Chapter H3: Earned income - employed earnings

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Legislation Used in Chapter H3

Abbreviation	Full Title
WR (NI) Order 15	Welfare Reform (Northern Ireland) Order 2015 No. 2006
	Income Tax (Earnings and Pensions) Act 2003
ER (NI) Order 1996	Employment Rights (Northern Ireland) Order 1996 No. 1919
E&T Act (NI) 50	Employment and Training Act (Northern Ireland) 1950
Finance Act 2004	Finance Act 2004
Trade Union and Labour Relations (NI) Order 1995	Trade Union and Labour Relations (Northern Ireland) Order 1995 No. 1980
UC Regs (NI) 16	The Universal Credit Regulations (Northern Ireland) 2016 No. 216
PBL (No. 2) Regs (NI) 23	The Parental Bereavement Leave (No. 2) Regulations (Northern Ireland) 2023 No. 156

Chapter H3: Earned income - employed earnings

Introduction

H3001 In Universal Credit employed earnings fall within the general meaning of earned income. Self-employed earnings also fall within the meaning of earned income. Guidance on self-employed earnings is in ADM Chapter H4. Unless otherwise stated, the guidance in this chapter applies to claimants whose earnings are reported via Real Time Interface and those claimants, whether in Real Time Interface or not, who self-report their employed earnings.

H3002 ADM Chapter E2 provides guidance on how earned income affects an award of Universal Credit.

Meaning of claimant

H3003 Claimant means[1] either

1. a single claimant for Universal Credit **or**

2. each of joint claimants for Universal Credit.

1 WR (NI) Order 15, art 46

Meaning of earned income

H3004 Earned income means[1]

1. the remuneration or profits derived from

1.1 employment under a contract of service or in an office (including elective office) **or**

1.2 a trade, profession or vocation **or**

1.3 any other paid work **or**

2. any income treated as earned income for the purposes of Universal Credit.

Note: Paid work in **1.3** means[2] work done for payment or in expectation of payment. It does not include work performed for a charitable or voluntary organisation or as a volunteer where the only payment received in any of those cases is in respect of expenses.

1 UC Regs (NI) 16, reg 51; 2 reg 2

H3005 The words “derived from” mean having their origins in[1]. Payments for past and present employment should be treated as earnings unless specifically excluded. For the purposes of Universal Credit, Real Time Interface will provide up to three months historical data of earnings received before the date of claim. This historical data should not be treated as earnings.

1 R(SB) 21/86

H3006 Employment under a contract of service includes employees who work for a wage or salary. In most cases the existence of such a contract - which may be written, verbal or implied - will be clear.

H3007 The phrase “in an office” includes

1. directors of limited companies

2. clergy

3. local councillors

4. Members of Parliament

5. Members of the Northern Ireland Assembly

6. sub-postmasters and mistresses.

Note 1: ADM Chapter H4 for guidance on the treatment of earnings in cases where, in relation to a company, a person stands in a position analogous to a company director, sole owner or partner.

Note 2: For **3.** Local councillors’ allowances are sometimes called “expenses”. Unless the payment meets the criteria in H3140 - H3144, it is taken into account as employed earnings.

Example 1

Cecille is a director of a limited company called “Office Kleanerz”. She is one of a number of directors who run the company. Cecille’s earnings from the company in her role as one of the directors are earned income.

Example 2

Sam is the elected Mayor of the town where he lives. In this role, Sam receives an allowance for attending council meetings and performing other tasks in his role as Mayor. Sam’s receipts are earned income.

H3008 ADM Chapter H4 provides guidance on earned income from self-employment and covers earnings derived from a trade, profession or vocation.

H3009

The general principles of earned income

Actual amounts

H3010 Calculating a person's earned income for Universal Credit in respect of an assessment period should be based on the **actual** amounts received in that period[1]. Any exceptions to this rule including the treatment of Surplus Earnings[2] in full service areas from 8.5.18 are provided in this guidance.

1 UC Regs (NI) 16, reg 53(1); 2 reg 54A

Note: The "take home pay" of a claimant may not always be the same amount reported by His Majesty's Customs and Revenue through Real Time Interface and used in the calculation of Universal Credit. See Example 3 below and H3190 for more information.

Example 1

Alice is in receipt of Universal Credit. She works at a school as a classroom assistant. Her pay for the month of May was £350. She is in dispute with her employer because she thinks that she should have been paid more due to some extra work that she agreed to do. For the purposes of Universal Credit, Alice's earned income is based on the actual amount received in May: £350.

Example 2

Ryan is in receipt of Universal Credit. He works as a receptionist at a hotel. His pay for the month of May was £350. Ryan thinks that his employer has overpaid him because he worked fewer shifts in May than normal. For the purposes of Universal Credit, Ryan's earned income is based on the actual amount received in May: £350.

Example 3

Gennady is in receipt of Universal Credit. He works as a packer in a warehouse. His pay for the month of May was £350. However, Gennady's employer deducted £350 from his pay to cover the costs of repairs to a roller shutter door he has damaged, for which he was subsequently dismissed. For the purpose of Universal Credit, His Majesty's Revenue and Customs report that Gennady's pay for May is £350 - the amount recovered by his employer for damage to company property is a non-allowable deduction for Universal Credit purposes.

Deciding entitlement before the end of the first assessment period

H3011 Where

1. the decision maker is determining whether the claimant is entitled to Universal Credit on income grounds **and**

2. that determination is before the end of the first assessment period for that claim to Universal Credit

then the amount of earnings used to determine whether the financial conditions for Universal Credit are met may be based on an estimate of the amount received or to be received[1].

1 UC Regs (NI) 16, reg 53(2)(a)

Example

Roy has claimed Universal Credit and works for a supermarket. The decision maker is determining whether or not Roy will be entitled to Universal Credit but has not got the actual information regarding Roy's earnings because Roy has not yet been paid for this particular month. The decision maker is informed by Roy that he expects to be paid £260 per month. This figure looks reasonable with regard to the number of hours that Roy works. The decision maker uses this estimate of Roy's earnings to decide whether or not Roy will be entitled to Universal Credit.

H3012

Failure to report earnings

H3013 Where

1. the claimant has failed to report their earned income in relation to an assessment period **and**

2. the decision maker makes a determination as to the amount of earned income in that assessment period

then the amount of earnings for that assessment period may be based on an estimate of the amount received or to be received[1].

1 UC Regs (NI) 16, reg 53(2)(b)

Example

Georgia works as a catering assistant. She normally reports earned income for £320 for each assessment period. In October, despite working, she fails to report her earnings. The decision maker decides to use £320 as an estimate of the amount that Georgia will have received. This is based on what she normally receives.

H3014 – H3019

Employed earnings [See ADM Memo 10/20]

H3020 Income from employment

1. under a contract of service **or**

2. in an office (including elective office)

is known as employed earnings[1].

1 UC Regs (NI) 16, reg 55(1)

Example 1

Ross is a cricket coach. He coaches children of all ages at various locations and has an employment contract with a company specialising in coaching sports run by his friend. The money that Ross earns under the terms of that contract is employed earnings.

Example 2

Chris is a civil servant and works in an administrative post for a Government Department. The money that Chris earns from this job is employed earnings.

Example 3

Graham has a market stall buying and selling compact discs and digital versatile discs. He works for himself. Graham's income from the market stall is not employed earnings (ADM Chapter H4 provides guidance on self-employed earnings).

Types of earnings

H3021 Employed earnings[1] in relation to an employment includes any

1. salary

2. wages **or**

3. fee.

Note: In tax legislation these earnings are known as "general earnings"[2].

1 UC Regs (NI) 16, reg 55(2); 2 Income Tax (Earnings and Pensions) Act 2003, s 7(3)

H3022 An actual repayment to the claimant of

1. income tax **or**

2. National Insurance contributions

by His Majesty's Revenue and Customs in respect of a tax year in which a person was in paid work is treated as employed earnings[1]. Where the paid work was from carrying on a trade, profession or vocation then the repayment is treated as self-employed earnings[2] (see ADM H4131).

Note 1: Repayments of income tax may include tax relating to other sources such as unearned income. As long as the claimant was in paid work in the tax year the repayment relates to, then the whole repayment is treated as earnings.

Note 2: There is no requirement for the claimant to report changes that take place in relation to their tax code or variations in their tax reported via Real Time Interface.

1 UC Regs (NI) 16, reg 55(5); 2 reg 57(1)

Example

Ellie receives a cheque from His Majesty's Revenue and Customs for £200. This relates to an overpayment of £600 income tax made in the tax year 15/16 (in which Ellie was in paid work) and an underpayment of £400 in income tax relating to the tax year 16/17. The amount that Ellie should declare as employed earnings is £200 as this is the repayment she received, not £600 which relates to the refund due in one of those years.

H3023 Employed earnings also include certain payments which His Majesty's Revenue and Customs treat as earnings[1]. These are payments to

1. agency workers[2] **and**

2. workers under arrangements made by intermediaries[3] **and**

3. workers by a managed service company[4].

1 Income Tax (Earnings and Pensions) Act 2003, s 7(3)(b); 2 Part 2, Chapter 7; 3 Part 2, Chapter 8; 4 Part 2, Chapter 9

H3024 Ordinarily, it will be straightforward as to when a claimant is in receipt of employed earnings. Where a claimant's income is subject to Pay As You Earn and is paid via their employer's payroll, the Real Time Interface feed from His Majesty's Revenue and Customs will recognise those earnings. The claimant's award of Universal Credit will then be adjusted to take them into account.

