
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 6

CALCULATION OF CAPITAL AND INCOME

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⁽¹⁾ (overlapping benefits)—
 - (i) jobseeker's allowance,
 - (ii) employment and support allowance,
 - (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;

⁽¹⁾ 1992 c.5.

- (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⁽²⁾ 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⁽³⁾ (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.

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⁽⁴⁾ as extended by regulation 16 of the State Pension Credit Regulations 2002⁽⁵⁾.

(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;

(2) 1983 c.44.
 (3) 2005 c. 5.
 (4) 2002 c.16.
 (5) S.I. 2002/1972.

- (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⁽⁶⁾, section 73 of the Education (Scotland) Act 1980⁽⁷⁾ or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998⁽⁸⁾ and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulation 2007⁽⁹⁾.

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

⁽⁶⁾ 1998 c.30.

⁽⁷⁾ 1980 c.44.

⁽⁸⁾ S.I. 1998/1760 (N.I. 14).

⁽⁹⁾ S.S.I. 2007/153.

- (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
- (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(10) in which a person is treated as receiving retirement pension income for the purposes of state pension credit.

Draft Legislation: This is a draft item of legislation. This draft has since been made
as a UK Statutory Instrument: The Universal Credit Regulations 2013 No. 376
