”

### Background

4. Those who live in supported housing that satisfies the definition of “exempt accommodation” in Universal Credit legislation are now excluded from receiving the housing costs element within Universal Credit.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2013/386/contents/made>

<sup>2</sup> <http://www.dwp.gov.uk/docs/a8-2501.pdf>

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2006/214/contents/made>

5. This is intended to be an interim measure while the feasibility of a localised funding system for housing-related costs for those in supported housing is explored. In the meantime, these regulations ensure that the housing costs of those living in “exempt accommodation” can continue to be met through HB where a person is entitled to Universal Credit.
6. The “exempt accommodation” measures in the Transitional Regulations are only short term until HB and the other legacy benefits are no longer available to new benefit claimants. At that time we will consider again how and whether assistance with housing costs might be available to those in “exempt accommodation”.

### **Impact of changes**

7. The Transitional Regulations require that a person must satisfy certain eligibility criteria in order to be allowed to make a new Universal Credit claim. Regulation 10 excludes new claims from anyone living in “exempt accommodation”, so only cases of existing Universal Credit claimants who subsequently move into “exempt accommodation” could currently occur. However, the amendments include provisions for new Universal Credit claimants to cover the possible future removal of this criterion.
8. A person living in “exempt accommodation” who claims Universal Credit may be eligible for the other elements of Universal Credit (standard allowance, responsibility for child and young persons and particular needs and circumstances) but not the housing costs element, except in cases of dual liability involving temporary absence from their home due to fear of violence.
9. Within the Universal Credit claiming process the claimant will be required to declare that they live in “exempt accommodation”. They should separately claim HB at the same time.
10. If a new claimant to Universal Credit claims HB for “exempt accommodation” within one month of making their Universal Credit claim, or the date it is treated as made, then the HB award can be backdated to the start of the Universal Credit award. Where an existing Universal Credit claimant moves into “exempt accommodation” their HB claim will be treated as made on the first date of their liability, providing that claim is made within a month of them first becoming liable for rent, or the date on which it is received. Their housing provider will need to support them to ensure that this is done.
11. HB will continue to be claimed and paid on the same basis as it would do now. The eligible rent will continue to be calculated using the same pre 1996 rules as would be used now.
12. As with the legacy benefits, entitlement to Universal Credit will ensure that a person would be entitled to the maximum HB on the same basis as now. This is achieved by disregarding the person’s earnings, income other than earnings and capital in the HB calculation for those on Universal Credit. The claimant’s HB will be disregarded for benefit cap purposes.

13. As there will be no automatic notification to local authorities (LAs) of a claim for Universal Credit being made and its outcome, the LA will need to confirm that the person is entitled to Universal Credit and that the award does not include the housing costs element through the usual enquiry dialogues. There may be a need for LA housing teams to notify their HB team of a need for a person to claim HB.
14. Those who live in “exempt accommodation” and are not receiving or entitled to Universal Credit because of their resources will still be able to claim HB separately through the LA, as they would do now.

### **Changes in circumstance**

15. Universal Credit is paid one month in arrears and takes a whole month approach to managing changes of circumstance, which means that the circumstances that are relevant at the end of the assessment period will be applied to the whole of that assessment period. The award will be re-calculated to reflect the claimant's new circumstances at the end of their monthly assessment period and will be wholly at the new rate.
16. A person receiving Universal Credit that includes a housing costs element, who moves into “exempt accommodation”, will have their housing costs element removed from their Universal Credit from the beginning of the monthly assessment period in which they move. Their HB will commence from when they move in or from when they make a claim as described above.
17. A person receiving Universal Credit who moves out of “exempt accommodation” will have a housing costs element included in their Universal Credit from the beginning of the monthly assessment period in which they move. Their HB will cease from when they move out of the accommodation in the usual way.

**For example:**

- Emily lives on her own in privately rented accommodation. She receives Universal Credit, with a monthly assessment period starting on the third of the month.
- Her accommodation becomes unsuitable for her needs and she moves into supported housing that is “exempt accommodation” on 17 July 2013.
- The housing costs element within her Universal Credit is removed from 3 July 2013, the start of the assessment period in which she moved.
- As Emily claims HB within a month of moving in she receives help with her rent from 17 July 2013.

**For example:**

- Thomas moves out of supported housing that is “exempt accommodation” into a social sector flat from 17 July 2013. He receives Universal Credit, with a monthly assessment period starting on the third of the month.
- His HB ceases from the end of the benefit week in which he moved, while the housing costs element is included in his Universal Credit from 3 July 2013, the start of the assessment period in which he moved.