H3025 There may be cases where it is less clear as to whether the claimant is in receipt of employed earnings. The general rule is that any amount which His Majesty's Revenue and Customs recognises as being "general earnings" is also earnings for the purposes of Universal Credit.

H3026 Even though a claimant may regard themselves as being self-employed, if the earnings fall within the meaning of employed earnings then they have to be taken into

account as such. The earnings information may not be provided through Real Time Interface so the claimant will need to self report their earnings.

Payments to agency workers

H3027 In some situations a worker provides services to an "employer" through a third party in such a way that, technically, the worker is not an employee of either the "employer" or the third party. The third party will often be an employment agency but this can apply to any worker whose income derives from a contract with any third party for their services[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 44

H3028 The services provided by the worker are, for income tax purposes, treated as if they were the duties of an employment held by the worker. The remuneration received is treated as earnings and is therefore chargeable to tax as employment income[1]. For Universal Credit purposes these payments have to be treated as the claimant's earnings[2].

1 Income Tax (Earnings and Pensions) Act 2003, s 45; 2 UC Regs (NI) 16, reg 55(2)

H3029 ADM Chapter H4 for guidance on the treatment of earnings in cases where, in relation to a company, a person stands in a position analogous to a sole owner or partner.

Payments to workers under arrangements made by intermediaries

H3030 Arrangements made by intermediaries are where a worker personally performs, or is under an obligation personally to perform, services for the purposes of a business carried on by another person ("the client"). However, the services are provided not under a contract directly between the worker and the client but under arrangements involving a third party or intermediary[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 49

H3031 This may arise in cases where if the services were provided under a contract directly between the client and the worker, the worker could be regarded for income tax purposes as an employee of the client. The remuneration received either directly or indirectly by the worker from the third party is regarded as earnings[1]. For Universal Credit purposes these payments have to be treated as the claimant's earnings[2].

1 Income Tax (Earnings and Pensions) Act 2003, s 50; 2 UC Regs (NI) 16, reg 55(2)

H3032 – H3035

Managed service companies

H3036 A managed service company is a form of intermediary company through which workers provide their services to clients. All payments received by individuals providing their services through managed service companies are subject to tax as earnings from employment[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 58

H3037 For Universal Credit purposes, the income received by the worker has to be treated as earnings[1].

1 UC Regs (NI) 16, reg 55(2)

H3038 – H3057

Certain payments treated as earnings

H3058 Payments made by an employer to a person in respect of

1. an absence due to sickness or disability (for example, employer's sick pay)

2. tax where a deduction is not possible

3. a director's earnings but the tax due has not been deducted

4. contributions to a non-approved personal pension arrangement (it is for His Majesty's Revenue and Customs to grant approval to a pension scheme)

5. restrictive undertakings (for example, where an employee agrees not to work for a competitor or agrees to confidentiality)

fall to be treated as earnings[1].

Note: For **3.** ADM Chapter H4 provides guidance on the treatment of earnings in cases where, in relation to a company, a person stands in a position analogous to a company director, sole owner or partner.

1 UC Regs (NI) 16, reg 55(2); Income Tax (Earnings and Pensions) Act 2003, Part 3, Chapter 12

Benefits treated as earnings

H3059 Payments which have to be treated as employed earnings are

1. statutory sick pay[1]

2. statutory maternity pay[2]

3. statutory paternity pay[3]

4. statutory adoption pay[4]

5. statutory shared parental pay[5]

6. parental bereavement pay[6].

1 UC Regs (NI) 16, reg 55(4)(a); 2 reg 55(4)(b); 3 reg 55(4)(c); 4 reg 55(4)(d); 5 reg 55(4)(e); 6 reg 55(4)(f)

H3060 – H3069

Statutory sick pay

H3070 Statutory sick pay is payable by employers to employees as part of, or instead of, normal wages for up to 28 weeks in any period of sickness. The decision maker should take any payment of Statutory Sick Pay[1] into account as earnings.

1 UC Regs (NI) 16, reg 55(4)(a)

Statutory maternity pay

H3071 Statutory maternity pay is payable by employers to female employees as part of, or instead of, normal earnings when they have given up work to have a baby. The decision maker should take any payment of Statutory Maternity Pay[1] into account as earnings.

1 UC Regs (NI) 16, reg 55(4)(b)

Statutory paternity pay

H3072 Ordinary statutory paternity pay has to be taken into account as earnings[1]. Ordinary paternity leave is a period of absence from work on leave following the birth or adoption of a child under relevant legislation[2]. It is available to employed parents who

1. have or expect to have parental responsibility for a new child **and**

2. are the

2.1 biological father of the child **or**

2.2 mother's husband or partner **or**

2.3 child's adopter **or**

2.4 husband or partner of the adopter **and**

3. have completed at least 26 weeks continuous service with their employer up to and including the 15th week before the baby is due **and**

4. have told their employer of their intention to take leave by the end of the 15th week before the expected week of the child's birth.

1 UC Regs (NI) 16, reg 55(4)(c); 2 ER (NI) Order 1996, art 112A & 112B

H3073 – H3074

Statutory adoption pay

H3075 Employees who adopt a child under the age of 18 have the right to 26 weeks adoption leave. Statutory adoption pay is payable to adopters during their ordinary adoption leave where they have average weekly earnings at least equal to the lower earnings limit. The decision maker should take any payment of statutory adoption pay[1] into account as earnings.

1 UC Regs (NI) 16, reg 55(4)(d)

Statutory shared parental pay

H3076 Employees and workers may be entitled to shared parental leave and shared parental pay in respect of babies born or adopted on or after 5.4.15. The decision maker should take any payment of statutory shared parental pay[1] into account as earnings.

1 UC Regs (NI) 16, reg 55(4)(e)

Statutory parental bereavement pay

H3077 If a child dies on or after 6.4.22, bereaved parents who are employees may take up to 2 weeks' leave (parental bereavement leave) from their job in the 56 weeks following the death of the child[1]. If more than one child dies, the employee is entitled to parental bereavement leave in respect of each child[2]. Bereaved parents may also be entitled to parental bereavement pay. The decision maker should take any payment of parental bereavement pay into account as earnings[3].

1 PBL (No. 2) Regs (NI) 23, reg 5(4); 2 reg 4(10); 3 UC Regs (NI) 16, reg 55(4)(f)

H3078 – H3079

Amounts excluded from being employed earnings

H3080 Generally, employed earnings include any amounts that His Majesty's Revenue and Customs regard as general earnings but certain amounts are excluded. These amounts are certain amounts that His Majesty's Revenue and Customs treat as earnings and certain amounts that are exempt from income tax[1].

1 UC Regs (NI) 16, reg 55(2)(a) & (b)

Benefits in kind

H3081 Employed earnings will **not** initially include certain amounts which His Majesty's Revenue and Customs treat as earnings and are known as benefits in kind[1]. These are

1. certain expenses payments

2. cash vouchers and credit tokens

3. living accommodation provided to an employee or a member of their family or household

4. cars, vans and related benefits

5. employment-related loans

6. notional loans in respect of the acquisition of shares

7. disposals of shares for more than the market value

8. employment-related benefits.

H3082 - H3107 describe these amounts.

1 UC Regs (NI) 16, reg 55(2)(a); Income Tax (Earnings and Pensions) Act 2003, Part 3, Chapters 2 to 11

Taxable expenses

H3082 These are expenses paid by an employer to the employee in respect of expenses incurred by reason of the employment[1]. For example, a mileage allowance paid to an employee who has used their own car for business.

1 Income Tax (Earnings and Pensions) Act 2003, s 70

Cash vouchers

H3083 A cash voucher means a voucher, stamp or similar document capable of being exchanged for a sum of money which is

1. greater than

2. equal to **or**

3. not substantially less than

the expense incurred by the person at whose cost the voucher, stamp or similar document is provided[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 75

Non-cash vouchers

H3084 A non-cash voucher means a

1. voucher, stamp or similar document or token which is capable of being exchanged for money, goods or services **or**

2. transport voucher **or**

3. cheque voucher

but does not include a cash voucher[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 84

Credit tokens

H3085 A credit-token is something that merely has to be produced in order to obtain goods and services without immediate payment[1]. These are largely credit cards made available for obtaining money, goods and services for private use.

1 Income Tax (Earnings and Pensions) Act 2003, s 92

H3086

Living accommodation

H3087 Living accommodation means[1] accommodation provided for

1. an employee **or**

2. a member of an employee's family or household

by reason of the employment.

1 Income Tax (Earnings and Pensions) Act 2003, s 97(1)

H3088 However, it does not include accommodation where the

1. employer is an individual **and**

2. provision of the accommodation is made in the normal course of the employer's domestic, family or personal relationships[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 97(2)

Vehicles

H3089 It can be a benefit in kind where a car or a van is

1. made available (without any transfer of the property in it) to an employee or a member of the employee's family or household **and**

2. so made available by reason of the employment **and**

3. available for the employee's or member's private use[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 114

H3090 – H3099

Loans

H3100 These are loans or other forms of credit known as employment-related loans and which are made to an employee or a relative of an employee[1]. The types of arrangement covered are

1. a loan made by the employee's employer

2. a loan made by a company or partnership over which the employee's employer had control

3. a loan made by a company or partnership by which the employer (being a company or partnership) was controlled

4. a loan made by a company or partnership which was controlled by a person by whom the employer (being a company or partnership) was controlled.

5. a loan made by a person having a material interest in

5.1 a close company which was the employer, had control over the employer or was controlled by the employer **or**

5.2 a company or partnership controlling that close company.

