

UC: MISCELLANEOUS AMENDMENTS

Contents	Paragraphs
Introduction	1 – 2
Waiting days	3
Assessment periods	4 – 5
Amount of award for initial assessment period	6
Work Allowances	7
NI deductions and self-employed earnings	8 – 9
Unearned income	10 – 11
Claimants subject to no work-related requirements	12
Work-related requirements in continuing periods of sickness	13 – 16
Housing costs	17 – 20
Supersession – provision of information	21
Changes to legislation - Effective Dates	22 – 24
HB and TCs – transition to UC	25 – 36
Annotations	
Contacts	

INTRODUCTION

- 1 This memo gives guidance on the Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 (UC Misc Amdt Regs 2018)([SI 2018/65](#))¹, which come into force on²:
- 14.2.18 for paragraphs 3, 8 – 9, 22 – 24 & 34 – 36.
 - 9.4.18 for paragraph 7
 - 11.4.18 for paragraphs 4 – 6, 10 – 21 & 25 – 33.

1 UC Misc Amdt Regs 18; 2 UC Misc Amdt Regs, Reg 1(2)to (4)

- 2 The regulations
 1. remove the requirement to serve waiting days before UC entitlement begins
 2. make changes to assessment periods
 3. amend work allowances
 4. remove the existing references to Class 2 & 4 NI contributions following their abolition
 5. allow for foreign state retirement pension and Pension Protection Fund periodic payments to be taken into account as unearned income
 6. make changes to work-related requirements in UC and new-style JSA
 7. change the meaning of rent to exclude temporary accommodation
 8. make changes to the supersession and effective dates rules
 9. make changes to when awards of HB and TCs end on transition to UC.

WAITING DAYS

- 3 The legislation requiring a claimant to wait 7 days¹ before becoming entitled to UC is revoked². There will no longer be waiting days for any claims made on or after 14.2.18 and so guidance at [E1016](#) – [E1022](#) should no longer be followed. Claims made before 14.2.18 where the 7 waiting days span 14.2.18 will still be required to wait the full 7 days. So, for example, there will be no entitlement to UC on a claim made on 9.2.18 until 16.2.18.

1 UC Regs, reg 19A(1); 2 UC Misc Amdt Regs 2018, reg 3(3)

ASSESSMENT PERIODS

- 4 When a claimant makes a claim for UC, their monthly assessment period cycle is set from their first date of entitlement. This means that, where the first date of entitlement subsequently changes, the entire assessment period cycle should be adjusted accordingly. In order to avoid the need to do this, this amendment allows the length of the first assessment period to be adjusted to shorter or longer than one month in order to retain the existing assessment period cycle.
- 5 From 11.4.18 a person can have an assessment period revised where

1. the first date of entitlement is changed and
2. it would, in the opinion of the Secretary of State, cause unnecessary disruption to the administration of the case not to change the assessment period¹.

Example

Kevin made a claim to UC on 3 May, his assessment period will run from the 3rd to the 2nd of each month. It is subsequently decided his claim should have been taken from 19 April. The DM decides that it would be unnecessarily disruptive to amend each assessment period to run from the 19th to 18th of each month and so determines the initial assessment period will be for the period 19 April to 2 May.

UC Regs, reg 21A

AMOUNT OF AWARD FOR INITIAL ASSESSMENT PERIOD

- 6 The amount payable for this initial assessment period will be for the number of days from the first date of entitlement to the day before the date on which the claim is made. This amount is determined using the calculation

$$N \times \left[\frac{A \times 12}{365} \right]$$

where N is the number of days in the period and A is the amount calculated in relation to that period as if it were an assessment period of one month.

Note: calculate the amount for the initial assessment period by applying the standard monthly amounts of any elements (including, if appropriate, the housing cost element) and unearned income as though calculating a full month. But for earned income and child care costs, because these are based on what is actually received or paid, only count what is actually received (or paid) in the initial assessment period.

