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STATUTORY INSTRUMENTS

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**2017 No. 138**

**SOCIAL SECURITY**

**The Universal Credit (Benefit Cap Earnings Exception) Amendment Regulations 2017**

<i>Made</i>	- - - -	<i>20th February 2017</i>
<i>Laid before Parliament</i>		<i>23rd February 2017</i>
<i>Coming into force</i>	- -	<i>1st April 2017</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 96(1), (4)(c) and (g) and (10) and 97(1) of the Welfare Reform Act 2012<sup>(1)</sup>.

In accordance with section 172(1) of the Social Security Administration Act 1992<sup>(2)</sup>, the Secretary of State has referred the proposals for these Regulations to the Social Security Advisory Committee.

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Universal Credit (Benefit Cap Earnings Exception) Amendment Regulations 2017 and come into force on 1st April 2017.

(2) Where an amendment made by these Regulations applies in respect of an existing award of universal credit, that amendment has effect for the purposes of that award—

- (a) on 1st April 2017, if there is an assessment period for the award that begins on that day; or
- (b) if sub-paragraph (a) does not apply, on the first day of the next assessment period for the award beginning after that day.

(3) For the purposes of this regulation, “existing award of universal credit” means an award of universal credit that exists on 1st April 2017.

**Exception to the application of the benefit cap – earnings**

2.—(1) The Universal Credit Regulations 2013<sup>(3)</sup> are amended as follows.

(2) In regulation 6(1A) (rounding), before paragraph (a) insert—

“(za) regulation 82(1)(a) (exceptions – earnings);”.

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<sup>(1)</sup> 2012 c.5. Section 96(10) is cited for the meaning of “prescribed” and “regulations”.

<sup>(2)</sup> 1992 c.5

<sup>(3)</sup> S.I. 2013/376. Regulation 6(1A) was inserted by S.I. 2015/1754.

- (3) In regulation 82 (exceptions – earnings)—
- (a) in paragraph (1)(a), for “£430”, substitute—
- “the amount of earnings that a person would be paid at the hourly rate set out in regulation 4 of the National Minimum Wage Regulations for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12”;
- (b) in paragraph (2)(a), for “less than the amount mentioned in paragraph (1)(a)”, substitute—
- “less than—
- (i) where the assessment period began before 1st April 2017, £430; or
- (ii) in any other case, the amount calculated in accordance with paragraph (1)(a)”; and
- (c) in paragraph (3), for “exceeded the amount mentioned in paragraph (1)(a)”, substitute—
- “exceeded—
- (a) in any month beginning before 1st April 2017, £430; and
- (b) in any other case, the amount calculated in accordance with paragraph (1)(a)”.

Signed by authority of the Secretary of State for Work and Pensions

20th February 2017

*Caroline Nokes*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend the Universal Credit Regulations 2013 (S.I. 2013/376) (the “Universal Credit Regulations”) in relation to the exception to the application of the benefit cap to a universal credit award in an assessment period where the claimant’s earnings (or if the claimant is a member of a couple, the couple’s combined earnings) exceed a specified threshold (the “earnings exception threshold”).

Regulation 2(2) amends regulation 6 (rounding) of the Universal Credit Regulations to provide that, when calculating the level of the earnings exception threshold in relation to a universal credit award, that amount is to be rounded down to the nearest whole pound.

Regulation 82(1)(a) of the Universal Credit Regulations provides that the benefit cap does not apply to a universal credit award in relation to an assessment period where the claimant’s earnings (or the couple’s combined earnings) are equal to or exceed the earnings exception threshold. Regulation 2(3)(a) of these Regulations amends this threshold from the existing fixed amount of £430 to a formula to calculate the monthly amount a person would earn whilst working 16 hours per week at the National Living Wage.

Regulation 82(1)(b), (2) and (3) of the Universal Credit Regulations also provide for a grace period of nine months in which the benefit cap does not apply even where earnings have fallen below the earnings exception threshold. The grace period starts to run at the point where earnings fall below the threshold on the condition that they have been equal to, or above it, for the previous 12 assessment periods (or months if outside a period of entitlement). Regulations 2(3)(b) and (c) of these Regulations amend these provisions in order to ensure that any entitlement to the grace period already accrued prior to the application of these Regulations to the universal credit award is not retrospectively affected by the amendment to the earnings exception threshold.

This instrument has no impact on business or civil society organisations. The instrument has no impact on the public sector.