STATUTORY INSTRUMENTS

2015 No. 345

SOCIAL SECURITY

The Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015

Made - - - -	*23rd February 2015*
Laid before Parliament	*26th February 2015*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 42(2) and (3) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, the Welfare Reform Act 2012(**1**), makes the following Regulations:

In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred the proposals for these Regulations to the Social Security Advisory Committee.

Citation and commencement

1. These Regulations may be cited as the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015 and come into force on **[**F1**]**11th April 2018**]**.

F1 Words in reg. 1 substituted (11.4.2018) by The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 (S.I. 2018/65), regs. 1(2), **7(2)**

Commencement Information

I1 Reg. 1 in force at 11.4.2018, see **reg. 1**

Carry forward of surplus earnings

2.—(1) The Universal Credit Regulations 2013(**2**) are amended as follows.

(2) After regulation 54 (calculation of earned income – general principles) insert—

[F2**"Surplus earnings**

54A.—(1) This regulation applies in relation to a claim for universal credit where—

(**1**) 2012 c.5.
(**2**) S.I. 2013/376.

(a) the claimant, or either of joint claimants, had an award of universal credit (the "old award") that terminated within the 6 months ending on the first day in respect of which the claim is made;

(b) the claimant has not, or neither of joint claimants has, been entitled to universal credit since the old award terminated; and

(c) the total earned income in the month that would have been the final assessment period for the old award, had it not terminated, exceeded the relevant threshold.

(2) Where this regulation applies in relation to a claim, any surplus earnings determined in accordance with paragraph (3) are to be treated as earned income for the purposes of determining whether there is entitlement to a new award and, if there is entitlement, calculating the amount of the award.

(3) Surplus earnings are—

(a) if the claim in question is the first since the termination of the old award, the amount of the excess referred to in paragraph (1)(c) ("the original surplus");

(b) if the claim in question is the second since the termination of the old award, the amount, if any, by which—

(i) the original surplus, plus

(ii) the total earned income in the month that would have been the first assessment period in relation to the first claim,

exceeded the relevant threshold ("the adjusted surplus");

(c) if the claim in question is the third since the termination of the old award, the amount, if any, by which—

(i) the adjusted surplus from the second claim, plus

(ii) the total earned income in the month that would have been the first assessment period in relation to the second claim,

exceeded the relevant threshold;

(d) if the claim in question is the fourth or fifth since the termination of the old award, an amount calculated in the same manner as for the third claim (that is by taking the adjusted surplus from the previous claim).

(4) For the purposes of paragraph (3)—

(a) if the claim in question is the first joint claim by members of a couple, each of whom had an old award (because each was previously entitled to universal credit as a single person or as a member of a different couple), the amounts of any surplus earnings from the old award or from a previous claim that would have been treated as earned income if they had each claimed as a single person are to be aggregated; and

(b) if the claim in question is—

(i) a single claim where the claimant had an old award, or made a subsequent claim, as a joint claimant, or

(ii) a joint claim where either claimant had an old award, or made a subsequent claim, as a member of a different couple,

the original surplus, or any adjusted surplus, in relation to the old award is to be apportioned in the manner determined by the Secretary of State.

(5) No amount of surplus earnings is to be taken into account in respect of a claimant who has, or had at the time the old award terminated, recently been a victim of domestic violence (within the meaning given by regulation 98).

(6) In this regulation—

"total earned income" is the earned income of the claimant or, if the claimant is a member of a couple, the couple's combined earned income, but does not include any amount a claimant would be treated as having by virtue of regulation 62 (the minimum income floor);

"the nil UC threshold" is the amount of total earned income above which there would be no entitlement to universal credit, expressed by the following formula—

$$\frac{(M-U)}{63}\times 100+WA$$

where—
M is the maximum amount of an award of universal credit;
U is unearned income;
WA is the work allowance; and

"the relevant threshold" is the nil UC threshold plus £300."**]**.

(3) In regulation 62 (minimum income floor)**(3)** after paragraph (4) insert—

"(4A) Where this regulation applies in respect of an assessment period in which surplus earnings are treated as an amount of earned income under regulation 54A (surplus earnings), that amount is to be added to the claimant's earned income before this regulation is applied and, in the case of joint claimants, it is to be added to the earned income of either member of the couple so as to produce the lowest possible amount of combined earned income after this regulation is applied.".

F2 Words in reg. 2(2) substituted (14.2.2018) by The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 (S.I. 2018/65), regs. 1(2), **7(3)**

Commencement Information
I2 Reg. 2 in force at 11.4.2018, see **reg. 1**

Self-employed earnings – treatment of losses

3.—(1) The Universal Credit Regulations 2013 are amended as follows.

(2) In regulation 57 (self-employed earnings) for paragraphs (2) and (3) substitute—

"(2) A person's self-employed earnings in respect of an assessment period are to be calculated as follows.

Step 1

Calculate the amount of the person's profit or loss in respect of each trade, profession or vocation carried on by the person by—

(a) taking the actual receipts in that assessment period; and

(b) deducting any amounts allowed as expenses under regulation 58 or 59.

Where a trade, profession or vocation is carried on in a partnership, take the amount of the profit or loss attributable to the person's share in the partnership.

Step 2

(**3**) Regulation 62 was substituted by S.I. 2014/2888.

If the person has carried on more than one trade, profession or vocation in the assessment period, add together the amounts resulting from step 1 in respect of each trade, profession or vocation.

Step 3

Deduct from the amount resulting from step 1 or (if applicable) step 2 any payment made by the person to HMRC in the assessment period **[**F3by way of national insurance contributions or income tax in respect of any trade, profession or vocation carried on by the person**]**.

If the amount resulting from steps 1 to 3 is nil or a negative amount, the amount of the person's self-employed earnings in respect of the assessment period is nil (and ignore the following steps).

Step 4

If the amount resulting from step 3 is greater than nil, deduct from that amount any relievable pension contributions made by the person in the assessment period (unless a deduction has been made in respect of those contributions in calculating the person's employed earnings).

If the amount resulting from this step is nil or a negative amount, the person's self-employed earnings in respect of the assessment period are nil (and ignore the following step).

Step 5

If the amount resulting from step 4 is greater than nil, deduct from that amount any unused losses (see regulation 57A), taking the oldest first.

If the amount resulting from this step is greater than nil, that is the amount of the person's self-employed earnings for the assessment period.

If the amount resulting from this step is nil or a negative amount, the amount of the person's self-employed earnings in respect of the assessment period is nil.".

(3) In regulation 57(4) for "paragraph (3)" substitute "paragraph (2)".

(4) After regulation 57 insert—

"**Unused losses**

57A.—(1) For the purposes of regulation 57(2), a person has an unused loss if—

(a) in calculating the person's self-employed earnings for any of the previous F4... assessment periods, the amount resulting from steps 1 to 3 in regulation 57(2) was a negative amount (a "loss"); and

(b) the loss has not been extinguished in a subsequent assessment period.

(2) For the purposes of paragraph (1)(b) a loss is extinguished if no amount of that loss remains after it has been deducted at step 5 in regulation 57(2).

(3) Where a person was entitled to a previous award of universal credit and the last day of entitlement in respect of that award fell within the 6 months preceding the first day of entitlement in respect of the new award, the Secretary of State may, for the purposes of this regulation (provided the person provides such information as the Secretary of State requires), **[**F5treat—

(a) the assessment periods under the previous award; and

(b) any months between that award and the current award in respect of which a claim has been made,

as assessment periods under the current award."**]**.

(5) In regulation 58 (permitted expenses) in paragraph (3) omit sub-paragraph (b).