
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 6

CALCULATION OF CAPITAL AND INCOME

CHAPTER 1

CAPITAL

Introduction

45. This Chapter provides for the calculation of a person's capital for the purpose of section 5 of the Act (financial conditions) and section 8 of the Act (calculation of awards).

What is included in capital?

46.—(1) The whole of a person's capital is to be taken into account unless—

- (a) it is to be treated as income (see paragraphs (3) and (4)); or
- (b) it is to be disregarded (see regulation 48).

(2) A person's personal possessions are not to be treated as capital.

(3) Subject to paragraph (4), any sums that are paid regularly and by reference to a period, for example payments under an annuity, are to be treated as income even if they would, apart from this provision, be regarded as capital or as having a capital element.

(4) Where capital is payable by instalments, each payment of an instalment is to be treated as income if the amount outstanding, combined with any other capital of the person (and, if the person is a member of a couple, the other member), exceeds £16,000, but otherwise such payments are to be treated as capital.

Jointly held capital

47. Where a person and one or more other persons have a beneficial interest in a capital asset, those persons are to be treated, in the absence of evidence to the contrary, as if they were each entitled to an equal share of the whole of that beneficial interest.

Capital disregarded

48.—(1) Any capital specified in Schedule 10 is to be disregarded from the calculation of a person's capital (see also regulations 75 to 77).

(2) Where a period of 6 months is specified in that Schedule, that period may be extended by the Secretary of State where it is reasonable to do so in the circumstances of the case.

Valuation of capital

- 49.**—(1) Capital is to be calculated at its current market value or surrender value less—
- (a) where there would be expenses attributable to sale, 10%; and
 - (b) the amount of any encumbrances secured on it.
- (2) The market value of a capital asset possessed by a person in a country outside the United Kingdom is—
- (a) if there is no prohibition in that country against the transfer of an amount equal to the value of that asset to the United Kingdom, the market value in that country; or
 - (b) if there is such a prohibition, the amount it would raise if sold in the United Kingdom to a willing buyer.
- (3) Where capital is held in currency other than sterling, it is to be calculated after the deduction of any banking charge or commission payable in converting that capital into sterling.

Notional capital

- 50.**—(1) A person is to be treated as possessing capital of which the person has deprived themselves for the purpose of securing entitlement to universal credit or to an increased amount of universal credit.
- (2) A person is not to be treated as depriving themselves of capital if the person disposes of it for the purposes of—
- (a) reducing or paying a debt owed by the person; or
 - (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the person's case.
- (3) Where a person is treated as possessing capital in accordance with this regulation, then for each subsequent assessment period (or, in a case where the award has terminated, each subsequent month) the amount of capital the person is treated as possessing ("the notional capital") reduces—
- (a) in a case where the notional capital exceeds £16,000, by the amount which the Secretary of State considers would be the amount of an award of universal credit that would be made to the person (assuming they met the conditions in section 4 and 5 of the Act) if it were not for the notional capital; or
 - (b) in a case where the notional capital exceeds £6,000 but not £16,000 (including where the notional capital has reduced to an amount equal to or less than £16,000 in accordance with sub-paragraph (a)) by the amount of unearned income that the notional capital is treated as yielding under regulation 72.

CHAPTER 2

EARNED INCOME

Introduction

51. This Chapter provides for the calculation or estimation of a person's earned income for the purposes of section 8 of the Act (calculation of awards).

Meaning of "earned income"

- 52.** "Earned income" means—
- (a) the remuneration or profits derived from—
 - (i) employment under a contract of service or in an office, including elective office,

- (ii) a trade, profession or vocation, or
- (iii) any other paid work; or
- (b) any income treated as earned income in accordance with this Chapter.

Meaning of other terms relating to earned income

53.—(1) In this Chapter—

- “car” has the meaning in section 268A of the Capital Allowances Act 2001⁽¹⁾;
- “employed earnings” has the meaning in regulation 55;
- “gainful self-employment” has the meaning in regulation 64;
- “HMRC” means Her Majesty’s Revenue and Customs;
- “motor cycle” has the meaning in section 268A of the Capital Allowances Act 2001;
- “PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003⁽²⁾;
- “relievable pension contributions” has the meaning in section 188 of the Finance Act 2004⁽³⁾;
- “self-employed earnings” has the meaning in regulation 57; and
- “start-up period” has the meaning in regulation 63.