1 Income Tax (Earnings and Pensions) Act 2003, s 174

Notional loans

H3101 Notional loans in respect of the acquisition of shares are where

1. shares in a company (either the employer or another company) are, or an interest in shares in a company is, acquired by an employee or a person connected with an employee **and**

2. the right or opportunity to acquire the shares or interest in shares was available by reason of the employment[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 192

H3102 Tax legislation provides that the employee is treated as having received an employment-related loan at the time of the acquisition if the shares were acquired at below the market value[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 193

Disposal of shares for more than the market value

H3103 An employee by reason of his employment may be able to acquire shares in the company for which he works or another company.

H3104 Where the employee disposes of the shares for a price which is in excess of the market value of the shares then the difference between the market value and the price sold is treated as earnings by His Majesty's Revenue and Customs[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 199

Employment-related benefits

H3105 Any benefit or facility of any kind provided to the claimant and which is related to the claimant's employment is recognised in the relevant tax legislation as an employment-related benefit. This also includes the claimant's family and household.

H3106 The definition of what is a benefit is very wide and includes everything that confers a special bounty of any description on the recipient. However, something (other than a loan where special provisions apply) which is a "fair bargain" between the employer and the employee is not a "benefit".

H3107 His Majesty's Revenue and Customs determine the cash equivalent by determining the cost of the benefit minus any part of that cost made good by the employee to the person(s) providing the benefit[1].

1 Income Tax (Earnings and Pensions) Act 2003, s 203(2)

Amounts exempt from taxation and are excluded from being earnings for Universal Credit

H3108 Particular payments which are exempt from taxation do not fall to be treated as earnings for Universal Credit[1]. These are

1. mileage allowances and passenger payments **(see note to H3110 for treatment of mileage allowance relief payments)**

2. transport, travel and subsistence

3. education and work-related training

4. recreational benefits

5. non-cash vouchers and credit-tokens

6. removal benefits and expenses

7. payments to certain kinds of employees

8. pension provision

9. termination of employment payments

10. other miscellaneous payments.

H3110 - H3120 describe these amounts.

1 UC Regs (NI) 16, reg 55(2)(b); Income Tax (Earnings and Pensions) Act 2003, Part 4

H3109

Mileage allowances and passenger payments

H3110 Approved mileage allowance payments paid to an employee in respect of business travel are exempt from taxation. Approved passenger payments are amounts paid to an employee because, while using a car or van for business travel, the employee carries in it one or more passengers who are also employees for whom the travel is business travel. Such payments are exempt from taxation[1].

Note: This does not include mileage allowance relief under section 232 of the Income Tax (Earnings and Pensions) Act 2023. Mileage allowance relief paid through the tax system is employed earnings.

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 2

Transport, travel and subsistence

H3111 No liability to taxation arises on transport, travel and subsistence[1]. This includes

1. workplace parking
2. modest private use of heavy goods vehicles
3. payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles
4. incidental overnight expenses and benefits
5. works transport services
6. support for public bus services
7. cycling equipment
8. travel and subsistence during public transport strikes
9. transport between work and home for disabled employees
10. provision of cars for disabled employees
11. transport home for late night working.

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 3

Education and work-related training

H3112 Training which enables an employee to carry out their job is exempt from taxation[1].

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 4

Recreational benefits

H3113 Benefits in the form of sporting facilities made available to employees but not to the general public are exempt from taxation[1].

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 5

H3114

Non-cash vouchers and credit tokens

H3115 Where a non-cash voucher or credit token is used by an employee to purchase an item which is exempt from taxation as employment income (for instance, workplace parking), then that voucher or token is also exempt[1].

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 6

Removal benefits and expenses

H3116 Where an employee moves residence in order to perform their employment and the employer provides help with removal benefits and expenses then these are exempt from taxation[1].

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 7

Payments to certain kinds of employees

H3117 The following[1] are exempt from taxation

1. accommodation benefits to ministers of religion

2. termination payments to Members of Parliament and others ceasing to hold office

3. overnight expenses of Members of Parliament and other elected representatives

4. European Union travel expenses of Members of Parliament and other representatives

5. transport and subsistence for Government Ministers

6. armed forces leave travel facilities

7. armed forces food, drink and mess allowances

8. reservists and auxiliary forces training allowances

9. crown employees foreign service allowances

10. the income of consuls, official agents and employees working in the United Kingdom

11. visiting forces and staff of designated allied headquarters

12. experts seconded to the European Commission

13. costs of transfer to the mainland for off-shore workers

14. allowances in lieu of coal.

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 8

Pension provision

H3118 No tax liability arises on payments made by an employer in respect of an employee's death or retirement[1].

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 9

Termination of employment payments

H3119 There is a limited tax liability for payments made by an employer in respect of redundancy[1]. A redundancy payment is excluded from the meaning of earnings for the purposes of Universal Credit and falls to be treated as capital in the assessment period in which it is received. ADM Chapter H1 provides guidance on capital.

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 10

Other miscellaneous payments

H3120 Other miscellaneous payments[1] which are exempt from taxation include

1. certain payments in respect of living accommodation

2. payments in respect of work accommodation and supplies

3. subsidised meals

4. childcare costs

5. telephone and computer equipment

6. awards and gifts from staff suggestion schemes and long service awards

7. overseas medical treatment

8. incidental expenses of employment-related transfer of business assets.

1 Income Tax (Earnings and Pensions) Act 2003, Part 4, Chapter 11

H3121 – H3129

Payments disregarded from employed earnings

H3130 When calculating employed earnings

1. certain expenses allowed as a taxable deduction by His Majesty's Revenue and Customs from earnings[1] **and**

2. expenses received from involvement in service user activity[2]

fall to be disregarded.

1 UC Regs (NI) 16, reg 55(3)(a); Income Tax (Earnings and Pensions) Act 2003, Part 5, Chapter 2;
2 UC Regs (NI) 16, reg 55(3)(b)

H3131 – H3139

Expenses allowed as a deduction by His Majesty's Revenue and Customs

H3140 Employed earnings do not include certain expenses allowed as a taxable deduction by His Majesty's Revenue and Customs[1]. These are expenses which the employee has met in connection with their employment.

1 UC Regs (NI) 16, reg 55(3)(a)

H3141 The general rule[1] that His Majesty's Revenue and Customs follow is that an expense can be allowed where the

1. employee is obliged to incur and pay it as holder of the employment **and**

2. amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

1 Income Tax (Earnings and Pensions) Act 2003, s 336

H3142 The expense must be incurred in direct connection with the employer's trade or business[1]. If there is some element of private use, for example telephone bills, that part of the bill for business use should be allowed. Any decision by His Majesty's Revenue and Customs on the apportionment of expenses may be taken into account as evidence. If there is no doubt, that decision can normally be followed[2].

1 Davies v. Gwaun Cae Gurwen Colliery (1924) 2K8 651; Borley v. Ockended (1925) 2K8 325;
2 R(IS) 16/93

H3143 Examples of expenses for which deductions may be made are

1. equipment, tools and stationery for work purposes

2. overalls and specialist work clothing

3. telephone calls made entirely for work purposes

4. travelling costs between different work places and any accommodation costs involved.

H3144 An expense that is in the employee's own interest or benefit, or which merely enables the employee to go to work, would not satisfy the test. Child minding expenses[1], and the cost of travel to a single place of work, are examples of expenses that would not satisfy the test.

1 R(FC) 1/90

H3145 His Majesty's Revenue and Customs specifically allow deductions from employment income for employee's expenses paid by the employee[1]. These include

1. travel expenses for necessary attendance and in the performance of duties

2. fees and subscriptions for professional bodies

3. employee liability and indemnity insurance

4. expenses of ministers of religion

5. limited agency fees paid by entertainers

6. certain earnings with a foreign element.

Business entertainment and gifts expenses do not generally qualify for a deduction from earnings[2].

1 Income Tax (Earnings and Pensions) Act 2003, Part 5, Chapter 2; 2 s 356

H3146 – H3159

Service users

H3160 Employed earnings do not include a payment of expenses made to a person who is involved in service user activity[1].

1 UC Regs (NI) 16, reg 55(3)(b)

Meaning of service user

H3161 A service user is[1]

1. a person who is being consulted by or on behalf of

1.1 a body which has a statutory duty to provide services in the field of

1.1.a health **or**

1.1.b social care **or**

1.1.c social housing **or**

1.2 a body which conducts research or undertakes monitoring for the purpose of planning or improving the services in **1.1**

in their capacity as a user, potential user, carer of a user or a person affected by those services **or**

2. a person who is being consulted by or on behalf of

2.1 the Department in relation to social security or child support functions under relevant legislation[2] **or**

2.2 a body which conducts research or monitoring in order to plan or improve the functions in **2.1**

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person

3. the carer of a person consulted under **1.** or **2.**.

1 UC Regs (NI) 16, reg 52(2); 2 E&T Act (NI) 50, sec 1

H3162 For the purposes of H3161, a service user is a person

1. who

1.1 has used **or**

1.2. is using **or**

1.3 may potentially use **or**

1.4. is otherwise affected by

the services referred to in **2. and**

2. where the services concerned are delivered by a body which has a statutory duty to provide services in the field of

2.1 health **or**

2.2 social care **or**

2.3 social housing **or**

2.4 social security **or**

2.5 child support **and**

3. who is consulted by the bodies in **2.** or by an alternative body (for example, educational establishments or voluntary and charitable organisations) who conduct

3.1 research **or**

3.2 monitoring **or**

3.3 planning

in order to improve services through user involvement.

H3163 With regards to H3161, service users may also be described as

1. experts-by-opinion or

2. patients or

3. potential patients or

4. clients or

5. carers or

6. focus groups.