Example

Jason makes a claim electronically to UC on 2nd July. He indicates that he wishes to claim from 6th June. He says that he delayed claiming UC as he was in receipt of ESA until 5th June but was not informed that this was stopping until the 28th June. The DM decides that the time limit for claiming UC can be extended. The initial assessment period for this backdated portion will be from 6th June to 1st July (26 days). Jason's UC entitlement of £317.82 is adjusted to £271.67 which represents the payment for the 26 days within this initial assessment period [26 x (£317.82 x 12 / 365)]. Each

subsequent assessment period of one full month will run from the 2nd of each month.

WORK ALLOWANCES

- 7 In [E2205](#), from 9.4.18 and wherever they occur for £397, substitute £409, and for £192 substitute £198¹.

1 UC Regs, reg 22

NI DEDUCTIONS AND SELF EMPLOYED EARNINGS

- 8 From 14.2.18 and in anticipation of the abolition of class 2 and reform of class 4 NI contributions (from April 2019), these regulations¹ remove the specific reference to class 2 & 4 NI contributions in the UC regulations², meaning that any NI contributions and tax paid in respect of the self-employment will be deducted.

1 UC Misc Amdt Regs 18, regs 3(7); 2 UC Regs, reg 57(2)

- 9 In UC awards this applies when calculating self-employed income in an AP, where deductions are made from the gross profits (or, in the case of a partnership, the person's share of those profits) of a self-employed earner in relation to income tax and NI contributions paid to HMRC.

UNEARNED INCOME

- 10 From 11.4.18 foreign state retirement pension payments and Pension Protection Fund (PPF) periodic payments¹, analogous to personal and occupational pensions, are added to the definition of unearned income² in UC. These changes align the treatment of this type of income with legacy benefits and ensure equal treatment.

Note: a foreign state retirement pension is defined as any pension which is paid under the law of a country outside the UK and is in the nature of social security.

1 SPC Act 02, s17(1); 2 UC Regs, reg 66(1)

- 11 From 11.4.18 regulations are also amended to ensure that retirement pension income¹ is taken into account subject to any adjustment to the amount payable in accordance with the overlapping benefit rules². This means that the amount of retirement pension income which should be taken into account, is the amount **after** the adjustment for any overlapping benefit. This aligns the treatment of retirement pension income with that of other benefit income in UC.

CLAIMANTS SUBJECT TO NO WORK-RELATED REQUIREMENTS

- 12 Certain claimants cannot have work-related requirements imposed on them¹ (see ADM chapter J2). From 11.4.18 these regulations² provide that where the claimant is
1. receiving education³ **and**
 2. does not meet any of the exceptions⁴ **and**
 3. entitled to UC as a member of a couple⁵ **and**
 4. has student income which is taken into account in the calculation of UC⁶
- then they will be subject to no work-related requirements⁷.

1 WR Act 12, s 19(1); 2 UC Misc Amdt Regs 18, reg 10; 3 UC Regs, reg 12(2); 4 reg 14; 5 reg 3(2)(b); 6 reg 68(1); 7 reg 89(1)

Example

Rick is aged 20 and is a full time student. He is studying for a degree and receives a student loan. He does not meet any of the exceptions to the requirement not to be receiving education. His partner Vivian, also aged 20, is unemployed. They qualify for UC under the modified rules for couples (see ADM Chapter E2). Rick cannot have any work-related requirements imposed upon him and his student loan is taken into account when calculating the UC award.

WORK-RELATED REQUIREMENTS IN CONTINUING PERIODS OF SICKNESS

- 13 Work-related requirements – i.e. a work search¹ and/ or a work availability requirement², must not be imposed³ in UC and new-style JSA where a claimant is unfit for work for a maximum of 14 consecutive days, and for no more than two periods in any 12 month period, where a self-certificate is provided for the first seven days and a Doctor's note⁴ for any further days of sickness.

1 WR Act 12, s 17; 2 WR Act 12, s 18; 3 UC Regs, reg 99(4), JSA Regs 13, reg 16(5); 4 SS (Med Ev) Regs, Sch 1, Part 1

- 14 Where the claimant's health condition continues, they will be referred for a WCA to determine whether they have limited capability for work (LCW) or work-related activity (LCWRA)¹ (see ADM chapter G1). Whilst the claimant is undergoing the WCA process

work-related requirements may be imposed, even where the claimant continues to provide medical evidence, providing that the Secretary of State decides that it is reasonable, and appropriate to that claimant's circumstances, taking into account the claimant's health condition and current capabilities (see ADM chapter J2).