(2) References in this Chapter to a person participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
 - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
 - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- (b) the carer of a person consulted under sub-paragraph (a).

Calculation of earned income - general principles

54.—(1) The calculation of a person’s earned income in respect of an assessment period is, unless otherwise provided in this Chapter, to be based on the actual amounts received in that period.

(2) Where the Secretary of State—

- (a) makes a determination as to whether the financial conditions in section 5 of the Act are met before the expiry of the first assessment period in relation to a claim for universal credit; or
- (b) makes a determination as to the amount of a person’s earned income in relation to an assessment period where a person has failed to report information in relation to that earned income,

that determination may be based on an estimate of the amounts received or expected to be received in that assessment period.

Employed earnings

55.—(1) This regulation applies for the purposes of calculating earned income from employment under a contract of service or in an office, including elective office (“employed earnings”).

(1) 2001 c.2. Section 268A was inserted by section 30 of the Finance Act 2009 (c.10).

(2) S.I. 2003/2682.

(3) 2004 c.12.

(2) Employed earnings comprise any amounts that are general earnings, as defined in section 7(3) of ITEPA, but excluding—

- (a) amounts that are treated as earnings under Chapters 2 to 11 of Part 3 of ITEPA (the benefits code); and
- (b) amounts that are exempt from income tax under Part 4 of ITEPA.

(3) In the calculation of employed earnings the following are to be disregarded—

- (a) expenses that are allowed to be deducted under Chapter 2 of Part 5 of ITEPA; and
- (b) expenses arising from participation as a service user (see regulation 53(2)).

(4) The following benefits are to be treated as employed earnings—

- (a) statutory sick pay;
- (b) statutory maternity pay;
- (c) ordinary statutory paternity pay;
- (d) additional statutory paternity pay; and
- (e) statutory adoption pay.

(5) In calculating the amount of a person's employed earnings in respect of an assessment period, there are to be deducted from the amount of general earnings or benefits specified in paragraphs (2) to (4)—

- (a) any relievable pension contributions made by the person in that period;
- (b) any amounts paid by the person in that period in respect of the employment by way of income tax or primary Class 1 contributions under section 6(1) of the Contributions and Benefits Act; and
- (c) any sums withheld as donations to an approved scheme under Part 12 of ITEPA (payroll giving) by a person required to make deductions or repayments of income tax under the PAYE Regulations.

Employee involved in trade dispute

56. A person who has had employed earnings and has withdrawn their labour in furtherance of a trade dispute is, unless their contract of service has been terminated, to be assumed to have employed earnings at the same level as they would have had were it not for the trade dispute.

Self-employed earnings

57.—(1) This regulation applies for the purpose of calculating earned income that is not employed earnings and is derived from carrying on a trade, profession or vocation ("self-employed earnings").

(2) A person's self-employed earnings in respect of an assessment period are to be calculated by taking the amount of the gross profits (or, in the case of a partnership, the person's share of those profits) of the trade, profession or vocation and deducting from that amount—

- (a) any payment made to HMRC in the assessment period in respect of the trade, profession or vocation by way of—
 - (i) Class 2 contributions payable under section 11(1) or (3) of the Contributions and Benefits Act or any Class 4 contributions payable under section 15 of that Act, or
 - (ii) income tax; and
- (b) 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 a person's employed earnings).

(3) The gross profits of the trade, profession or vocation in respect of an assessment period are the actual receipts in that period less any deductions for expenses allowed under regulation 58 or 59.

(4) The receipts referred to in paragraph (3) include receipts in kind and any refund or repayment of income tax, value added tax or national insurance contributions relating to the trade, profession or vocation.

Permitted expenses

58.—(1) The deductions allowed in the calculation of self-employed earnings are amounts paid in the assessment period in respect of—

- (a) expenses that have been wholly and exclusively incurred for purposes of the trade, profession or vocation; or
- (b) in the case of expenses that have been incurred for more than one purpose, an identifiable part or proportion that has been wholly and exclusively incurred for the purposes of the trade, profession or vocation,

excluding any expenses that were incurred unreasonably.

(2) Payments deducted under paragraph (1) may include value added tax.

