
STATUTORY INSTRUMENTS

2020 No. 1138

**The Universal Credit (Earned Income)
Amendment Regulations 2020**

Substitution of regulation 61 of the Universal Credit Regulation 2013

2. For regulation 61 (Information for calculating earned income – real time information etc.) of the Universal Credit Regulations 2013(1) substitute—

“Information for calculating earned income – real time information etc.

61.—(1) Unless paragraph (2) applies, a person must provide such information for the purposes of calculating their earned income at such times as the Secretary of State may require.

Real time information

(2) Where a person is, or has been, engaged in an employment in respect of which their employer is a Real Time Information employer—

- (a) the amount of the person’s employed earnings from that employment in respect of each assessment period is to be based on the information reported to HMRC under the PAYE Regulations and received by the Secretary of State from HMRC in that assessment period(2); and
- (b) in respect of an assessment period in which no information is received from HMRC, the amount of employed earnings in relation to that employment is to be taken to be nil.

Exceptions to use of Real Time Information

(3) Paragraph (2) does not apply where—

- (a) in relation to a particular employment the Secretary of State considers that the employer is unlikely to report information to HMRC in a sufficiently accurate or timely manner;
- (b) it appears to the Secretary of State that the amount of a payment reported to HMRC is incorrect, or fails to reflect the definition of employed earnings in regulation 55 (employed earnings), in some material respect; or
- (c) no information is received from HMRC in an assessment period and the Secretary of State considers that this is likely to be because of a failure to report information

(1) [S.I. 2013/376](#). Regulation 61 was substituted by [S.I. 2014/2888](#).

(2) See also regulation 41(1) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decision and Appeals) Regulations 2013 ([S.I. 2013/381](#)), which provides that an alteration in the amount of a person’s employed earnings which is based on information from HMRC, is an alteration prescribed for the purposes of section 159D(1)(b)(vi) of the Social Security Administration Act 1992. The effect of this is that the award may be adjusted without a decision of the Secretary of State (subject to the person having the right to request such a decision where they dispute the information provided by HMRC).

(which includes the failure of a computer system operated by HMRC, the employer or any other person).

(4) Where paragraph (2) does not apply by virtue of any of the exceptions in paragraph (3) the Secretary of State must determine the amount of employed earnings for the assessment period in question (or, where the exception in paragraph (3)(a) applies, for each assessment period in which the person is engaged in that employment) in accordance with regulation 55 (employed earnings) using such information or evidence as the Secretary of State thinks fit.

Reallocation of reported payments

(5) Where it appears to the Secretary of State that a payment of employed earnings has been reported late, or otherwise reported in the wrong assessment period, the Secretary of State may determine that the payment is to be treated as employed earnings in the assessment period in which it was received.

(6) Where a person is engaged in an employment where they are paid on a regular monthly basis and more than one payment in relation to that employment is reported in the same assessment period, the Secretary of State may, for the purposes of maintaining a regular pattern, determine that one of those payments is to be treated as employed earnings in respect of a different assessment period.

Consequential adjustments

(7) Where the Secretary of State makes a determination under any of paragraphs (4) to (6), the Secretary of State may make such other adjustments to the calculation of the person's employed earnings as may be necessary to avoid duplication or to maintain a regular payment pattern.

(8) In this regulation "Real Time Information Employer" has the meaning in regulation 2A(1) of the PAYE Regulations(3).".