H3164 With regards to H3161, a body that seeks to improve services through user consultation may describe the process as

1. service user and carer user involvement **or**

2. public involvement **or**

3. participation **or**

4. co-production **or**

5. Local Involvement Networks (LINks)

Example 1

Anton is an out-patient at his local hospital and attends there on a regular basis for treatment. He is in receipt of Universal Credit. Anton has volunteered to take part in a Patients' Forum which discusses the services and care provided by the hospital. In order to attend the meetings, Anton needs to get a taxi. The Health Trust pay Anton £40 for attending the meetings and also reimburse his travel expenses. The expenses for the taxi fare are reimbursed to him by the local Health Trust. The decision maker decides that the travel expenses do not count as employed earnings when calculating Anton's entitlement to Universal Credit but the £40 fee for attending the meeting is earned income.

Example 2

Donna is asked to help with improving discharge and aftercare services at her local National Health Service trust psychiatric hospital. Donna has experience of being admitted as an in-patient and of aftercare services. The trust invites Donna to participate in a planning seminar. The trust offers her a payment of £120 as a fee

and reimburses her £10 travel expenses. The decision maker decides that the travel expenses do not count as employed earnings when calculating Donna's entitlement to Universal Credit, but the £120 fee is earned income.

Example 3

Brian is a full time carer for his wife who is severely disabled. He is invited to participate on a national steering group that is developing good practice guidelines for respite care. Brian is paid a fee of £20 for his participation. He is reimbursed his travel expenses of £90 and also £60 for the cost of a replacement carer for the time that he will be away. The decision maker decides that the travel expenses and the £60 for the replacement carer do not count as employed earnings when calculating Brian's entitlement to Universal Credit, but the £20 fee for his participation is earned income.

Example 4

Sally is invited by a local charity to provide feedback of her experience as a patient receiving treatment from a mental health service. The charity has been commissioned by a National Health Service trust to involve service users in monitoring the mental health service. Sally is paid a fee of £40 for her time and also accepts a reimbursement of £5 for a lunchtime meal. The decision maker decides that the expense for the meal does not count as employed earnings when calculating Sally's entitlement to Universal Credit, but the £40 fee is earned income.

Example 5

Tony has rheumatoid arthritis. He is invited by a research team to join the steering group for a study investigating a new treatment for this condition. The research is funded by the National Health Service through the National Institute for Health Research and is being undertaken by a team at the university. The university pays Tony £75 for each meeting and reimburses his £20 travel expenses. The decision maker decides that the travel expenses do not count as employed earnings when calculating Tony's entitlement to Universal Credit, but the £75 fee received is earned income.

H3165 – H3169

Calculating the amount of earnings

H3170 When taking into account employed earnings (and the benefits treated as earnings) in respect of an assessment period, the decision maker should allow a deduction for

1. the total relievable pension contributions made in that period[1] **and**

2. any amounts of

2.1 income tax **and**

2.2 class 1 contributions

that have been deducted or paid in that assessment period[2] **and**

3. any amounts withheld as donations to charity in a scheme approved by His Majesty's Revenue and Customs in that assessment period[3].

Note: The earnings figure provided by Real Time Interface or as a self-reported amount will be the claimant's gross taxable earnings. Gross taxable earnings already allow for pension contributions paid under "net pay arrangements" and charitable donations. Decision makers should be aware of this and ensure the deduction is not made twice.

1 UC Regs (NI) 16, reg 55(6)(a); 2 reg 55(6)(b); 3 reg 55(6)(c)

H3171 A relievable pension contribution means[1] a contribution paid to a registered pension scheme by or on behalf of a member of that scheme. This means that the contribution can be paid by the individual member, who must be a relevant United Kingdom individual, or by a third party on behalf of the individual member.

1 UC Regs (NI) 16, reg 52; Finance Act 2004, s 188

H3172 A relevant United Kingdom individual means[1]

1. a person with earnings chargeable to United Kingdom income tax **or**

2. a person resident in the United Kingdom for some time of the year **or**

3. a person was resident in the United Kingdom both at some time during the five tax years immediately before that year and when that person became a member of the pension scheme **or**

4. a person, or their spouse, who has for the tax year general earnings from overseas Crown employment subject to United Kingdom tax.

1 Finance Act 2004, s 189

H3173 A contribution will not be a relievable pension contribution if it falls into

1. contributions after age 75[1]

2. life assurance premium contributions[2]

3. contributions paid by employers[3]

4. age related or minimum payments[4].

1 Finance Act 2004, s 188(3)(a); 2 s 188(3)(aa); 3 s 188(3)(b); 4 s 188(3)(c)

H3174 – H3179

Trade disputes

H3180 Where a person who has had employed earnings

1. has withdrawn their labour in a trade dispute **and**

2. is still subject to their employment contract

the decision maker must treat that person as possessing earnings of the same level they would have had if they were not taking action in a trade dispute[1].

1 UC Regs (NI) 16, reg 56

H3181 A trade dispute means[1] a dispute between workers and their employer which relates wholly or mainly to one or more of

1. terms and conditions of employment, or the physical conditions in which any workers are required to work

2. engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers

3. allocation of work or the duties of employment between workers or groups of workers

4. matters of discipline

5. a worker's membership or non-membership of a trade union

6. facilities for officials of trade unions

7. machinery for negotiation or consultation, and other procedures, including the recognition by employers or employers' associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

1 UC Regs (NI) 16, reg 2; Trade Union and Labour Relations (NI) Order 1995, art 127

Example

Richard works for an insurance company and his normal monthly earnings are £490. The trade union to which he belongs has voted to go on strike. Richard will be joining the strike. Whilst on strike, Richard's employer will not be paying him any wage. The decision maker treats Richard as having monthly earnings of £490 for the purposes of Universal Credit.

H3182 – H3189

Earnings information

H3190 For claimants who are engaged in employment in respect of which their employer is not a Real Time Interface employer then they must provide such information for the purposes of calculating their earned income as the decision maker may require[1].

1 UC Regs (NI) 16, reg 62(1)

H3191 **[See ADM Memo 21/20]** Where a claimant is, or has been, engaged in an employment in respect of which their employer is a Real Time Interface employer then

1. the amount of their employed earnings for each assessment period is to be based on the Pay As You Earn information reported to His Majesty's Revenue and Customs and received by the Department from His Majesty's Revenue and Customs in that assessment period **and**

2. for an assessment period in which no information is received from His Majesty's Revenue and Customs, the amount of earnings is taken to be nil[1].

1 UC Regs (NI) 16, reg 62(2)

Example 1

Paul is in receipt of Universal Credit and also works in the club shop of his local football club. His employer's normal payday is the 15th of each month and his Universal Credit assessment period runs from the 16th to 15th of each month. Paul was due to be paid on 15th October but due to an internal delay by his employer's payroll department, his wages for the period ending 15th October were not paid until 16th October. On the same day, His Majesty's Revenue and Customs reported these earnings to Department for Work and Pensions via the Real Time Interface.

For Universal Credit purposes, these earnings are not late – there has been no failure in the Real Time Interface the earnings are to be taken into account in the assessment period in which the Real Time Interface information is received – this will be the assessment period which runs from 16th October to 15th November.

Example 2

Isla is on a zero hours contract for an Real Time Interface employer. Her employer's normal payday is the last day of each month and her Universal Credit assessment period begins on the 1st of each month.

His Majesty's Revenue and Customs reported Isla's earnings for the period ending 31st January to the Department via the Real Time Interface on 1st February. On 28th February, His Majesty's Revenue and Customs reported Isla's earnings for the period ending 28th February to the Department via the Real Time Interface.

For the purposes of calculating Isla's Universal Credit entitlement, this means that no earnings will be taken into account in the assessment period running from 1st to 31st January.

In the assessment period that runs from 1st February to 28th February Isla's earnings will include those notified to the Department on 1st February **and** 28th February.

H3192 However, the decision maker can decide that ADM H3191 does not apply when the decision maker considers that

1. the information from the employer is not likely to be sufficiently accurate or timely **or**

2. in respect of a particular assessment period where

2.1 no information is received from His Majesty's Revenue and Customs and that this is likely to be due to a failure to report information (including computer failure in relation to systems operated by His Majesty's Revenue and Customs, the employer or any other person) **or**

2.2 the information received from His Majesty's Revenue and Customs is incorrect or that the payment does not fall within the meaning of employed earnings (see H3020 et seq)[1].

1 UC Regs (NI) 16, reg 62(3)

H3193 If the decision maker decides that ADM H3191 does not apply then a decision must be made as to the amount of a person's employed earnings using such information or evidence as the decision maker sees fit[1]. A person must also provide such information for the calculation of earned income as the decision maker may require[2].

1 UC Regs (NI) 16, reg 62(4); 2 reg 62(1)

Example 1

Joanne works in a small garage and has made a claim for Universal Credit. Her employer has had problems reporting Joanne's earnings to His Majesty's Revenue and Customs due to information technology problems. In order to calculate Joanne's award of Universal Credit, Joanne is asked to self-report the earnings she receives from this employer through the self-reported earnings tool. Joanne may be asked to produce verification of those earnings, for example a wage slip.

Example 2

Felix works in a small sheet metal factory and receives Universal Credit. His assessment period runs from the 17th to 16th. Felix is paid on 13 April but his employer delays reporting the payment to His Majesty's Revenue and Customs until 17 April - the assessment period after it was actually received. Felix reports the

discrepancy to the Department and provides his wage slip and a bank statement as evidence. The decision maker accepts Felix's evidence and decides no information was received from His Majesty's Revenue and Customs because the employer failed to report the information on time. The decision maker makes a decision that the wage notified by Real Time Interface on 17 April should be taken into account when it was received - in the assessment period running 17 to 16 May.