(3) No deduction may be made for payments in respect of—

- (a) expenditure on non-depreciating assets (including property, shares or other assets held for investment purposes);
- (b) any loss incurred in respect of a previous assessment period;
- (c) repayment of capital or payment of interest in relation to a loan taken out for the purposes of the trade, profession or vocation;
- (d) expenses for business entertainment.

(4) This regulation is subject to regulation 59.

Flat rate deductions for mileage and use of home and adjustment for personal use of business premises

59.—(1) This regulation provides for alternatives to the deductions that would otherwise be allowed under regulation 58.

(2) Instead of a deduction in respect of the actual expenses incurred in relation to the acquisition or use of a motor vehicle, the following deductions are allowed according to the mileage covered on journeys undertaken in the assessment period for the purposes of the trade, profession or vocation—

- (a) in a car, van or other motor vehicle (apart from a motorcycle), 45 pence per mile for the first 833 miles and 25 pence per mile thereafter; and
- (b) on a motorcycle, 24 pence per mile,

and, if the motor vehicle is a car or motor cycle, the only deduction allowed for the acquisition or use of that vehicle is a deduction under this paragraph.

(3) Where a person carrying on a trade, profession or vocation incurs expenses in relation to the use of accommodation occupied as their home, instead of a deduction in respect of the actual expenses, a deduction is allowed according to the number of hours spent in the assessment period on income generating activities related to the trade, profession or vocation as follows—

- (a) at least 25 hours but no more than 50 hours, £10;
- (b) more than 50 hours but no more than 100 hours, £18;
- (c) more than 100 hours, £26.

(4) Where premises which are used by a person mainly for the purposes of a trade, profession or vocation are also occupied by that person for their personal use, whether alone or with other persons, the deduction allowed for expenses in relation to those premises is the amount that would be allowed under regulation 58(1) if the premises were used wholly and exclusively for purposes of the trade, profession or vocation, but reduced by the following amount according to the number of persons occupying the premises for their personal use—

- (a) £350 for one person;
- (b) £500 for two persons;
- (c) £650 for three or more persons.

Notional earned income

60.—(1) A person who has deprived themselves of earned income, or whose employer has arranged for them to be so deprived, for the purpose of securing entitlement to universal credit or to an increased amount of universal credit is to be treated as possessing that earned income.

(2) Such a purpose is to be treated as existing if, in fact, entitlement or higher entitlement to universal credit did result and, in the opinion of the Secretary of State, this was a foreseeable and intended consequence of the deprivation.

(3) If a person provides services for another person and—

- (a) the other person makes no payment for those services or pays less than would be paid for comparable services in the same location; and
- (b) the means of the other person were sufficient to pay for, or pay more for, those services,

the person who provides the services is to be treated as having received the remuneration that would be reasonable for the provision of those services.

(4) Paragraph (3) does not apply where—

- (a) the person is engaged to provide the services by a charitable or voluntary organisation and the Secretary of State is satisfied that it is reasonable to provide the services free of charge or at less than the rate that would be paid for comparable services in the same location;
- (b) the services are provided by a person who is participating as a service user (see regulation 53(2)); or
- (c) the services are provided under or in connection with a person's participation in an employment or training programme approved by the Secretary of State.

Information for calculating earned income

61.—(1) Where—

- (a) a person has employed earnings in respect of which deductions or repayments of income tax are required to be made under the PAYE Regulations; and
- (b) the person required to make those deductions or repayments is a Real Time Information employer,

the information on which the calculation of those earnings is to be based for the purposes of determining the person's earned income is the information about those earnings reported to HMRC in accordance with the PAYE Regulations.

(2) Where paragraph (1) does not apply or where a Real Time Information employer fails to report information to HMRC, the person must provide such information for the purposes of calculating the person's earned income at such times as the Secretary of State may require.

(3) Where, by virtue of paragraph (1), the calculation of employed earnings is to be based on information reported under the PAYE Regulations, those employed earnings are to be treated as if they had been received by the person in the assessment period in which the Secretary of State receives that information, unless the Secretary of State has made a determination in accordance with regulation 54(2)(b) (estimate where information not reported) in relation to a previous assessment period.

(4) In this regulation “Real Time Information employer” has the meaning in regulation 2A(1) of the PAYE Regulations⁽⁴⁾.

