

**HOUSING COSTS ELEMENT FOR UC CLAIMANTS AGED  
18 TO 21**

**[See Memo ADM 22/18]**

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## INTRODUCTION

- 1 This memo provides guidance on the Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations 2017 (S.I. 2017 No 252). The changes come into force from 1.4.17<sup>1</sup>.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) Regulations 2017, reg 1*

## BACKGROUND

- 2 Young people who could work should be less likely to leave the parental home and set up a separate home independently whilst remaining on benefit. As a treasury savings measure these amendments will ensure parity among young people when deciding to move out their parents home whether working or not. To achieve this regulations are amended.

## TIMING

- 3 Except where paragraph 29 applies, where any of the amendments covered by this memo applies immediately to an existing award of UC, that amendment has effect<sup>1</sup> for the purposes of that award from 1.4.17.

*1 UC, PIP, JSA & ESA (D&A) Regs, Sch 1, part 3, para 32*

## CHANGES

- 4 From 1.4.17 there will be no housing costs element for a renter who
  1. is at least 18 but under 22 years old
  2. is subject to the all work related requirements ([ADM chapter J3](#)) **and**

3. is
  - 3.1 single **or**
  - 3.2 a member of a couple claiming as a single person<sup>1</sup>

*1 UC Regs, Sch 4, para 4A*

## **EXEMPT FROM THE CHANGES**

- 5 The renter will be exempt from these changes and retain entitlement to a housing cost element where they fall into a specified category. These categories are
  1. Responsibility for a child (paragraph 6)
  2. Care leavers (paragraph 7)
  3. Receipt of a disability benefit (paragraph 8)
  4. Certain offenders (paragraph 9)
  5. Specific to Scotland (paragraph 10 – 12)
  6. Temporary accommodation (paragraph 13)
  7. Work Search (paragraph 14 -16)
  8. Fear of domestic violence (paragraph 17)
  9. Parental residence (paragraph 18)
  10. Inappropriate to live with parents (paragraph 19 - 20)

### **Responsibility for a child**

- 6 A renter is exempt from the changes if they are responsible for a child or qualifying young person<sup>1</sup>.

*1 UC Regs, Sch 4, para 4B(1)(a)*

### **Care leavers**

- 7 An exemption will be applied where the renter is aged at least 18 but under 22 years old and was a care leaver (see ADM [E1026 to E1036](#)) before reaching the age of 18<sup>1</sup>.

**Note:** The definition of 'care leaver' includes a person who did not leave care until their eighteenth birthday, provided that they fell within ADM E1026 to E1036 when aged 16 or 17

*1 UC Regs, Sch 4, para 4B(1)(b) & para 29(2)*

## **Receipt of a disability benefit**

- 8 An exemption will apply where the renter is under 35 and in receipt of
1. the care component of DLA at the middle or highest rate **or**
  2. the daily living component of PIP<sup>1</sup>.

*1 UC Regs, Sch 4, para 4B(1)(b) & para 29(5)(a) & (c);*

## **Certain offenders**

- 9 An exemption will apply, in England and Wales, where the renter is
1. under 35 years old **and**
  2. the subject of active multi-agency risk management arrangements established by a responsible authority under prescribed legislation<sup>1</sup> for assessing and managing risks posed by certain offenders<sup>2</sup>.

*1 The Criminal Justice Act 2003, s 325(2); 2 UC Regs, Sch 4, para 4B(1)(b) & para 29(6);*

## **Specific to Scotland**

- 10 An exemption will apply<sup>1</sup> where the renter is
1. under 35 years old **and**
  2. the subject of active multi-agency risk management established under prescribed legislation<sup>2</sup> for assessing and managing risks posed by certain offenders.

*1 UC Regs, Sch 4, para 4B(1)(b) & para 29(7); 2 The Management of Offenders etc. (Scotland) Act 2005, s 10(1);*

- 11 An exemption<sup>1</sup> will apply where the renter is
1. under 35 **and**

2. prescribed legislation<sup>2</sup> does not apply to the renter only because the relevant section of that legislation<sup>3</sup> has not fully been brought into force **and**
3. the renter is considered by the Secretary of State to be a person who may cause serious harm to the public.

*1 UC Regs, Sch 4, para 4B(1)(b) & para 29(8); 2 The Management of Offenders etc. (Scotland) Act 2005, s 10(1);  
3 s 10(1)(b) & (d);*

12 An exemption<sup>1</sup> will apply where the renter is

1. under 35 **and**
2. prescribed legislation<sup>2</sup> does not apply to the renter only because the relevant section of that legislation<sup>3</sup> has not fully been brought into force **and**
3. the renter has been convicted of an offence and by reason of that conviction is considered by the SoS to be a person who may cause serious harm to the public.