Example 3

Marcelo works in his local hospital as a porter and receives Universal Credit. His assessment period runs from the 28th to 27th and his payday is the 28th of each month. In the assessment period 28th January to 27th February, Real Time Information reports no earnings. In the assessment period 28th February to 27th March, Real Time Information reports earnings of £1,430 with a 3rd party deduction of £680. This leaves a nil Universal Credit award in this assessment period. In the assessment period 28th March to 27th April, Real Time Information reports earnings of £300. In the assessment period 28th April to 27th May, Real Time Information reports earnings of £1,455 with a 3rd party deduction of £300. This again leaves Marcelo with a nil Universal Credit award in this assessment period.

Marcelo contacts his work coach and provides wage slips as evidence of the earnings he was due to be paid, and bank statements confirming the amounts and dates of the earnings that he received in this period. This evidence shows that Marcelo received £680 in the assessment period 28th January to 27th February, £750 in the assessment period 28th February to 27th March, £475 in the assessment period 28th March to 27th April and £980 in the assessment period 28th April to 27th May.

The decision maker accepts Marcelo's evidence and decides no evidence was received from His Majesty's Revenue and Customs in the assessment period 28th January to 27th February because the employer failed to report the information on time. In the following three assessment periods, the decision maker decides that the information received from the employer via His Majesty's Revenue and Customs was not sufficiently accurate. The decision maker decides that Marcelo's earnings in each of the assessment periods affected is to be the amount that he received in those assessment periods, as evidenced by his wage slips and bank statements.

H3194 **[See ADM Memo 21/20]** In cases where ADM H3191 does not apply and the decision maker is making a decision on the amount of the claimant's earnings in accordance with ADM H3193, the decision maker can

1. treat a payment of employed earnings as received in a later assessment period to the one in which the payment was actually received (for example where the

decision maker received or would have expected to receive the information or evidence in the later period) **or**

2. where a payment of employed earnings has been taken into account in that decision, disregard information received from His Majesty's Revenue and Customs about the same payment[1].

This also applies where a decision is made in the situation described in A4311[2].

1 UC Regs (NI) 16, reg 62(5); 2 reg 62(6)

H3195 – H3199

Notional earnings

H3200 Notional earnings are earnings which the claimant does not actually have but which they are treated as possessing. For Universal Credit there are two situations where notional earnings apply. These are

1. deprivation of earned income[1] **and**

2. where work is performed for no payment or payment at a rate less than that would be normally paid for the work[2].

All such amounts are to be treated as earned income.

1 UC Regs (NI) 16, reg 61(1); 2 reg 61(3)

Deprivation of earned income

H3201 In a case

1. where

1.1 a person has deprived themselves **or**

1.2 an employer has arranged for a person to be deprived

of earned income **and**

2. the purpose of the deprivation was to

2.1 secure entitlement to Universal Credit **or**

2.2 increase the amount of Universal Credit

then that person must be treated as being in possession of that earned income[1].

1 UC Regs (NI) 16, reg 61(1)

H3202 The purpose of

1. securing entitlement to Universal Credit **or**

2. increasing the amount of Universal Credit

has to be treated as existing where entitlement or higher entitlement to Universal Credit did in fact result following the deprivation and the decision maker is of the view that this was an intended and foreseeable consequence[1].

1 UC Regs (NI) 16, reg 61(2)

Meaning of deprive

H3203 The word “deprive” is an ordinary English word. Its meaning is not a question of law. It should be given a normal everyday meaning[1].

1 R(SB) 38/85

H3204 Claimants will have deprived themselves of earned income, if, because of their own actions, they no longer have that income. Claimants will still have deprived themselves of income whether or not another income has replaced the original income[1].

1 R(SB) 40/85

H3205 Claimants cannot deprive themselves of income that they have already received. If a payment of earned income is received it is actual income and should be taken into account in the normal way.

H3206 A deprivation of income may occur where a claimant's income is reduced to repay an overpaid income. The decision maker should decide if a significant reason for the reduction is to get or increase the amount of Universal Credit. Decision makers should bear in mind that the repayment of a

1. legally enforceable **and**

2. immediately repayable

debt cannot be for the purpose of increasing or getting Universal Credit[1].

1 R(SB) 12/91

Questions for consideration

H3207 The decision maker should consider the questions in H3210 - H3216 where claimants appear to have deprived themselves of earned income.

H3208 – H3209

Has a deprivation of earned income happened?

H3210 Deprivation will have happened if a person

1. gives up **or**

2. transfers to another person

an income due to be received.

H3211 The claimant has to prove that an income is no longer received. Once the decision maker has shown that a claimant was receiving an income it is up to the claimant to prove it is no longer paid. If the claimant cannot do this the decision maker should decide that the income is still being received. The income should be taken into account as actual income[1].

1 R(SB) 38/85

Was the purpose of the deprivation to get or increase the amount of Universal Credit?

H3212 There may be more than one reason for a person disposing of an income. Only one of those reasons might be getting or increasing Universal Credit[1].

1 R(SB) 38/85

H3213 Getting or increasing Universal Credit need not be the most important reason for disposing of an income but it must be a significant reason[1].

1 R(SB) 40/85

H3214 It is unlikely that there will be direct evidence that a deprivation was for the purpose of getting benefit. Decide on a person's reasons for disposing of an income after considering all the facts of the case. These may include

1. the person's explanations

2. the timing of the disposal

3. the claimant's knowledge of the benefit system

4. the likelihood of a benefit claim at the time of the deprivation.

H3215 When considering claimants' intentions in depriving themselves of income the decision maker should consider what account of the claimant's intentions best explains the facts of the case. If the best explanation of the deprivation is that a significant reason for the disposal was getting or increasing Universal Credit the decision maker should calculate a notional income.

Timing of the disposal of income?

H3216 Decision makers should carefully consider the timing of a disposal of income as

1. a claim for Universal Credit made shortly after the disposal of an income may indicate that getting or increasing Universal Credit was a significant reason for the disposal

2. a claim for Universal Credit made a long time after the disposal of an income is less likely to indicate that getting or increasing Universal Credit was a significant reason for the disposal. But if there is evidence that a claimant was

considering claiming Universal Credit at a later date, the deprivation may still have been for getting or increasing benefit.

H3217 – H3219

Notional earnings and the performance of a service

H3220 The decision maker should treat the claimant as having notional earnings where[1]

1. they perform a service for another person **and**

2. that other person

2.1 makes no payment of earnings **or**

2.2 pays less than the rate paid for comparable services in that location **and**

3. the means of that other person are sufficient to pay for, or pay more, for those services.

1 UC Regs (NI) 16, reg 61(3)

H3221 The amount of notional earnings which a claimant is treated as having is the amount of pay that would be reasonable for the provision of those services[1].

1 UC Regs (NI) 16, reg 61(3)

H3222 – H3224

H3225 The decision maker should **not** take notional earnings into account[1] where the claimant

1. satisfies the decision maker that the means of the person for whom the service is performed, are not enough to pay, or to pay more for the service **or**

2. is engaged by a charitable or voluntary organisation and the decision maker is satisfied that it is reasonable for the services to be provided free of charge **or**

3. does not accept a payment for their involvement as a service user (see H3161 for meaning of service user) **or**

4. provides a service under an employment or training programme approved by the Department.

1 UC Regs (NI) 16, reg 61(3)(b) & (4)

Meaning of voluntary organisation

H3226 Although there is no definition of voluntary organisation for notional earnings purposes, decision makers should regard it as meaning a body that is not a

1. public authority **or**

2. local authority

whose activities are not carried out for profit. Organisations such as the St John Ambulance and Attend (formerly the league of Hospital Friends) are examples of voluntary organisations.

Meaning of person

H3227 The meaning of "person" as used in DMG H3220 **1.** includes[1]

1. a limited company

2. a corporate body

3. an individual.

1 R(SB) 13/86

Performance of a service

H3228 A service performed for another person benefits that person. That benefit may be in not having to employ someone else to do the work. It might also be in getting extra work done at little, or no, cost.

Details of the service performed

H3229 There may be a low rate of payment, or no payment at all being made for the service. If so, compare it with other employment by finding out

1. who is benefiting from the service

2. why it is being provided

3. when it is being provided (for example, during the day, night, or both)

4. where it is provided

5. who suggested that it be provided

6. what duties are involved

7. how many hours each day, or week, are spent on those duties.

When earnings are not to be treated as paid

H3230 Do not treat the claimant as having earnings where[1]

1. the claimant works for a charitable or voluntary organisation, for example Marie Curie Cancer care **or**

2. is a volunteer **and**

3. it is reasonable for the service to be provided free of charge or at a rate less than the rate that would be paid for comparable services in the same area.

1 UC Regs (NI) 16, reg 61(4)(a)

H3231 – H3239

Is it reasonable to provide services free of charge?

H3240 The question of reasonableness should be considered based on the circumstances of each case[1]. No exhaustive list can be given of relevant factors but they may include matters such as

1. whether the person providing the services is getting anything in return (for example, training which may assist the person in obtaining employment could be seen as reasonable)

2. the length of time for which the services have been offered (the shorter the period, the more reasonable it may be)

3. claimants are expected to do their best to avoid dependency on benefits. They should seek paid work wherever possible.

Note: Whether it is reasonable for the employer to pay is not relevant here. The important point is whether it is reasonable for the claimant to provide the services free of charge.

1 R(IS) 12/92

Service users and notional earnings

H3241 Do not treat the claimant as having notional earnings where the claimant provides services

1. free of charge **or**

2. at a rate less than would be paid for comparable services in the same location

whilst participating as a service user[1]. H3161 provides guidance on what a service user is.