Gainful self-employment

Minimum income floor

62.—(1) Where, in any assessment period, a claimant is in gainful self-employment (see regulation 64) and the claimant’s earned income in respect of that assessment period is less than the minimum income floor, the claimant is to be treated as having earned income equal to the minimum income floor.

(2) The “minimum income floor” is, subject to paragraph (3)—

- (a) the amount of the claimant’s individual threshold (see regulation 90(2)(b)) multiplied by 52 and divided by 12; minus
- (b) an amount that the Secretary of State considers appropriate to take account of any income tax or national insurance contributions for which the person would be liable in respect of the assessment period if they had earned income of that amount.

(3) But if the claimant is a member of a couple and, by virtue of paragraph (1), the amount of the couple’s earned income would exceed the maximum for a couple—

- (a) in a case where the couple’s combined earned income (before the application of paragraph (1)) is equal to or exceeds the maximum for a couple, paragraph (1) does not apply; and
- (b) in any other case, the minimum income floor is to be reduced so that the amount of the couple’s earned income does not exceed the maximum for a couple.

(4) In paragraph (3) the “maximum for a couple” is—

- (a) the amount applicable in regulation 90(3) (earnings threshold for a couple) multiplied by 52 and divided by 12; minus
- (b) an amount that the Secretary of State considers appropriate to take account of any income tax or national insurance contributions for which the couple would be liable in respect of the assessment period if they had earned income of that amount.

(5) Paragraph (1) does not apply where—

- (a) the assessment period falls within a start-up period or is the assessment period in which a start-up period begins or ends; or
- (b) the claimant falls within any of the following sections of the Act—
 - (i) section 19 (claimants subject to no work-related requirements), except by virtue of regulation 90,
 - (ii) section 20 (claimants subject to a work-focused interview requirement only), or
 - (iii) section 21 (claimants subject to a work preparation requirement only).

(4) Regulation 2A was inserted by [S.I.2012/822](#).

Start-up period

63.—(1) A “start-up period” is a period of 12 months and applies from the beginning of the assessment period in which the Secretary of State determines that a claimant is in gainful self-employment where—

- (a) the claimant has begun to carry on the trade, profession or vocation which is their main employment in the 12 months preceding the beginning of that assessment period; and
- (b) the claimant is taking active steps to increase their earnings from that employment to the level of the claimant’s individual threshold (see regulation 90).

(2) But no start-up period may apply in relation to a claimant where a start-up period has previously applied in relation to that claimant, whether in relation to the current award or any previous award of universal credit, unless that previous start-up period—

- (a) began more than 5 years before the beginning of assessment period referred to in paragraph (1); and
- (b) applied in relation to a different trade, profession or vocation which the claimant has ceased to carry on.

(3) The Secretary of State may terminate a start-up period at any time if the person is no longer in gainful self-employment or is no longer taking the steps referred to in paragraph (1)(b).

Meaning of “gainful self-employment”

64. A claimant is in gainful self-employment for the purposes of regulations 62 and 63 where the Secretary of State has determined that—

- (a) the claimant is carrying on a trade, profession or vocation as their main employment;
- (b) their earnings from that trade, profession or vocation are self-employed earnings; and
- (c) the trade, profession or vocation is organised, developed, regular and carried on in expectation of profit.

CHAPTER 3

UNEARNED INCOME

Introduction

65. This Chapter provides for the calculation of a person’s unearned income for the purposes of section 8 of the Act (calculation of awards).

What is included in unearned income?

66.—(1) A person’s unearned income is any of their income, including income the person is treated as having by virtue of regulation 74 (notional unearned income), falling within the following descriptions—

- (a) retirement pension income (see regulation 67);
- (b) any of the following benefits to which the person is entitled, subject to any adjustment to the amount payable in accordance with regulations under section 73 of the Social Security Administration Act 1992⁽⁵⁾ (overlapping benefits)—
 - (i) jobseeker’s allowance,
 - (ii) employment and support allowance,

(5) 1992 c.5.