*1 UC Regs, Sch 4, para 4B(1)(b) & para 29(9); 2 The Management of Offenders etc. (Scotland) Act 2005, s 10(1);  
3 s 10(1)(e);*

## Temporary accommodation

13 An exemption will apply where the renter meets the occupation condition<sup>1</sup> in respect of temporary accommodation<sup>2</sup>. A renter meets the occupation condition if they normally occupy the temporary accommodation as their home ([see ADM F2161](#) et seq) and none of the exceptions set out in [ADM F2211](#) et seq apply. Temporary accommodation is accommodation

1. for which rent payments are payable to a LA<sup>3</sup>, or a provider of social housing other than a LA<sup>4</sup>
2. made available to the renter by the LA or by a provider of social housing under arrangements made with it by a LA
  - 2.1 to discharge any of the LA's functions under relevant legislation<sup>5</sup> **or**
  - 2.2 to prevent the claimant being or becoming homeless within the meaning of prescribed legislation<sup>6</sup> **and**
3. that is not exempt accommodation (see [ADM F2029](#)).

**Note:** Anyone who is treated as occupying temporary accommodation within the meaning in the main UC regulations will be exempted from the policy and (providing they meet the other UC eligibility criteria) will continue to have their housing cost met.

*1 UC Regs, reg 25(4) & Sch 3, para 1 & 8; 2 UC Regs, Sch 4, para 4B(1)(c) & para 21; 3 para 21(2); 4 para 21(3); 5 Housing Act 1985, Part 3; Housing Act 1996, Part 7; Housing (Scotland) Act 1987, part 2; 6 Housing Act 1996, Part 7; Housing (Scotland) Act 1987, part 2;*

## **Work search**

- 14 An exemption will apply where, for the purposes of imposing work search and availability requirements and calculating their individual earnings threshold, a renter's expected hours of work are less than 35<sup>1</sup>.

*1 UC Regs, reg 88 & Sch 4, para 4B(1)(f);*

- 15 An exemption will apply where a work search requirement is not imposed on the renter under any of the circumstances<sup>1</sup> described at [ADM J3193](#).

*1 UC Regs, Sch 4, para 4B(1)(g) & reg 99(3);*

- 16 The renter is also exempt from these changes where a work search requirement has not been imposed because the claimant

1. is unfit for work
  - 1.1 for a maximum of 14 consecutive days from the date that evidence in 2. is provided **and**
  - 1.2 for no more than two periods in any period of 12 months **and**
2. provides
  - 2.1 for the first 7 days of when they are unfit for work, a self-certificate **and**
  - 2.2 for any further days, a doctor's note<sup>1</sup>

*1 UC Regs, Sch 4, para 4B(1)(g) & reg 99(4)*

## **Fear of domestic violence**

- 17 Where a renter has been threatened with, or a victim of, domestic violence (see paragraph 31) then they are exempt from these changes<sup>1</sup>.

**Note:** the person responsible for the threat or violence has to be the renter's partner, former partner or family member (see paragraph 35).

*1 UC Regs, Sch 4, para 4B(1)(h)*

## **Parental residence**

18 An exemption will apply where the renter is unable to live with each of their parents because

1. they have no parent **or**
2. neither parent occupies accommodation in GB<sup>1</sup>.

*1 UC Regs, Sch 4, para 4B(1)(d)*

## **Inappropriate to live with parents**

19 An exemption will apply where it is deemed to be inappropriate for the renter to live with each of their parents (see paragraph 20), including (but not limited to) where

1. there would be a serious risk to the renter's physical or mental health (see paragraph 21 and 22) **or**
2. the renter would suffer significant harm

if they lived with them<sup>1</sup>.

**Note:** Parent includes any person acting in place of a parent.

*1 UC Regs, Sch 4, para 4B(1)(e);*

20 Circumstances which may be deemed to be inappropriate to live with their parents include

1. those whose parents have been or are in the process of being evicted
2. those whose parents are in prison or whose parents are prevented from entering the country
3. the remoteness of the parent's home presents a serious barrier to finding work
4. those whose parental home would be overcrowded as a result of them living there

