

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (ADMINISTRATIVE EARNINGS THRESHOLD)
(AMENDMENT) (NO. 2) REGULATIONS 2024

2024 No. 536

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Jo Churchill, Minister for Employment at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Natalie Keogh, Deputy Director for Employment Policy, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Joshua Corcoran at the Department for Work and Pensions Telephone: 0300 079 0334 or email: joshua.corcoran@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument increases the Administrative Earnings Threshold (AET) to a sum equivalent to an individual claimant working 18 hours per week at National Living Wage (NLW) and, additionally where a claim is made by a couple, a sum equivalent to the couple working a combined total of 29 hours per week at NLW. This is equivalent to £892 Per Calendar Month (PCM) for an individual and £1437 PCM between a couple at 2024/2025 NLW rates. This instrument is effective from 13 May 2024.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is Great Britain.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

- 5.1 Universal Credit provides a single system of means-tested support for working-age people who are in or out of work. It is usually paid in a single monthly sum to households. Support for housing costs, children and childcare costs may be included in the payment. It also provides support for disabled people and carers. All elements are applied for through a single claims process.
- 5.2 Universal Credit supports people who are on a low income or out of work. It helps to ensure they are better off in work and are also better off when their earnings increase. It provides claimants with the support they need to prepare for work, to move into work, or to earn more if already in work. In return claimants need to accept a Claimant Commitment following a meeting with their Work Coach. The Claimant Commitment sets out what the claimant has agreed to do to prepare for and to look for work, or to increase their earnings based on their personal circumstances.
- 5.3 Universal Credit improves work incentives by introducing a smoother, more transparent reduction of benefits at a consistent and predictable rate when people move into work and increase their earnings. A single taper of 55% is applied as earnings rise, meaning that for every pound earned above the work allowance, the Universal Credit received will reduce by 55 pence.
- 5.4 Some claimants will also receive a work allowance depending on their circumstances. That means they may be able to receive some earnings before the Universal Credit payment starts to be affected.
- 5.5 The intention behind the taper and work allowance is to ensure that claimants are always better off in work and are also better off the more they earn.
- 5.6 Monthly payments of Universal Credit are paid into a claimant's bank account. A monthly payment matches the way salaries are paid and helps claimants prepare for the world of work and monthly budgeting.

Conditionality

- 5.7 Universal Credit claimants who are able to work are required to agree certain activities which increase their chances of obtaining paid work (or more or better-paid work). They may also have to undertake work preparation activity such as training and meet regularly with their Work Coach.
- 5.8 The Universal Credit Regulations 2013¹ provide that work search and work availability requirements must be suspended in certain circumstances, this includes an exemption where a claimant is working and earning over a specified amount. This amount is known as the Administrative Earnings Threshold (AET). Where a claimant has earnings equal to or above the AET, work search and work availability requirements must not be imposed. Claimants in this category may, however, be required to undertake work preparation activity and attend work-focussed interview with their Work Coach.
- 5.9 The AET is a fixed earnings threshold, based on National Living Wage (NLW) rates². When NLW increases (i.e., as part of annual uprating), the AET also rises.

¹ <https://www.legislation.gov.uk/uksi/2013/376/contents>

² <https://www.gov.uk/national-minimum-wage-rates>

- 5.10 The AET is not the only threshold that determines the level of activity a claimant must undertake as a condition for receiving Universal Credit.
- 5.11 In contrast to the AET, the Conditionality Earnings Threshold (CET) is a flexible threshold. It is calculated using the number of hours a claimant is expected to be available for work each week, and is multiplied by the National Minimum Wage (NMW) or NLW rate that applies to them. That figure provides the CET for each claimant. In addition, there is also a couple's CET, where the earnings of both partners will be combined. Claimants earning at or above the Conditionality Earnings Threshold (CET), or in a couple whose combined earnings meet or exceed the couple's combined CET are considered to be working enough and are not subject to any work-related requirements.
- 5.12 The number of hours a claimant is expected to be available for work, where appropriate, will be tailored to individual circumstances, taking into consideration any restrictions such as health conditions and caring responsibilities. Depending on individual circumstances a claimant could be required to spend anything up to 35 hours per week on work-related activities. Claimants are not expected to spend more hours looking for work than they would spend in work.
- 5.13 Both the CET and Administrative Earnings Threshold (AET) are used to determine how much activity a claimant must undertake as a condition of receiving Universal Credit. For administrative purposes these levels of activity are set out in regimes.
- 5.14 For couples, there are Household and Individual earnings thresholds. For both the CET and AET, the earnings of both partners will be combined, and the thresholds will be used to assess regime allocation. This means that the earnings of one partner can affect the regime allocation of the other.
- 5.15 For claimants who are expected to work, the level of activity a claimant must agree to undertake will depend on whether their earnings are above or below the relevant thresholds.
- 5.16 Where earnings are below the AET, claimants are allocated to the Intensive Work Search regime. That means they will be subject to all work-related requirements, such as attending meetings with Work Coaches, engaging in work preparation activities, and applying for available jobs.
- 5.17 Those claimants who have earnings at or above the AET level will be placed in the Light Touch regime, and not have work search and availability requirements imposed on them. Whilst claimants in the Light Touch group are expected to take action to increase their work and earnings, a lighter touch approach is applied in accordance with the Universal Credit Regulations 2013. These claimants will not be expected to routinely attend Work Coach interviews. If claimants in the Light Touch group wish to receive additional support, they have access to a voluntary offer that will provide this support.