1 UC Regs, reg 39(2) & (3); reg 40(2)(a); Sch 6 & 7

15 Where it has been determined that the claimant

1. does not have LCW or LCWRA following the application of the WCA **or**
2. has been found not to have LCW or LCWRA following an assessment under ESA legislation¹ **or**
3. is treated as not having LCW or LCWRA² **and**
4. they continue to submit medical evidence of that condition **and**
5. in the opinion of the Secretary of State the condition they are suffering from is the same **or**
6. substantially the same as the condition they were suffering from before the claimant was determined/treated as not having LCW/LCWRA

then the Secretary of State can impose any appropriate and reasonable work-related requirement, taking into account their health condition and current capabilities.

1 ESA Regs 13, regs 15 & 30; 2 UC Regs, reg 43(3) & 44(2), reg 39(1)(b) & 40(1)(b)

16 Work search and work-related requirements will not be imposed where

1. the claimant is referred for another WCA **or**
2. the Secretary of State determines that it would be unreasonable¹ for the claimant to comply with such a requirement (see [J3226](#)).

1 UC Regs, reg 99(5), JSA Regs 13, reg 16(4)

Note: Work-focused interview and work preparation requirements can be set where paragraphs 13-15 apply and the Secretary of State considers it reasonable to do so.

Example 1

Hilary is in receipt of UC and reports that she is suffering from a back condition (her first period of sickness whilst in receipt of UC). She provides a self-certificate for the first seven days, followed by a Doctor's note as medical evidence for a further seven

days. No work search and work availability requirements are imposed for the first 14 days of sickness. Hilary's condition continues and two weeks later she submits another self-certificate for the first seven days, followed by a Doctor's note. No work search or availability requirements are imposed for a further 14 days. Hilary's work coach decides that from the 15th day of this second period of illness and in addition to work-focused interview and work preparation requirements, Hilary can undertake some reasonable work-related activity and her work search and work availability requirements are tailored appropriately. Hilary agrees a revised CC and the WCA process begins.

Following application of the WCA, Hilary is found not to have LCW. She continues to provide medical evidence of her back condition, which is substantially the same condition. The work coach decides that in addition to work-focused interview and work preparation requirements, it is reasonable for Hilary to continue to undertake further work-related activity and her work search and work availability requirements are revised, still taking into account her health condition. Hilary agrees a new CC reflecting those changed requirements.

Example 2

Hilary (as in **Example 1**) is found not to have LCW following the application of the WCA. Her health condition continues and in addition to work-focused interview and work preparation requirements, her previously agreed work search and work availability requirements continue. Four weeks later Hilary has a fall and badly fractures her wrist. She begins to submit medical evidence of this new condition. The Secretary of State decides that this is a substantially new medical condition and decides that it would be unreasonable to impose any work-search or work availability requirements for three weeks. After the 21st day and in addition to work-focused interview and work preparation requirements, her work coach decides it would be reasonable to revise Hilary's work search and work availability requirements, taking into account her current capabilities and health condition. Hilary agrees a revised CC reflecting those. The WCA process begins again to determine whether Hilary has LCW or LCWRA for this new condition.

HOUSING COSTS

- 17 From 11.4.18, claimants will no longer be eligible for the housing cost element whilst living in temporary accommodation (see definition in paragraph 20 below); instead they will be able to claim HB for their housing costs.

- 18 [F2042](#) describes those payments excluded from rent payments (and which are not therefore eligible for housing costs). From 11 April this will include payments in respect of temporary accommodation¹

1 UC Regs, Sch 1, para 3(i)

- 19 The definition of temporary accommodation at [F3181](#) is revoked from 11.4.18. [F3161.2](#) and [3250.2](#) no longer apply and can be ignored.

- 20 From 11.4.18 the following definition¹ applies:

Accommodation is temporary accommodation if it falls within Case 1 or Case 2.