5. those who enter the UK as asylum seekers, refugees or as part of a Government resettlement scheme who are not housed with their parents upon being granted this status
6. where there has been an irretrievable breakdown in the relationship with the parents
7. where the renter is estranged from their parents as a result of their religion, beliefs, sexual orientation, gender, gender identity, race or ethnicity
8. those whose parents have moved and have made it clear the young person is not welcome to move with them
9. those who have been asked to leave the family home
10. where the renter is pregnant and unable to live with their parents
11. those who are former gang members or are attempting to reduce their involvement in a gang or are at risk of gang threats or violence in the area where the family live
12. homeless young people (meaning)
  - 12.1 those owed the statutory homelessness duty
  - 12.2 those helped under local authority housing operations services, the new prevention and relief duties of the Homelessness Reduction Bill (in England) or the Housing (Wales) Act 2014
  - 12.3 those moving on from temporary or supported accommodation
  - 12.4 those being supported by a 3<sup>rd</sup> party
  - 12.5 rough sleepers or those 'sofa surfing'
13. those whose parent they are resident with dies and their surviving parent lives in a different city and has little or no continuing relationship with the claimant
14. where the need to live independently is part of an agreed plan with relevant support agencies
15. ex offenders where it is determined, based on advice from a responsible authority, that a return to the parental home would put them at risk of reoffending

Note: This list is illustrative and not exhaustive.

### **Serious risk to physical or mental health**

- 21 Whether the person is at serious risk to their physical or mental health and has to live away from their parents is a question of fact. The DM will need to determine the degree of risk in each case taking into account that the danger
1. need not be from the parents
  2. includes any form of danger to their physical or mental health which causes the young person to live away from their parents.
- 22 Circumstances which may be deemed to pose a serious risk to the renter's physical or mental health, or may mean that they would suffer significant harm if they lived with a parent include those for whom a return home would present a risk to their physical or mental wellbeing, or the physical or mental wellbeing of other family members in terms of
- 1 mental or physical health (depression/anxiety/other)
  2. behavioural problems (autism/ADHD/other)
  3. sexual abuse or exploitation
  4. domestic abuse (physical or emotional)
  5. addiction or substance misuse

### **ASB or offending**

**Note:** This list is illustrative and not exhaustive.

- 23 The DM should accept the evidence from the person or their representative unless there is stronger evidence to the contrary or the evidence is self contradictory<sup>1</sup>. The supporting evidence may also come from the local housing authority or an appropriate third party organisation working in the local area. This includes, but is not limited to

Shelter

Crisis

The Rock Trust

St Mungo's

St Basils

Centrepoint  
Depaul UK  
YMCA  
Citizens Advice  
Salvation Army  
Women's Aid  
Rape Crisis  
Youth offending teams  
Probation services

*1 R(IS) 9/94*

## **FURTHER EXEMPTIONS FOR PERIODS OF WORK**

24 The changes described at paragraph 4 do not apply to renters where, for that particular assessment period, their earnings are equal to, or exceed the monthly equivalent of the amount they would have been paid for 16 hours per week at NMW. This comparison calculation is based on the amount that a worker would be paid at an appropriate NMW<sup>1</sup> rate. The appropriate NMW rate being

1. the hourly rate set out in 4A(1)(b) of the National Minimum Wage Regulations  
**or**
2. where the renter was employed under a contract of apprenticeship on the last day of the assessment period, the hourly rate set out in 4A(1)(d) of the National Minimum Wage Regulations.

**Note:** the conversion to a net monthly amount is achieved by multiplying by 52 and dividing by 12.

*1 UC Regs, Sch 4, para 4C(1)*

### **Example**

Alison is in receipt of UC she is aged 20 and the appropriate NMW rate for her is £5.55 per hour. Alison's comparison earnings are £5.55 X 16 = £88.80, converted to a monthly amount - £88.80 x 52 ÷ 12 = £384.80 per month. This means that if Alison's earnings are below £384.80 per month then she will be subject to this housing cost element restriction.

- 25 The changes described at paragraph 4 do not apply to a renter for a period of 6 consecutive months in respect of which the renter meets the relevant condition described in paragraph 26. This period of 6 months begins on
1. the first day of the renter's first assessment period **or**
  2. the first day of an assessment period which is not the first assessment period in which the renter's earned income (see paragraph 34) is less than the threshold.<sup>1</sup>

*1 UC Regs, Sch 4, para 4C(2)*

- 26 The relevant condition
1. for a renter falling under paragraph 25.1 is that their earned income was
    - 1.1 equal to **or**
    - 1.2 exceededthe threshold in each of the 6 calendar months ending before the calendar month in which the claim for UC was made **or**
  2. for a renter falling under paragraph 25.2 is that
    - 2.1 where their earned income was equal to or exceeded the threshold in each of the 6 assessment periods immediately preceding the day mentioned at 25.2 **or**
    - 2.2 where there are fewer than 6 assessment periods immediately preceding that day, the renter's earned income was equal to or exceeded the threshold in each of the 6 months comprised of
      - 2.2.a the assessment periods immediately preceding the day mentioned at 25.2 and
      - 2.2.b the number of calendar months (ending before the calendar month in which the claim for UC was made) required to complete the 6 month period<sup>1</sup>.