What is changing?

- 5.18 From 30 January 2023 the AET was set to a sum equivalent to an individual claimant working 15 hours per week at National Living Wage (NLW) and, additionally where a claim is made by a couple, a sum equivalent to the couple working a combined total of 24 hours per week at NLW. This was equivalent to £677 Per Calendar Month (PCM) for an individual and £1083 PCM between a couple at 2023/2024 NLW rates.
- 5.19 This Statutory Instrument increases the Universal Credit AET to a sum equivalent to a level of an individual claimant working 18 hours per week at NLW and, additionally

where a claim is made by a couple, a sum equivalent to the couple working a combined total of 29 hours per week at NLW. This is equivalent to £892 PCM for an individual and £1437 between a couple at 2024/2025 NLW rates. This instrument is effective from 13 May 2024.

- 5.20 Departmental analysts have estimated that this change to the AET will bring over 180,000 additional claimants into the Intensive Work Search regime. These forecasts are based on Spring departmental forecasts built on Universal Credit Management Information, including earnings data.

Why is this change being made?

- 5.21 The design of the Administrative Earnings Threshold (AET) reflects the fact that Universal Credit is designed around earnings rather than hours worked, which aligns with the policy intent of providing all claimants earning less than the AET with regular Work Coach appointments providing tailored support.
- 5.22 The policy rationale for increasing the AET is to help low paid Universal Credit claimants to increase their income by extending intensive Work Coach support to more Universal Credit claimants on low incomes. This policy contributes to the Department’s priority outcome to “maximise employment and in-work progression”³.
- 5.23 This increase to the AET builds on the increase in January 2023 and is intended to further increase the number of claimants who receive intensive Work Coach support to help them earn more. The Department is committed to ensuring that people in work look for more and better work. This is beneficial as it will reduce spending on benefits, and can also help individuals as they become more independent moving off benefits, helping to build confidence through increased social interactions at work, to gain new skills, improve mental and physical health, as well as life prospects.
- 5.24 The decision to increase the AET for a third time was announced as part of the Spring Budget 2023⁴. Evaluation of the previous increases to the AET, which came into force on 26 September 2022 and 30 January 2023 respectively, are currently ongoing. The Department for Work and Pensions also plans to evaluate the effects of the 13 May 2024 increase to the AET, using a range of quantitative and qualitative methods. This evaluation will help to further build the Department’s understanding of how Work Coach support can help claimants to find more or better-paid work.
- 5.25 From 1 April 2024, workers aged 21 and over were entitled to the National Living Wage (NLW), meaning they now need to work the same number of hours at NLW as workers aged 23 and over, which previously was not the case. As young people aged between 18 and 20 will not be entitled to the NLW, these workers may have to work more hours to reach the AET.
- 5.26 Whilst the AET is calculated by multiplying the NLW rate by a number of hours, it does not necessarily require claimants to work more hours. Claimants (either as an individual or as part of a couple) may meet or exceed the AET by increasing their hourly rate of pay, for example by taking on additional responsibilities or switching to a better paid job. This highlights that the Department’s approach to in-work progression is not necessarily about asking claimants to increase their hours; it is about finding ways for claimants to increase their earnings. The Department has expressed the AET by reference to the number of hours worked at NLW to allow for

³ <https://www.gov.uk/government/publications/dwp-annual-report-and-accounts-2022-to-2023/dwp-annual-report-and-accounts-2022-to-2023#sustainability-report>

⁴ https://assets.publishing.service.gov.uk/media/6419c8dde90e0769ea4a4eb6/Print_Budget_2023.pdf

uprating of the AET in line with increases to NLW and to help claimants understand how much they may need to earn to reduce their work-related requirements.