1 UC Regs (NI) 16, reg 61(4)(b)

Employment and training programme

H3242 Do not treat the claimant as having notional earnings where the claimant provides services under or in connection with participation in

1. an employment **or**

2. a training

programme approved by the Department[1].

1 UC Regs (NI) 16, reg 61(4)(c)

H3243 – H3249

Calculation of gross notional earnings

H3250 The maximum amount of notional earnings that can be taken into account is the lower of the

1. market rate for comparable employment in the area **and**

2. means of the person to pay for the service.

The decision maker should take into account at least the national minimum wage rate relevant to the claimant.

H3251

Comparable services

H3252 It is not identical or equivalent services that have to be identified, but comparable services. Work of a different type can be comparable if the skills and experience needed are similar to those being used.

H3253 Work of the same type will usually be comparable but it may not always be paid at the same rate. Rates of pay can be affected by the employee's

1. skills

2. age

3. seniority

4. experience.

H3254 Do not assume that the highest rate paid is the normal rate for the job. If the amounts paid vary, compare the available evidence with the pay and requirements of the claimant's job.

Payments in kind

H3255 Payments in kind are not earnings[1]. Payments in kind should not be taken into account when looking at whether a person is paid, or paid less, than the rate for comparable employment[2].

1 UC Regs (NI) 16, reg 51; 2 R(IS) 2/98

Example

Bella works as a shop assistant for ten hours per week. She receives payment of £7 in cash and goods to the value of £35 each week. The goods to the value of £35 are payment in kind and are ignored. The decision maker considers what the market rate for the job is and calculates notional earnings at £70 per week. He decides it is reasonable to deduct the £7 cash payment from the notional earnings and takes £63 per week into account. The total amount in the form of earnings taken into account is therefore £70 (£7 actual earnings + £63 notional earnings).

Are earnings to be treated as paid

H3256 Consider whether it is reasonable to treat earnings as paid by taking into account

1. whether the employer

1.1 pays less than the going rate for similar employment in the area **or**

1.2 makes no payment **and**

2. a reasonable rate of pay for the job they are doing.

Reasonable rates of pay

H3257 The rate paid for comparable employment in the area is a question of fact. It should not be assumed to be the national minimum wage. The decision maker must treat the claimant as possessing at least the national minimum wage rate that is relevant to them. The amount of notional earnings may be more than the national minimum wage but it should not be less.

H3258 The parts of the job which would normally attract earnings, or more earnings, should be identified. Ignore hours spent under training or supervision, unless the cost is outweighed by the work performed.

Can the person afford to pay?

H3259 The claimant may say that the employer is unable to pay. If this is the case, the claimant must submit evidence, so that the decision maker can consider the question. This could be

1. in the case of a self-employed trader, the accounts, bank statements and details of trading turnover **or**

2. in the case of an individual, details of that person's resources and outgoings.

H3260 Where the service is for a person, take account of that person's actual means. This is not the amount by which their income would exceed a notional benefit level[1]. It is the amount of money that they actually have available to them.

1 R(SB) 3/92

H3261 The decision maker should consider what is reasonable in each case. Where the employer is getting Universal Credit they will not normally have the means to pay. But this general rule may not always apply. For example, where the "employer" gets benefits, or other payments, to pay for their personal care.

H3262 – H3269

Amount to be taken into account

H3270 After determining the gross amount of notional earnings, deduct any actual earnings paid. Actual earnings should be calculated in the normal way.

H3271 From the resulting figure, make notional deductions for

1. income tax **and**

2. Class 1 contributions.

Appendix 1 to this chapter provides details of tax and contribution rates and thresholds.

Deduction for notional income tax

H3272 Deduct the appropriate income tax allowance if the chargeable income figure calculated is higher. If it is equal to or less than that chargeable income figure, no notional income tax will be deducted. Income tax allowances are made up of

1. a personal allowance - given to everyone

2. a married couple's allowance - which can be claimed by a member of a married couple

3. an additional personal allowance - given in special cases for a child or young person.

Calculate the notional income tax to be deducted as in DMG Chapter 27.

Deduction for notional National Insurance contribution

H3273 The deduction depends on the claimant's circumstances. Employed earners between 16 and pension age have to pay National Insurance contributions. This is subject to the amount of their earnings.

H3274 Some married women can pay National Insurance contributions at a reduced rate. These are women who

1. had chosen to pay the reduced rate before 12.5.77 **and**

2. were married before 6.4.77 **and**

3. have continued to renew their certificate of election.

H3275 The right to pay reduced rate contributions ends if the woman

1. gets divorced or her marriage is annulled **or**

2. becomes a widow, and has not become entitled to Widow's Benefit **or**

3. loses her right to Widow's Benefit for a reason other than remarrying **or**

4. has had no earnings on which Class 1 contributions are payable and has not been self-employed in any two consecutive tax years since 5.4.78.

H3276 Standard rate deductions should be made unless there is a current certificate of election.

Onus of proof

H3277 In general, the burden of proof rests on the decision maker[1]. But that is not always the case. The onus of proving that the employer does not have the means to pay falls on the claimant. The decision maker then considers what reasonable amount of notional earnings should be taken into account. ADM Chapter A1 provides guidance on the burden of proof.

1 R(SB) 13/86

H3278 – H3299

Surplus Earnings

H3300 From 8.5.18 the general principle for calculating earned income (H3010) in full service areas is modified in certain circumstances.

H3301 Where a Universal Credit award has ceased due to excess income, past earnings (employed earnings, self-employed earnings or a combination of both) can be taken into account on a further claim to Universal Credit within 6 months of the previous award ending. This ensures that those claimants with fluctuating earnings patterns, which may bring them in and out of entitlement to Universal Credit, are not unduly penalised or unfairly rewarded over those claimants who receive the same amounts but are paid monthly and retain Universal Credit entitlement throughout.

General

H3302 Surplus earnings will be applied to a new claim to Universal Credit where the claimant, or either of joint claimants

1. 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 new claim is made[1] **and**

2. has not been entitled to Universal Credit since the old award ended[2] **and**

3. had total earned income in the final assessment period of the old award that exceeded the relevant threshold[3].

1 UC Regs (NI) 16, reg 54(1)(a); 2 reg 54(1)(b); reg 54(1)(c)

For the definitions of "total earned income" see H3307 and "the relevant threshold" H3309.

Note: For the purposes of these regulations the "old award" does not include an award where the last day on which that award terminated fell before 8.5.18.

H3303 Where surplus earnings are to be applied to a new claim to Universal Credit, they will be treated as earned income for the purposes of determining entitlement to Universal Credit, or calculating the amount of that award where there is entitlement[1].

1 UC Regs (NI) 16, reg 54(2)

H3304 If a claim is made after the six month period in H3302 **1.** above, surplus earnings will not be applied and the Universal Credit award will be calculated in the normal way.

Example 1

Larry claims Universal Credit on 16.4.19, having previously been entitled to Universal Credit in an award which ended on 30.11.18 due to excess earnings in the final assessment period (i.e. within 6 months of the old award). Larry has not been in receipt of Universal Credit in the period 1.12.18 to 15.4.19, and so surplus earnings are calculated for the purposes of determining whether Larry qualifies for Universal Credit in this new claim.

Example 2

Jeff and Susie make a new claim to Universal Credit on 18.4.19. Jeff was previously a single claimant in receipt of Universal Credit as a self-employed earner. His award ended on 15.1.19 due to excess income. Susie is in full-time employment. As neither Jeff or Susie have been in receipt of Universal Credit in the period 16.1.19 to 17.4.19, the surplus earnings from Jeff's old award of Universal Credit are used to determine whether they qualify for Universal Credit as a couple for this new claim.

Exception

H3305 Surplus earnings will not apply[1] where the claimant has, or had at the time the old award terminated, recently been a victim of domestic violence[2] (see ADM J3183).

1 UC Regs (NI) 16, reg 54(5); 2 reg 96

Definitions

H3306 The original surplus[1] is the amount that exceeds the relevant threshold[2] (see H3309) in the final assessment period of the old award.

1 UC Regs (NI) 16, reg 54(3); 2 reg 54(6)

H3307 Total earned income[1] means the earned income of

1. the claimant **or**

2. if the claimant is a member of a couple, the couples combined earned income **but**

excluding any amount a claimant is treated as having by way of the minimum income floor[2].

1 UC Regs (NI) 16, reg 54(6); 2 reg 63

H3308 The nil Universal Credit threshold[1] is the amount of total earned income that would mean there is no entitlement to Universal Credit, calculated by using the following formula:

$$\frac{(M-U)}{55} X\ 100 + WA$$

Where:

M is the maximum amount of an award of Universal Credit[2]

U is unearned income[3]

WA is the work allowance[4].

1 UC Regs (NI) 16, reg 54(6); 2 WR (NI) Order 15, art 13(2); 3 UC Regs (NI) 16, regs 66-74; 4 reg 23

H3309 The relevant threshold is the nil Universal Credit threshold (as in H3308) plus

1. £300 for claims made after the temporary de minimis period ends **or**

2. £2,500 for claims made in the temporary de minimis period.

H3310 The temporary de minimis period is the period beginning on 8.5.18 and ending on 31.3.21.

Note: The temporary de minimis period may be extended where the Department considers it appropriate to do so in order to safeguard the efficient administration of Universal Credit. Where the Department decides to extend the period, the determination will be published and will apply to all cases.