- (iii) carer's allowance,
- (iv) bereavement allowance,
- (v) widowed mother's allowance,
- (vi) widowed parent's allowance,
- (vii) widow's pension,
- (viii) maternity allowance, or
- (ix) industrial injuries benefit, excluding any increase in that benefit under section 104 or 105 of the Contributions and Benefits Act (increases where constant attendance needed and for exceptionally severe disablement);
- (c) any benefit, allowance, or other payment which is paid under the law of a country outside the United Kingdom and is analogous to a benefit mentioned in sub-paragraph (b);
- (d) payments made towards the maintenance of the person by their spouse, civil partner, former spouse or former civil partner under a court order or an agreement for maintenance;
- (e) student income (see regulation 68);
- (f) a payment made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 which is a substitute for universal credit or is for a person's living expenses;
- (g) a payment made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993⁽⁶⁾ out of sums allocated to it for distribution where the payment is for the person's living expenses;
- (h) a payment received under an insurance policy to insure against—
 - (i) the risk of losing income due to illness, accident or redundancy, or
 - (ii) the risk of being unable to maintain payments on a loan, but only to the extent that the payment is in respect of owner-occupier payments within the meaning of paragraph 4 of Schedule 1 in respect of which an amount is included in an award for the housing costs element;
- (i) income from an annuity (other than retirement pension income), unless disregarded under regulation 75 (compensation for personal injury);
- (j) income from a trust, unless disregarded under regulation 75 (compensation for personal injury) or 76 (special schemes for compensation);
- (k) income that is treated as the yield from a person's capital by virtue of regulation 72;
- (l) capital that is treated as income by virtue of regulation 46(3) or (4);
- (m) income that does not fall within sub-paragraphs (a) to (l) and is taxable under Part 5 of the Income Tax (Trading and Other Income) Act 2005⁽⁷⁾ (miscellaneous income).
- (2) In paragraph (1)(f) and (g) a person's living expenses are the cost of—
 - (a) food;
 - (b) ordinary clothing or footwear;
 - (c) household fuel, rent or other housing costs (including council tax),

for the person, their partner and any child or qualifying young person for whom the person is responsible.

⁽⁶⁾ 1983 c.44.

⁽⁷⁾ 2005 c. 5.

Meaning of “retirement pension income”

67.—(1) Subject to paragraph (2), in regulation 66(1)(a) “retirement pension income” has the same meaning as in section 16 of the State Pension Credit Act 2002⁽⁸⁾ as extended by regulation 16 of the State Pension Credit Regulations 2002⁽⁹⁾.

(2) Retirement pension income includes any increase in a Category A or Category B retirement pension mentioned in section 16(1)(a) of the State Pension Credit Act 2002 which is payable under Part 4 of the Contributions and Benefits Act in respect of a person’s partner.

Person treated as having student income

68.—(1) A person who is undertaking a course (see regulation 13) and has a student loan or a grant in respect of that course, is to be treated as having student income in respect of—

- (a) an assessment period in which the course begins;
- (b) in the case of a course which lasts for two or more years, an assessment period in which the second or subsequent year begins;
- (c) any other assessment period in which, or in any part of which, the person is undertaking the course, excluding—
 - (i) an assessment period in which the long vacation begins or which falls within the long vacation, or
 - (ii) an assessment period in which the course ends.

(2) Where a person has a student loan, their student income for any assessment period referred to in paragraph (1) is to be based on the amount of that loan.

(3) Where paragraph (2) applies, any grant in relation to the period to which the loan applies is to be disregarded except for—

- (a) any specific amount included in the grant to cover payments which are rent payments in respect of which an amount is included in an award of universal credit for the housing costs element;
- (b) any amount intended for the maintenance of another person in respect of whom an amount is included in the award.

(4) Where paragraph (2) does not apply, the person’s student income for any assessment period in which they are treated as having that income is to be based on the amount of their grant.

(5) A person is to be treated as having a student loan where the person could acquire such a loan by taking reasonable steps to do so.

(6) Student income does not include any payment referred to in regulation 66(1)(f) (training allowances).

(7) In this regulation and regulations 69 to 71—

“grant” means any kind of educational grant or award, excluding a student loan or a payment made under a scheme to enable persons under the age of 21 to complete courses of education or training that are not advanced education;

“the long vacation” is a period of no less than one month which, in the opinion of the Secretary of State, is the longest vacation during a course which is intended to last for two or more years;

“student loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998⁽¹⁰⁾, section 73 of the

⁽⁸⁾ 2002 c.16.