- 5.27 Claimants who are affected by this change will be contacted by their Work Coach through their Universal Credit online account's journal feature. They will also receive an email or text notification. A Claimant Commitment Review interview will be booked which they must attend. If a claimant fails to attend this interview without a good reason, their claim may be subject to a sanction. A sanction will not be applied where a claimant has a good reason for failing to attend the interview, for example if they do not attend because they are at work. At the Claimant Commitment Review claimants must agree the steps they will undertake to seek more, or better paid work.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Regulation 99 of the Universal Credit Regulations 2013 (S.I. 2013/376) sets out the circumstances in which work search and work availability requirements may not be imposed on Universal Credit claimants. Paragraph (6) of Regulation 99 provides that Universal Credit requirements may not be imposed when a person has a certain level of earnings, this is known as the Administrative Earnings Threshold (AET).
- 6.2 From 30 January 2023 the Administrative Earnings Threshold (AET) was set to a sum equivalent to an individual claimant working 15 hours per week at National Living Wage (NLW) and, additionally where a claim is made by a couple, a sum equivalent to the couple working a combined total of 24 hours per week at NLW. This was equivalent to £677 Per Calendar Month (PCM) for an individual and £1083 PCM between a couple at 2023/2024 NLW rates. This legislation increases the AET as of 13 May 2024 to a sum equivalent to an individual claimant working 18 hours per week at NLW and, additionally, where a claim is made by a couple, a sum equivalent to the couple working a combined total of 29 hours per week at NLW. This is equivalent to £892 PCM for an individual and £1437 PCM between a couple at 2024/2025 NLW rates.

Why was this approach taken to change the law?

- 6.3 Section 22 of the Welfare Reform Act 2012 creates an obligation on the Secretary of State to impose a work search requirement and a work availability requirement. The provision also provides a legislative mechanism to create exemptions to that obligation. The AET is an exemption to this obligation.
- 6.4 Raising the threshold further than 15-hours reframes the social contract between claimants and the Department to better balance the responsibilities that are asked of claimants in return for their benefits. More low-paid Universal Credit claimants, as well as those who are under-employed and non-working partners, will receive support to increase their earnings.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 The Department presented the draft Regulations to the Social Security Advisory Committee (SSAC) on 8 November 2023. Under the powers conferred by Section 172(1) of the Social Security Administration Act 1992⁵, SSAC have taken these

⁵ <https://www.legislation.gov.uk/ukgpa/1992/5/contents/enacted>

regulations on formal reference. SSAC visited jobcentres and held virtual round table events with stakeholders to determine the impacts of the previous change. The committee concluded this process on 8 March 2024 and have written to Secretary of State with recommendations. An Unnumbered Act Paper has been laid before Parliament at the same time as these regulations responding to SSAC's recommendations. This will be published on GOV.UK⁶.

8. Applicable Guidance

- 8.1 No new guidance will be published externally as this is an extension of an existing regime on the Universal Credit. Guidance for Work Coaches on how to implement the rise in the AET will be issued internally.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because this Statutory Instrument (SI) relates to an existing threshold within Universal Credit, and the change has limited or no significant impact on businesses, charities, or voluntary bodies.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no significant, impact on business, charities or voluntary bodies.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 The measure has an impact on the Department, which was announced and funded at Spring Budget 2023, with estimated Departmental Expenditure Limits costs of approximately £45 million in 2023/2024, £55 million in 2024/2025, £60 million in 2025/2026, £55 million in 2026/2027 and £45 million in 2027/2028.
- 9.5 There is no significant impact on the wider public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 In addition to the change to the AET, these regulations will also revoke SI 2024/529 The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2024 (that instrument was made on 12 April 2024, laid on 19 April 2024 and would have come into force on 6 May 2024). The laying of those regulations was delayed due to unfolding events in the Middle East that took place ahead of laying that instrument (SI 2024/529). That meant the scheduled announcement to introduce this change had to be delayed. This instrument now revokes SI 2024/529 and replaces it, with the amendments being limited to the coming into force date (changed to 13 May 2024), which allows the observance of the 21-day rule for scrutiny of the regulations ahead of their coming into force and revokes instrument SI 2024/529, in advance of it

⁶ <https://www.gov.uk/government/organisations/social-security-advisory-committee>

coming into force. This replacement will be issued free of charge to all known recipients of the SI 2024/529.

12. European Convention on Human Rights

- 12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).