STATUTORY INSTRUMENTS

2018 No. 65

The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018

Amendments to the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015

7.—(1) The Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015 [M1] are amended as follows.

(2) In regulation 1 (citation and commencement), for "2nd April 2018" substitute " 11th April 2018 ".

(3) In regulation 2 (carry forward of surplus earnings), in paragraph (2), for regulation 54A of the Universal Credit Regulations 2013, as inserted by that paragraph, substitute—

"**Surplus earnings**

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

(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 [M2];

U is unearned income [M3];

WA is the work allowance [M4]; and

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

(4) In regulation 3 (self-employed earnings – treatment of losses)—

(a) in paragraph (2), in the wording substituted for paragraph (2) of regulation 57 of the Universal Credit Regulations 2013 [M5], in Step 3 for the words "in respect of", where they first appear, to the end of paragraph (b) substitute " by way of national insurance contributions or income tax in respect of any trade, profession or vocation carried on by the person ";

(b) in regulation 57A (unused losses), as inserted by paragraph (4)—

(i) in paragraph (1)(a) omit "11";

(ii) in paragraph (3), for the text from "treat" to the end substitute—

"treat—

(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 4 (saving), in paragraph (4)—

(a) omit "by regulation 2(2)";

(b) for "6th April 2016" substitute " 11th April 2018 ";

(c) for "ended" substitute " began ".

(6) After regulation 4 insert—

"**Transitional provision – temporary de minimis period**

5.—(1) For the purposes of applying regulation 54A (surplus earnings) of the Universal Credit Regulations 2013 in relation to a claim for universal credit made in respect of a period that begins before the end of the temporary de minimis period, the meaning of "relevant threshold" in paragraph (6) of that regulation is modified by substituting "£2,500" for "£300".

(2) For the purposes of paragraph (1), the "temporary de minimis period" is the period beginning with the coming into force of regulation 54A and ending on 31st March 2019, but may be extended by the Secretary of State if the Secretary of State considers it necessary to do so to safeguard the efficient administration of universal credit.".

Marginal Citations

M1 S.I. 2015/345, amended by S.I. 2015/1754, 2016/215 and 2017/197. S.I. 2015/345 now comes into force on 11th April 2018 in accordance with regulation 7(2) of these Regulations. The amendments made by S.I. 2015/345 are subject to savings in regulation 4 of that instrument.

M2 The maximum amount of an award of universal credit is determined by section 8(2) of the Welfare Reform Act 2012.

M3 For the meaning of "unearned income" see Chapter 3 of Part 6 of S.I. 2013/376.

M4 See regulation 22 of S.I. 2013/376.

M5 Regulation 57(2) is substituted for digital service cases only (see saving in regulation 4 of S.I. 2015/345). See also regulation 3(8) of these Regulations.

Changes to legislation:
There are currently no known outstanding effects for the The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018, Section 7.