⁽⁹⁾ S.I. 2002/1972.

⁽¹⁰⁾ 1998 c.30.

Education (Scotland) Act 1980⁽¹¹⁾ or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998⁽¹²⁾ and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulation 2007⁽¹³⁾.

Calculation of student income - student loans

69.—(1) Where, in accordance with regulation 68(2), a person's student income is to be based on the amount of a student loan for a year, the amount to be taken into account is the maximum student loan (including any increases for additional weeks) that the person would be able to acquire in respect of that year by taking reasonable steps to do so.

(2) For the purposes of calculating the maximum student loan in paragraph (1) it is to be assumed no reduction has been made on account of—

- (a) the person's means or the means of their partner, parent or any other person; or
- (b) any grant made to the person.

Calculation of student income - grants

70. Where, in accordance with regulation 68(4), a person's student income is to be based on the amount of a grant, the amount to be taken into account is the whole of the grant excluding any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of the person's disability;
- (c) intended to meet additional expenditure connected with term time residential study away from the person's educational establishment;
- (d) intended to meet the cost of the person maintaining a home at a place other than that at which they reside during their course, except where an award of universal credit includes an amount for the housing costs element in respect of those costs;
- (e) intended for the maintenance of another person, but only if an award of universal credit does not include any amount in respect of that person;
- (f) intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of the person's attendance on the course; or
- (h) intended to meet childcare costs.

Calculation of student income - amount for an assessment period

71. The amount of a person's student income in relation to each assessment period in which the person is to be treated as having student income in accordance with regulation 68(1) is calculated as follows.

Step 1

Determine whichever of the following amounts is applicable—

- (a) (a) if regulation 68(2) applies (person with a student loan) the amount of the loan (and, if applicable, the amount of any grant) in relation to the year of the course in which the assessment period falls; or

⁽¹¹⁾ 1980 c.44.

⁽¹²⁾ S.I. 1998/1760 (N.I. 14).

⁽¹³⁾ S.S.I. 2007/153.

- (b) (b) if regulation 68(4) applies (person with a grant but no student loan) the amount of the grant in relation to the year of the course in which the assessment period falls.

But if the period of the course is less than a year determine the amount of the grant or loan in relation to the course.

Step 2

Determine in relation to—

- (a) (a) the year of the course in which the assessment period falls; or
(b) (b) if the period of the course is less than a year, the period of the course,

the number of assessment periods for which the person is to be treated as having student income under regulation 68(1).

Step 3

Divide the amount produced by step 1 by the number of assessment periods produced by step 2.

Step 4

Deduct £110.

General

Assumed yield from capital

72.—(1) A person's capital is to be treated as yielding a monthly income of £4.35 for each £250 in excess of £6,000 and £4.35 for any excess which is not a complete £250.

(2) Paragraph (1) does not apply where the capital is disregarded or the actual income from that capital is taken into account under regulation 66(1)(i) (income from an annuity) or (j) (income from a trust).

(3) Where a person's capital is treated as yielding income, any actual income derived from that capital, for example rental, interest or dividends, is to be treated as part of the person's capital from the day it is due to be paid to the person.

Unearned income calculated monthly

73.—(1) A person's unearned income is to be calculated as a monthly amount.

(2) Where the period in respect of which a payment of income is made is not a month, an amount is to be calculated as the monthly equivalent, so for example—

- (a) weekly payments are multiplied by 52 and divided by 12;
(b) four weekly payments are multiplied by 13 and divided by 12;
(c) three monthly payments are multiplied by 4 and divided by 12; and
(d) annual payments are divided by 12.

(3) Where the amount of a person's unearned income fluctuates, the monthly equivalent is to be calculated—

- (a) where there is an identifiable cycle, over the duration of one such cycle; or
(b) where there is no identifiable cycle, over three months or such other period as may, in the particular case, enable the monthly equivalent of the person's income to be determined more accurately.

(4) This regulation does not apply to student income.

Notional unearned income

74.—(1) If unearned income would be available to a person upon the making of an application for it, the person is to be treated as having that unearned income.

(2) Paragraph (1) does not apply to the benefits listed in regulation 66(1)(b).