**The legislation**

18. These amendments are expected to have limited effect as those living in supported housing are anticipated to be among the last to be migrated to Universal Credit and among the last to be able to claim it.
19. Therefore, those most likely to be affected initially are Universal Credit recipients who, subsequently to claiming, move into “exempt accommodation” or move in with someone who lives in “exempt accommodation”. How these amendments will work is explained in more detail in Annexe 1.

## The legislation in more detail

1. Regulation 3 of these amendments make a series of changes to regulations 3, 14, 15, 16 and 18 of the Transitional Regulations so that a claimant can be entitled to both Universal Credit and HB at the same time.
2. However, this can only be the case where the person's home satisfies the definition of "exempt accommodation" in Universal Credit legislation. All other tenants will receive help through the housing costs element in Universal Credit.
3. The regulations in the Universal Credit (Transitional Provisions) 2013 serve the following purposes:
  - Regulation 3 ensures that a person may not claim, or be treated as claiming Universal Credit if they are entitled to an existing benefit, including HB
  - Regulation 14 prescribes those circumstances where Universal Credit can be awarded without a claim
  - Regulation 15 provides that a person may not be entitled to an existing benefit whilst they are entitled to Universal Credit
  - Regulation 16 provides for termination of entitlement to existing benefits to "new claimant partners" when they become entitled to Universal Credit on forming a couple with a person who is already a Universal Credit claimant
  - Regulation 18 makes similar provision for termination of existing awards which may arise from an appeal etc which is finally determined after a person has become entitled to Universal Credit
4. Regulation 3 of The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 revises the Universal Credit (Transitional Provisions) 2013 to ensure that:
  - an award of HB in respect of "exempt accommodation" does not prevent a claim to Universal Credit being made by a person who was formerly a member of a Universal Credit joint claim couple, or a joint claim to Universal Credit being treated as made where one member of the couple previously had an award of Universal Credit as a single person (regulation 3(2))
  - an award of Universal Credit can be made without a claim in accordance with regulation 6 or regulation 9(6) or (7) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013/380<sup>4</sup> even if the claimant is entitled to HB in respect of exempt accommodation (regulation 3(3))
  - an award of Universal Credit does not prevent a person being awarded HB in respect of "exempt accommodation" (regulation 3(4))

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<sup>4</sup> <http://www.legislation.gov.uk/uksi/2013/380/contents/made>

- where a newly-formed couple is treated as making a claim to Universal Credit, the termination of any awards of existing benefits does not include awards of HB in respect of exempt accommodation (regulation 3(5))
  - where a Universal Credit claimant is awarded HB in respect of exempt accommodation as a result of a decision by the First-tier Tribunal, the Upper Tribunal or a Court or as a result of a revision or supersession by the Secretary of State or a relevant authority, that award may subsist (regulation 3(6)).
5. Regulation 7 of The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 amends the HB Regulations to ensure that they take account of a housing cost element in an award of Universal Credit where the claimant is also entitled to HB in respect of “exempt accommodation”.
  6. This will be the case where the claimant has a single liability for rent on their home which is “exempt accommodation” and where they have a dual liability where the person may receive HB and the housing costs element in Universal Credit.
  7. Regulation 7(4) amends the HB Regulations so that, in cases where a person in fear of domestic violence is living temporarily in accommodation that qualifies as “exempt accommodation”, but intends to return to their usual home, they will be able to claim HB in respect of the “exempt accommodation” and continue to receive the housing costs element of Universal Credit in respect of their usual home.
  8. Regulation 7(5) amends the HB Regulations to ensure that a student who is a Universal Credit claimant, not entitled to the housing costs element, can receive help with their rent where their home is “exempt accommodation”.
  9. Regulation 7(6) amends the HB Regulations to ensure that Universal Credit claimants whose home is “exempt accommodation” are able to receive help with their housing costs through HB from the same date as they are awarded Universal Credit.
  10. This will require the claimant to have made a claim for HB within a month of claiming Universal Credit, or, where there has been no requirement to make a claim Universal Credit, within a month of receiving the decision on their award.
  11. Regulation 7(7), (8) and (9) amend the HB Regulations to ensure that Universal Credit claimants have their earnings, income other than earnings and their capital, respectively, disregarded in the calculation of their Housing Benefit. This mirrors existing provisions for the income related benefits and will only affect those whose home is “exempt accommodation”.
  12. Regulations 7(3) and 8 amend the HB Regulations and the HB (SPC) Regulations to ensure that any person who has reached state pension age and is on Universal Credit or has a partner on Universal Credit is subject to the HB Regulations rather than the HB (SPC) Regulations.