Calculation

Single claimant

H3311 Surplus earnings are calculated with reference to when the new claim is made[1]. If the new claim in question is

1. the first since the termination of the old award, surplus earnings are the original surplus (H3306) **or**

2. the second since the termination of the old award, surplus earnings are the amount (if any) of

2.1 the original surplus **plus**

2.2 the total earned income (H3307) in what would have been the first assessment period of the first claim

which exceeds the relevant threshold (H3309). This is "the adjusted surplus"

3. the third since the termination of the old award, surplus earnings are the amount, if any, of

3.1 the adjusted surplus from the second claim **plus**

3.2 the total earned income in what would have been the first assessment period of the second claim

which exceeds the relevant threshold

4. the fourth **or** fifth since the termination of the old award, surplus earnings are the amount, if any, of

4.1 the adjusted surplus from the third or fourth claim (see **3.** above) **plus**

4.2 the total earned income in what would have been the first assessment period of the third or fourth claim

which exceeds the relevant threshold.

1 UC Regs (NI) 16, reg 54(3)

Example 1

For the purposes of this example John is a single claimant aged 26. He has regular monthly earnings of £500 and no unearned income. The work allowance does not apply. His maximum Universal Credit amount is £393.45 and his assessment period runs from the 11th to 10th each month. The de minimis is £2,500.

In the assessment period 11.4.24 to 10.5.24 John receives a one-off performance bonus of £3,000, making his total earned income for this assessment period £3,500. This ends his Universal Credit entitlement but surplus earnings will apply to any subsequent claims that he makes within 6 months.

The original surplus is calculated by taking the following steps

1. the nil Universal Credit threshold is £393.45 - £0.00 ÷ 55 x 100 = £715.36 + £0.00 = £715.36

2. the relevant threshold is £715.36 + £2,500 = £3,215.36

3. the original surplus is £3,500 - £3,215.36 = **£284.64**.

1st claim

John makes a new claim to Universal Credit on 11.5.24, his first claim since the old award ended.

His Universal Credit entitlement is determined as follows

1. £284.64 (surplus earnings) + £500 (actual earned income) = £784.64

2. £784.64 (total earned income) x 0.55 (taper) = £431.55

3. £393.45 (maximum Universal Credit amount) - £431.55 (total earned income) = £38.10 (excess income).

John has no Universal Credit entitlement for this claim as a result of his excess income but surplus earnings will not apply to any subsequent claims made within 5 months. This is because the surplus has been eroded; his total earned income no longer exceeds the relevant threshold

1. £784.64 (total earned income) < £3,215.36 (relevant threshold).

Example 2 (note, this shows the original de minimus and taper rates of £300 and 63%)

For the purposes of this example Emma is a single claimant aged 27. She has regular monthly earnings of £300 and no unearned income. The work allowance does not apply. Her maximum Universal Credit amount is £317.82 and her assessment period runs from the 11th to 10th each month. The de minimis is £300.

In the assessment period 11.4.19 to 10.5.19 Emma receives a one-off performance bonus of £2,100, making her total earned income for this assessment period £2,400. This ends her Universal Credit entitlement but surplus earnings will apply to any subsequent claims within 6 months.

The original surplus is calculated by taking the following steps

1. the nil Universal Credit threshold is £317.82 - £0.00 ÷ 63 x 100 = £504.48 + £0.00 = £504.48

2. the relevant threshold is £504.48 + £300 = £804.48

3. the original surplus is £2,400 - £804.48 = **£1,595.52**.

1st claim

Emma makes a new claim to Universal Credit on 11.5.19, her first claim since the old award ended.

Her Universal Credit entitlement is determined as follows

1. £1,595.52 (original surplus earnings) + £300 (actual earned income) = £1,895.52

2. £1,895.52 (total earned income) x 0.63 (taper) = £1,194.18

3. £317.82 (maximum Universal Credit amount) - £1,194.18 (total earned income) = £876.36 (excess income).

Emma has no Universal Credit entitlement for this claim as a result of her excess income but surplus earnings will apply to any subsequent claims made within 5 months (because Emma's total earned income is in excess of the relevant threshold).

The surplus for this claim is calculated as follows

1. £1,895.52 (total earned income) - £804.48 (relevant threshold) = **£1,091.04**.

2nd claim

Emma makes another claim on 11.6.19, her second since the old award ended.

Her Universal Credit entitlement is determined as follows

1. £1,091.04 (surplus earnings from 1st claim) + £300 (actual earned income) = £1,391.04

2. £1,391.04 (total earned income) x 0.63 (taper) = £876.36

3. £317.82 (maximum Universal Credit amount) - £876.36 (total earned income) = £558.54 (excess income).

Emma has no Universal Credit entitlement for this claim but surplus earnings will apply to any subsequent claims made within four months (because Emma's total earned income is still in excess of the relevant threshold).

The adjusted surplus for this claim is calculated as follows

1. £1,091.04 (1st claim surplus) + £300 (total earned income from 1st claim) = £1,391.04

2. £1,391.04 - £804.48 (relevant threshold) = **£586.56**.

3rd claim

Emma makes another claim on 11.7.19, her third since the old award ended.

Her Universal Credit entitlement is determined as follows

1. £586.56 (adjusted surplus) + £300 (actual earned income) = £886.56

2. £886.56 (total earned income) x 0.63 (taper) = £558.53

3. £317.82 (maximum Universal Credit amount) - £558.53 (total earned income) = £240.71 (excess income).

Emma has no Universal Credit entitlement for this claim but surplus earnings will apply to any subsequent claims made within 3 months. The adjusted surplus for this claim is calculated as follows

1. £586.56 (2nd claim adjusted surplus) + £300 (total earned income from 2nd claim) = £886.56

2. £886.56 - £804.48 (relevant threshold) = **£82.08** (adjusted surplus).

4th claim

Emma makes a further claim on 11.8.19, her fourth since the old award ended.

Her Universal Credit entitlement is determined as follows

1. £82.08 (adjusted surplus) + £300 (actual earned income) = £382.08

2. £382.08 (total earned income) x 0.63 (taper) = £240.71

3. £317.82 (maximum Universal Credit amount) - £240.71 (total earned income) = £77.11.

Emma is entitled to a Universal Credit award of £77.11. Surplus earnings have been eroded and no longer apply.

Note: See **Appendix 2** for more examples.

Joint claimants

H3312 If the claim is the 1st joint claim by members of a couple **and** each member had an old award of Universal Credit **either**

1. individually as a single claimant **or**

2. as a member of a different couple

the amounts of any surplus earnings, had they claimed as a single person

1. from the old award **or**

2. from a previous claim that would have been treated as earned income

are to be combined.

Example

Stan's Universal Credit award as a single claimant ends when he receives a large performance related bonus of £3,500 in addition to his regular monthly wage of £500.

The original surplus is calculated as follows

1. the nil Universal Credit threshold is £393.45 - £0.00 ÷ 55 x 100 = £715.36 + £0.00 = £715.36

2. the relevant threshold is £715.36 + £2,500 = £3,215.36

3. the original surplus is £4,000 - £3,215.36 = **£784.64**.

Francine's Universal Credit award as a single claimant ends when she receives a large performance related bonus of £4,000 in addition to her regular monthly wage of £600.

The original surplus is calculated as follows

1. the nil Universal Credit threshold is £393.45 - £0.00 ÷ 55 x 100 = £715.36 + £0.00 = £715.36

2. the relevant threshold is £715.36 + £2,500 = £3,215.36

3. the original surplus is £4,600 - £3,215.36 = **£1,384.64**.

Stan and Francine form a couple and submit a joint claim to Universal Credit in the next assessment period after their individual Universal Credit awards end. The surplus earnings that are applied to this new joint claim are

£784.64 (Stan's surplus) + £1,384.64 (Francine's surplus) = **£2,169.28**.

H3313 Where the claim is

1. a single claim where the claimant **either**

1.1 had an old award **or**

1.2 made a subsequent claim as a joint claimant **or**

2. a joint claim where **either** claimant had

2.1 an old award **or**

2.2 made a subsequent claim as a member of a different couple

surplus earnings will be a proportion of

3. the original surplus **or**

4. any adjusted surplus

as determined by the Department.

That proportion is to be 50% unless there are any exceptional circumstances, for example, where the surplus is entirely attributable to a bonus received by the former partner in the month that the couple separated.

Example 1

Francine (as in the example above) claims Universal Credit as a single claimant. She had previously been part of a joint claim with Stan. They had a joint surplus of £2,991.04. For the purposes of Francine's Universal Credit claim as single person, the decision maker apportions 50% of the joint surplus to her claim. Francine's surplus earnings will be: **£1,495.52**.

Example 2

Haley and Jeff make a joint Universal Credit claim as a couple. Haley had previously received Universal Credit as part of a joint Universal Credit claim with Avery. In the final assessment period of that claim, they had an adjusted surplus earnings figure of £1,500. Jeff was in receipt of Universal Credit as a single claimant with an adjusted surplus earnings figure of £1,800.

For the purposes of the new joint Universal Credit claim, the decision maker decides that surplus earnings will be applied as follows

50% of the joint surplus from Haley's previous joint Universal Credit claim - £750 **plus**

Jeff's surplus earnings from his single Universal Credit claim - £1,800 = **£2,550**.

Minimum income floor

H3314 The application of the minimum income floor[1] is **not** affected by the calculation of surplus earnings. It is the level of earnings that is calculated after the application of the surplus earnings that should be used to determine whether the minimum income floor applies.