**Note:** the threshold is the amount that a person would be paid at the relevant hourly rate set out in regulations<sup>2</sup> for 16 hours per week, converted to a net monthly amount by multiplying by 52 and dividing by 12.

*1 UC Regs, Sch 4, para 4C(3); 2 NMW Regs, reg 4A(1)(b) & 4A(1)(d)*

## SAVINGS

### Claimants not living in a digital service area

- 27 The changes to the housing costs element rules do not apply to a UC award unless it is one described in paragraph 28.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) Regulations 2017, reg 3(1)*

- 28 The awards are

1. an award made to a person who at the time was living in a digital service area, whether or not they are still living there **or**
2. an award made to a person who is living in a digital service area, whether or not they were living there when the award began **or**
3. an award, other than in .1 or .2, made to a person who has lived in a digital service area at any time after it became a digital service area, but only if the award has been administered on the digital service computer system **or**
4. an award, other than in .1 - .3 made to
  - 4.1 members of a couple where a previous award ended on formation of the couple **or**
  - 4.2 a single claimant where a previous award ended when the claimant ceased to be a member of a couple

and the previous award was administered on the digital service computer system<sup>1</sup>.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) Regulations 2017, reg 3(1)*

- 29 In a case that falls under paragraph 28.2, where the next assessment period does not start on 1.4.17 then these changes do not affect their award until the first day of the next assessment period<sup>1</sup>.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) Regulations 2017, reg 3(2)*

## Existing UC and HB claimants – preserved rights

- 30 The changes do not apply where a renter has an award of UC that includes a housing cost element on 31.3.17. or where, immediately before the first date on which they would otherwise apply, a person was entitled to HB. This savings provision will cease to apply from the day after the day on which the claimant's award no longer includes the housing cost element<sup>1</sup>.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) Regulations 2017, reg 4*

## DEFINITIONS

### Domestic violence

- 31 Domestic violence means<sup>1</sup> any incident or pattern of incidents of controlling behaviour, coercive behaviour, violence or abuse including (but not limited to)

1. psychological abuse
2. physical abuse
3. sexual abuse
4. emotional abuse
5. financial abuse

regardless of the gender or sexuality of the victim.

**Note 1:** Coercive behaviour means<sup>2</sup> an act of assault, humiliation, intimidation or other abuse that is used to harm, punish or frighten the victim.

**Note 2:** Controlling behaviour means<sup>3</sup> an act designed to make the victim subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour

*1 UC Regs, Sch 4, para 4B(2) & reg 98(4); 2 reg 98(4); 3 reg 98(4)*

### Digital service area

- 32 A digital service area is<sup>1</sup>
1. postcode districts SM5 2, SM6 7 and SM6 8 (i.e. the No. 28 and 50 relevant districts) **and**

2. one where

2.1 no restrictions have been imposed on who may claim UC apart from the requirement to live in the relevant district, and the date from or period for which UC is claimed **or**

2.2 restrictions on who may claim UC previously imposed have been removed.

*1 The UC(Housing Costs Element for claimants aged 18 to 21)(Amendment) regulations 2016, reg 3(3)*

### **Digital service computer system**

33 The digital service computer system is the computer system which is operated on behalf of the SoS in digital service areas.

### **Earned income**

34 In these provisions earned income means the renter's earned income before any deductions for income tax and national insurance contributions and does not include income a person is treated as having by virtue of the minimum income floor<sup>1</sup>.

*1 UC Regs, reg 62*

### **Family member**

35 Family member means the claimant's

1. grandparent

2. grandchild

3. parent

4. parent-in-law

5. son

6. son-in-law

7. daughter

8. daughter-in-law

9. step-parent

10. step-son
11. step-daughter
12. step-brother
13. step-sister
14. brother
15. brother-in-law
16. sister
17. sister-in-law.

**Note:** For any of the people listed above this also includes their partner if they are a member of a couple<sup>1</sup>.

*1 UC Regs, reg 98(4)*

## **ANNOTATIONS**

Please annotate the number of this memo (6/17) against ADM paragraphs

F2002, F2016, F3071, F3261

## **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: March 2017**

The content of the examples in this document (including use of imagery) is for illustrative purposes only