Case 1 is where—

- (a) rent payments are payable to a local authority;
- (b) the local authority makes the payments available to the renter—
 - (i) to discharge any of the local authority's functions under legislation²
 - (ii) to prevent the person being or becoming homeless within the meaning of legislation³
- (c) the accommodation is not exempt accommodation.

Case 2 is where—

- (a) rent payments are payable to a provider of social housing other than a local authority;
- (b) that provider makes the accommodation available to the renter in pursuance of arrangements made with it by a local authority—
 - (i) to discharge any of the local authority's functions under legislation⁴
 - (ii) to prevent the person being or becoming homeless within the meaning of legislation⁵; and
- (c) the accommodation is not exempt accommodation.

*1. UC & Misc Amdt Regs, reg. 3(12)(b) 2-5, Part 7 of the Housing Act 1996, Part 2 of the Housing (Scotland) Act 1987
or Part 2 of the Housing (Wales) Act 2014*

SUPERSESSION - PROVISION OF INFORMATION

- 21 [A4025](#) sets out the time limits where a DM requires further information or evidence in order to consider all the issues raised by an application for supersession. From 11.4.18 the time limit for providing information or evidence for UC claimants reporting an advantageous change of circumstances is reduced from one month to 14 days¹ or such longer period as the Secretary of State may allow.

1 UC PIP, JSA & ESA, (D&A) Regs, reg 33(4)

CHANGES TO LEGISLATION - EFFECTIVE DATES

22 [A4241](#) explains that where the supersession is to take account of a change in legislation the superseding decision has effect from the date the law changed. Where the change has not yet taken place the superseding decision takes effect from the date the change in legislation takes effect.

23 From 14.2.18 these regulations provide that where the change of circumstances is that there has been a change in UC legislation, the superseding decision takes effect from

1. the first day of the AP if the change in legislation has effect from that day **or**
2. in any other case, the first day of the AP beginning after the date on which the change had effect.

In relation to any other benefit, the superseding decision takes effect from the date on which the change in the legislation has effect¹.

1 UC PIP, JSA & ESA, (D&A) Regs 2013, sch 1, Part 4 para 32

24 Where the change of circumstances is the expected coming into force of a change in UC legislation, the superseding decision takes effect from

1. the first day of the AP if the change in legislation has effect from that day **or**
2. in any other case, the first day of the AP beginning after the date on which the change had effect.

In relation to any other benefit, the superseding decision takes effect from the date on which the change in legislation has effect².

1 UC PIP, JSA & ESA, (D&A) Regs 2013, Sch 1, Part 4, para 33

HOUSING BENEFIT AND TAX CREDITS - TRANSITION TO UC

Entitlement to HB

25 [M4003](#) – [M4006](#) and [M6010](#) – [M6013](#) give guidance on benefits a UC claimant is not entitled to, with exceptions to those exclusions¹. Normally a UC claimant is not entitled to HB, except where it is paid for specified accommodation.

1 UC (TP) Regs, reg 5

- 26 From 11.4.18, a UC claimant is not precluded from entitlement to HB paid¹
1. in respect of temporary accommodation² (see paragraph 20 for further details)
or
 2. for a period of two weeks beginning with the first day of UC entitlement³ (see paragraph 30 for further details).

1 UC (TP) Regs, reg 5(2)(a); 2 UC Regs, Sch 1, para 3B; 3 UC (TP) Regs, reg 8(2A)

Claims for HB

- 27 [M4013](#) and [M6023](#) explain that a UC claimant is not precluded from claiming HB in respect of specified accommodation. From 11.4.18 this includes HB in respect of temporary accommodation¹.

1 UC (TP) Regs, reg 6(8)

Work allowance

- 28 From 11.4.18, where in any assessment period a UC claimant is entitled to an award of
1. UC which does not include an amount for housing costs **and**
 2. HB for temporary accommodation

the amount of the work allowance for that assessment period is to apply as if the award of UC included an amount for housing costs¹.

Note: See [E2200](#) – [E2205](#) for guidance on the work allowance.

