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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 227**

**SOCIAL SECURITY**

**The Universal Credit (Claims and Payments) (Scotland) Regulations 2017**

<i>Made</i>	- - - -	<i>27th June 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>29th June 2017</i>
<i>Coming into force</i>	- -	<i>4th October 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 5(1)(i) and (p) and section 189(4)(a), (5) and (6) of the Social Security Administration Act 1992(1) and all other powers enabling them to do so.

In accordance with sections 29(4) and 30(3) of the Scotland Act 2016(2), they have consulted the Secretary of State.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Universal Credit (Claims and Payments) (Scotland) Regulations 2017 and come into force on 4th October 2017.

(2) In these Regulations—

“the 2013 Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(3);

“housing costs element” has the meaning in regulation 25 of the Universal Credit Regulations 2013(4), but does not include a housing costs element calculated under schedule 5 of those Regulations (housing costs element for owner-occupiers);

“Scottish UC applicant or recipient” means a person applying for universal credit, or awarded universal credit, who resides in Scotland (and any one of the members of a couple living in Scotland who jointly make a claim for, or have been awarded, universal credit).

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(1) 1992 c.5 (“the 1992 Act”). Functions under these sections are exercisable by the Scottish Ministers (concurrently with the Secretary of State) by virtue of section 29(1) and (2)(b) and section 30(1) and (2) of the Scotland Act 2016 (c.11). Section 5 of the 1992 Act was relevantly amended by paragraph 5 of schedule 2 of the Welfare Reform Act 2012 (c. 5). There are other amendments to section 5 of the 1992 Act that are not relevant to these Regulations.

(2) 2016 c.11.

(3) S.I. 2013/380.

(4) S.I. 2013/376.

### **Persons to be able to request twice-monthly payments**

2.—(1) Despite regulation 47(1) of the 2013 Claims and Payments Regulations (universal credit generally to be paid monthly in arrears), a Scottish UC applicant or recipient may request at any time to receive future payments of universal credit twice-monthly in arrears, where that is more frequent than the payments that would otherwise be made.

(2) A person who has made the request referred to in paragraph (1) may at any time—

- (a) request that the Secretary of State cancel it; or
- (b) make a further such request.

(3) The Secretary of State must agree to a request made under paragraph (1) or (2), unless the Secretary of State considers it to be unreasonable to implement the request, in which case the Secretary of State must advise the person who made it of the reasons for its refusal.

(4) Nothing in this regulation restricts the ability of the Secretary of State to arrange for payments of universal credit to be made twice-monthly, or more or less frequently than twice-monthly, in any case or class of case.

### **Persons to be advised that they can request twice-monthly payments**

3.—(1) Every person entitled to request twice-monthly payments under regulation 2(1) must be advised that he or she can so request and be given information about the implications of that choice.

(2) Paragraph (1) does not apply where the Secretary of State is arranging, or has arranged, for payments of universal credit to be made twice-monthly, or more frequently than twice-monthly.

### **Tenants to be able to request direct payments for rent and services**

4.—(1) A Scottish UC applicant or recipient whose award of universal credit will include, or includes, a housing costs element in respect of a rent payment or service charge payment may request at any time to have an amount of universal credit paid directly to the person to whom those payments are due.

(2) In paragraph (1)—

- (a) “rent payment” has the meaning given by paragraph 2 of schedule 1 of the Universal Credit Regulations 2013; and
- (b) “service charge payment” has the meaning given by paragraph 7 of that schedule.

(3) A person who has made the request referred to in paragraph (1) may at any time—

- (a) request that the Secretary of State cancel it; or
- (b) make a further such request.

(4) The Secretary of State must agree to a request made under paragraph (1) or (3), unless the Secretary of State considers it to be unreasonable to implement the request, in which case the Secretary of State must advise the person who made it of the reasons for its refusal.

(5) The amount of an award of universal credit to be paid in accordance with paragraph (1) is the amount of the housing costs element of the award that relates to liability to make rent payments and service charge payments or, if less, the amount of the award.

(6) Nothing in this regulation restricts the ability of the Secretary of State to direct that payments of universal credit be made to a person other than a claimant under regulation 58 of the 2013 Claims and Payments Regulations (payment to another person on the claimant’s behalf) or to make deductions and payments in accordance with the provisions of schedule 6 of those Regulations.

**Tenants to be advised that they can request direct payments for rent and services**

5.—(1) Every person entitled to request direct payments under regulation 4(1) must be advised that he or she can request to have an amount of universal credit paid directly, as described in that regulation.

(2) Paragraph (1) does not apply where the Secretary of State is arranging, or has arranged, for universal credit to be paid directly.

**Applications for, and awards of, universal credit to which these Regulations do not apply**

6.—(1) These Regulations have no effect in relation to—

- (a) an award of universal credit which has been made before 4th October 2017;
- (b) an application made before that date for such an award or an award made as a result of such an application;
- (c) an award of universal credit which is not administered on the digital service computer system operated by the Secretary of State in digital service areas;
- (d) an application for such an award which will not be administered on that system if granted;
- (e) an award of universal credit which is administered on that system only as a result of a decision of the Secretary of State to transfer the administration of that award to that system from another system operated by the Secretary of State.

(2) For the purpose of paragraph (1)(c), “digital service area” has the meaning given in regulation 5(3) of the Universal Credit (Digital Service) Amendment Regulations 2014(5).

St Andrew’s House,  
Edinburgh  
27th June 2017

*JEANE FREEMAN*  
Authorised to sign by the Scottish Ministers

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations provide flexibilities to the operation of the claims and payments system for universal credit in relation to Scotland.

Regulation 1(2) provides the definition of “Scottish UC applicant or recipient” that is used to determine the persons applying for, or in receipt of, universal credit to whom the Regulations apply. Its definition of “housing costs element” provides that regulations 4 and 5 only apply to persons who are tenants and do not apply to owner-occupiers who receive universal credit with a housing costs element.

Regulation 2 allows persons to request to have universal credit payments made twice-monthly, where payments would be otherwise made less frequently. A person who has made that request can cancel it at any time. The Secretary of State may only refuse a request that it would be unreasonable to implement. If a request is refused the person must be told why.

Regulation 3 provides for persons entitled to request the flexibility to be advised that they can request to have universal credit paid twice-monthly, rather than monthly, unless the Secretary of State is already making, or proposing to make, payments with at least that frequency.

Regulation 4 allows Scottish universal credit applicants and recipients who are tenants to request to have universal credit payments made directly to persons to whom rent and service charges are due. The payments would be of universal credit so far as relating to the person’s liabilities for accommodation which that person rents. A person who has made that request can cancel it at any time. The Secretary of State may only refuse a request it would be unreasonable to implement. If a request is refused the person must be told why.

Regulation 5 provides for persons entitled to request the flexibility to be advised that they can request to have rent payments and service charge payments made directly, unless the Secretary of State has already made, or is proposing to make, arrangements for such payments.

Regulation 6 provides that these flexibilities only apply where the person’s application for an award of universal credit award is made on or after the date that these Regulations come into force and where that award will be administered on the Secretary of State’s digital service computer system. That system is currently being rolled out across Scotland. The flexibilities will also not apply to persons whose awards of universal credit are administered on that system solely as a result of being transferred to it from roll-out of the system, rather than entered on that system as the result of the making of an application.