(3) A person who has reached the qualifying age for state pension credit is to be treated as possessing the amount of any retirement pension income for which no application has been made and to which the person might expect to be entitled if a claim were made.

(4) The circumstances in which a person is to be treated as possessing retirement pension income for the purposes of universal credit are the same as the circumstances set out in regulation 18 of the State Pension Credit Regulations 2002(14) in which a person is treated as receiving retirement pension income for the purposes of state pension credit.

CHAPTER 4

MISCELLANEOUS

Compensation for personal injury

75.—(1) This regulation applies where a sum has been awarded to a person, or has been agreed by or behalf of a person, in consequence of a personal injury to that person.

(2) If, in accordance with an order of the court or an agreement, the person receives all or part of that sum by way of regular payments, those payments are to be disregarded in the calculation of the person's unearned income.

(3) If the sum has been used to purchase an annuity, payments under the annuity are to be disregarded in the calculation of the person's unearned income.

(4) If the sum is held in trust, any capital of the trust derived from that sum is to be disregarded in the calculation of the person's capital and any income from the trust is to be disregarded in the calculation of the person's unearned income.

(5) If the sum is administered by the court on behalf of the person or can only be disposed of by direction of the court, it is to be disregarded in the calculation of the person's capital and any regular payments from that amount are to be disregarded in the calculation of the person's unearned income.

(6) If the sum is not held in trust or has not been used to purchase an annuity or otherwise disposed of, but has been paid to the person within the past 12 months, that sum is to be disregarded in the calculation of the person's capital.

Special schemes for compensation etc.

76.—(1) This regulation applies where a person receives a payment from a scheme established or approved by the Secretary of State or from a trust established with funds provided by the Secretary of State for the purpose of—

(a) providing compensation in respect of—

(i) a person having been diagnosed with variant Creutzfeldt-Jacob disease or infected from contaminated blood products,

(ii) the bombings in London on 7th July 2005,

(iii) persons who have been interned or suffered forced labour, injury, property loss or loss of a child during the Second World War; or

(b) supporting persons with a disability to live independently in their accommodation.

(2) Any such payment, if it is capital, is to be disregarded in the calculation of the person's capital and, if it is income, is to be disregarded in the calculation of the person's income.

(3) In relation to a claim for universal credit made by the partner, parent, son or daughter of a diagnosed or infected person referred to in paragraph (1)(a)(i) a payment received from the scheme or trust, or from the diagnosed or infected person or from their estate is to be disregarded if it would be disregarded in relation to an award of state pension credit by virtue of paragraph 13 or 15 of Schedule 5 to the State Pension Credit Regulations 2002.

Company analogous to a partnership or one person business

77.—(1) Where a person stands in a position analogous to that of a sole owner or partner in relation to a company which is carrying on a trade or a property business, the person is to be treated, for the purposes of this Part, as the sole owner or partner.

(2) Where paragraph (1) applies, the person is to be treated, subject to paragraph (3)(a), as possessing an amount of capital equal to the value, or the person's share of the value, of the capital of the company and the value of the person's holding in the company is to be disregarded.

(3) Where paragraph (1) applies in relation to a company which is carrying on a trade—

- (a) any assets of the company that are used wholly and exclusively for the purposes of the trade are to be disregarded from the person's capital while they are engaged in activities in the course of that trade;
- (b) the income of the company or the person's share of that income is to be treated as the person's income and calculated in the manner set out in regulation 57 as if it were self-employed earnings; and
- (c) where the person's activities in the course of the trade are their main employment, the person is to be treated as if they were in gainful self-employment and, accordingly, regulation 62 (minimum income floor) applies in relation to any assessment period where the amount of the person's earned income is below the minimum income floor specified in paragraph (2) of that regulation.

(4) Any self-employed earnings which the person is treated as having by virtue of paragraph (3) (b) are in addition to any employed earnings the person receives as a director or employee of the company.

(5) This regulation does not apply where the person derives income from the company that is employed earnings by virtue of Chapter 8 (workers under arrangements made by intermediaries) or Chapter 9 (managed service companies) of Part 2 of ITEPA.

(6) In paragraph (1) "property business" has the meaning in section 204 of the Corporation Tax Act 2009⁽¹⁵⁾.

(15) 2009 c.4.