1 UC (TP) Regs, reg 5A; UC Regs, reg 22(2)

Termination of HB awards

Temporary accommodation

- 29 [M4051](#) and [M4060](#), and [M6104](#) and [M6120](#), give guidance on when an award of HB ends where a claimant or a new claimant partner claims UC¹. The guidance explains that awards of HB for specified accommodation do not terminate². From 11.4.18 this includes HB in respect of temporary accommodation.

1 UC (TP) Regs, reg 7(2) & 8(2); 2 reg 7(5)(a) & 8(3)

Transitional housing payment

30 From 11.4.18 the guidance on termination of an existing award at [M4060](#) and [M6120](#) no longer applies to HB. Where

1. a claim for UC is made (other than one which is treated as made¹) **and**
2. the DM is satisfied that the claimant meets the UC basic conditions of entitlement (other than the acceptance of a claimant commitment)² **and**
3. the exceptions in paragraph 29 do not apply

an award of HB to which a UC claimant is entitled on the day on which an award of IS or a TC would terminate as in [M4060](#) or [M6120](#) ends on the last day of the two weeks beginning with the day after that day¹.

Note: This applies whether or not the UC claimant is also entitled to IS or a TC.

1 UC (TP) Regs, reg 8(2A)

Example 1

Nicola is entitled to IS and HB as a lone parent. Her daughter Jessica reaches age 5 on 15.5.18, and Nicola claims UC from that date. Nicola's award of IS ends on 14.5.18, the day before her award of UC begins. Her award of HB ends on 28.5.18.

Example 2

Andy is entitled to HB and works in a local shop. His job ends on 8.6.18 when the shop closes, and he is paid one week's wages in lieu of notice. Andy claims and is awarded UC from 11.6.18. His award of HB remains in payment up to and including 24.6.18.

31 Where a transitional housing payment is made as in paragraph 30, for the purposes of HB the claimant is treated as entitled to UC for the period of the payment, even if no decision has been made on the UC claim¹.

1 UC (TP) Regs, reg 8A(a)

32 Where

1. a transitional housing payment is made as in paragraph 30 **and**
2. the claim for UC is made because the claimant moves to a new home in a different LA

HB is paid directly to the claimant for the period of the transitional housing payment¹.

1 UC (TP) Regs, reg 8A(b)

UC awarded to HB claimant on revision or appeal

- 33 [M4104](#) and [M6174](#) gives guidance on when an award of HB terminates where the claimant is awarded UC following revision or appeal of a decision that the claimant is not entitled to UC. The exception to that rule where the claimant is entitled to HB for specified accommodation also applies to HB payments for temporary accommodation or a transitional housing payment¹.

1 UC (TP) Regs, reg 14(2)(b) & (3)

Termination of a tax credit award

- 34 [M4070](#) - [M4079](#) and [M6140](#) - [M6149](#) give guidance on cases where a UC claimant is treated as entitled to a TC for the purposes of when the TC award terminates as in [M4055](#) - [M4056](#) and [M6110](#) - [M6111](#)¹.

1 UC (TP) Regs, reg 7(7), 8(4) & 11

- 35 From 14.2.18 a further case is included.

- 36 The further case is where¹

1. a final notice has been given **and**
2. the person made a declaration as in [M4072 1.1](#) or [M6142 1.1](#)²
 - 2.1 by the specified date **or**
 - 2.2 if not as in 2.1, within 30 days of notification that payment of TC had ceased because of a failure to make the declaration by the specified date³ **or**
 - 2.3 if not as in 2.1 or 2.2, by 31 January in the tax year following the period to which the final notice relates and in the opinion of HMRC the claimant had good reason for not making the declaration as in 2.1 or 2.2.

1 UC (TP) Regs, reg 11(2)(ca); 2 TC Act 02, s 17(2)(a), (4)(a) or (6)(a); 3 s 24(4)

ANNOTATIONS

Please annotate the number of this memo (Memo ADM 04/18) against the following ADM paragraphs: A4024, A4241, E1016 - 22, E2110, E2200 heading, E2205, F2042, F3161, F3181, F3250, H4120-23, F2042, J2051, J2099 (heading), J3192 (heading), J3215, J3226, M4004, M4013, M4051, M4060, M4070 heading, M4104, M6011, M6023, M6104, M6120, M6140 heading, M6174, R4230.

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: February 2018

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