1 UC Regs (NI) 16, reg 63

H3315 – H3999

Appendix 1

Notional deductions for tax and national insurance and National Minimum Wage rates

Main income tax allowances

	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21
	£	£	£	£	£	£	£	£
Personal for those born after 5.4.48	9,440	10,000	10,600	11,000	11,500	11,850	12,500	12,500
Personal for those born between 6.4.38 and 5.4.48	10,500	10,500	10,600	11,000	11,500	11,850	12,500	12,500
Personal for those born before 6.4.38	10,660	10,660	10,660	11,000	11,500	11,850	12,500	12,500
Married couple aged 75 & over	7,915	8,165	8,355	8,335	8,445	8,695	8,915	9,075

	21/22	22/23	23/24
	£	£	£
Personal for those born after 5.4.48	12,570	12,570	12,570
Personal for those born between 6.4.38 and 5.4.48	12,570	12,570	12,570
Personal for those born before 6.4.38	12,570	12,570	12,570
Married couple aged 75 & over	12,570	12,570	12,570

Basic rates of tax

Year	£	Rate
13/14	1 – 32,010	at basic rate of 20%
14/15	1 – 31,865	at basic rate of 20%
15/16	1 – 31,785	at basic rate of 20%
16/17	1 – 32,000	at basic rate of 20%
17/18	1 – 33,500	at basic rate of 20%
18/19	1 – 34,500	at basic rate of 20%
19/20	1 – 37,500	at basic rate of 20%
20/21	1 – 37,500	at basic rate of 20%
21/22	1 – 37,700	at basic rate of 20%
22/23	1 – 37,700	at basic rate of 20%
23/24	1 – 37,700	at basic rate of 20%

National insurance contributions

Class 1 contributions

The Class 1 National Insurance contribution for any week or month is based on the percentage rate appropriate to the band in which the estimated gross earnings fall.

Earnings Bands 13/14		**Earnings Limits 13/14**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £109
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £472
		Upper Earnings Limit
		Weekly £797
		Monthly £3454

Primary threshold

No contributions are payable on weekly earnings of £149 or less or monthly earnings of £646 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £149.01 and £797 per week and at 2% for earnings above £797 per week.

Earnings Bands 14/15		**Earnings Limits 14/15**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £111
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £481
		Upper Earnings Limit
		Weekly £805
		Monthly £3488

Primary threshold

No contributions are payable on weekly earnings of £153 or less or monthly earnings of £663 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £153.01 and £805 per week and at 2% for earnings above £805 per week.

Earnings Bands 15/16		**Earnings Limits 15/16**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £112
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £486

Earnings Bands 15/16		**Earnings Limits 15/16**
		Upper Earnings Limit
		Weekly £815
		Monthly £3532

Primary threshold

No contributions are payable on weekly earnings of £155 or less or monthly earnings of £672 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £155.01 and £815 per week and at 2% for earnings above £815 per week.

Earnings Bands 16/17		**Earnings Limits 16/17**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £112
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £486
		Upper Earnings Limit
		Weekly £827
		Monthly £3584

Primary threshold

No contributions are payable on weekly earnings of £155 or less or monthly earnings of £672 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £155.01 and £827 per week and at 2% for earnings above £827 per week.

Earnings Bands 17/18		**Earnings Limits 17/18**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £113
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £490
		Upper Earnings Limit
		Weekly £866
		Monthly £3750

Primary threshold

No contributions are payable on weekly earnings of £157 or less or monthly earnings of £680 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £157.01 and £866 per week and at 2% for earnings above £866 per week.

Earnings Bands 18/19		**Earnings Limits 18/19**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £116
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £503
		Upper Earnings Limit
		Weekly £892
		Monthly £3863

Primary threshold

No contributions are payable on weekly earnings of £162 or less or monthly earnings of £702 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £162.01 and £892 per week and at 2% for earnings above £892 per week.

Earnings Bands 19/20		**Earnings Limits 19/20**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £118
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £512

Earnings Bands 19/20		**Earnings Limits 19/20**
		Upper Earnings Limit
		Weekly £962
		Monthly £4167

Primary threshold

No contributions are payable on weekly earnings of £166 or less or monthly earnings of £719 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £166.01 and £962 per week and at 2% for earnings above £962 per week.

Earnings Bands 20/21		**Earnings Limits 20/21**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £120
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £520
		Upper Earnings Limit
		Weekly £962
		Monthly £4167

Primary threshold

No contributions are payable on weekly earnings of £183 or less or monthly earnings of £792 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £183.01 and £962 per week and at 2% for earnings above £892 per week.

Earnings Bands 21/22		**Earnings Limits 21/22**
Earnings	**Percentage rates**	**Lower Earnings Limit**
1. up to Lower Earnings Limit	NIL	Weekly £120
2. Lower Earnings Limit to Upper Earnings Limit	12% of earnings that exceed Lower Earnings Limit up to Upper Earnings Limit	Monthly £520
		Upper Earnings Limit
		Weekly £967
		Monthly £4189

Primary threshold

No contributions are payable on weekly earnings of £183 or less or monthly earnings of £792 or less. Otherwise contributions are still payable at a rate of 12% for earnings between £184.01 and £967 per week and at 2% for earnings above £967 per week.

National Minimum Wage Hourly Rates

Year	25 and over	21 and over	18 to 20	Under 18	Apprentice
2012	-	£6.19	£4.98	£3.68	£2.65
2013	-	£6.31	£5.03	£3.72	£2.68
2014	-	£6.50	£5.13	£3.79	£2.73
2015	-	£6.70	£5.30	£3.87	£3.30
2016	£7.20*	£6.70	£5.30	£3.87	£3.30
2016	£7.20*	£6.95	£5.55	£4.00	£3.40
2017	£7.50*	£7.05	£5.60	£4.05	£3.50
2018	£7.83*	£7.38	£5.90	£4.20	£3.70
2019	£8.21*	£7.70	£6.15	£4.35	£3.90
2020	£8.72*	£8.20	£6.45	£4.55	£4.15

Year	23 and over	21 - 22	18 to 20	Under 18	Apprentice
2021	£8.91	£8.36	£6.56	£4.62	£4.30

*The National Minimum Wage for those aged 25 and over (also known as the National Living Wage) was introduced from 1.4.16. From 1.4.21 the National Living Wage was extended to those aged 23 and over.

Note: The National Minimum Wage does not apply prior to compulsory school leaving age. The Apprentice rate applies to apprentices aged under 19, but to apprentices aged 19 or over in their first year of apprenticeship only.

Appendix 2

Example 1 - Employed with work allowance

Alana is 32 and has 1 child. She has regular monthly earnings of £500 and no unearned income. Her Universal Credit amount is £317.82, her child element is £277.08 and her work allowance is £397.00. The de-minimis is £300.

Her normal Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + 277.08 = £594.90

2. £500 (earned income) - £397 work allowance = £103.00

3. £103.00 x 0.63 (taper) = £64.89

4. £594.90 - £64.89 = **£530.01** Universal Credit award.

Assessment period 1

Alana receives a net performance bonus of £1238.65, making her total earned income for this assessment period £1,738.65. This ends her Universal Credit entitlement but surplus earnings will apply to any subsequent claims made within 6 months.

Her Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + 277.08 = £594.90

2. £1,738.65 (earned income) - £397 (work allowance) = £1,341.65

3. £1,341.65 x 0.63 (taper) = £845.24

4. £594.90 - £845.24 = -**£250.34** (excess income).

The **original surplus** is calculated as follows

1. the nil Universal Credit threshold is £594.90 - £0.00 ÷ 63 x 100 = £944.29 + £397 = £1,341.29

2. the relevant threshold is £1,341.29 + £300 = £1,641.29

3. the original surplus is £1,738.65 - £1,641.29 = **£97.36**.

Assessment period 2 reclaim received

Her Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + 277.08 = £594.90

2. £97.36 (surplus earnings) + £500 (actual earned income) = £597.36

3. £597.36 (total earned income) - £397 (work allowance) = £200.36

4. £200.36 x 0.63 (taper) = £126.23

5. £594.90 - £126.23 = **£468.67** Universal Credit award (the surplus is eroded).

Example 2 - couple claim

Peter, 54 and Jackie, 41 are a couple with no children. Peter has regular monthly earnings of £500 and Jackie's regular monthly earnings are £600. They pay rent of £300 per month. Their Universal Credit amount is £498.89, their housing element is £300 and the de-minimis is £300.

Their normal Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £498.89 + £300 = £798.89

2. £1,100 (earned income) x 0.63 (taper) = £693.00

3. £798.89 - £693.00 = **£105.89** Universal Credit award.

Assessment period 1

Jackie receives a one off retainer payment of £775.43 making their total household earned income for this assessment period £1875.43. This ends their Universal Credit entitlement but surplus earnings will apply to any subsequent claims made within 6 months.

Their Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £798.89

2. £1,875.43 (total earned income) x 0.63 (taper) = £1,181.52

3. £798.89 - £1,182.52 = -**£383.63** (excess income).

The original surplus is calculated as follows

1. the nil Universal Credit threshold is £798.89 - £0.00 ÷ 63 x 100 = £1,268.08

2. the relevant threshold is £1,268.08 + £300 = £1,568.08

3. the original surplus is £1,875.43 - £1,568.08 = **£307.35**.

Assessment period 2 - reclaim received (1st)

Their Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £498.89 + £300 = £798.89

2. £307.35 (surplus earnings) + £1,100 (actual earned income) = £1,407.35

3. £1,407.35 (total earned income) x 0.63 (taper) = £886.63

4. £798.89 - £886.63 = **-£87.74** (excess income).

There is no entitlement to Universal Credit on this claim but surplus earnings would no longer apply to any subsequent claims as their total earned income no longer exceeds the relevant threshold (the surplus has been eroded)

1. the nil Universal Credit threshold is £798.89 - £0.00 ÷ 63 x 100 = £1,268.08

2. the relevant threshold is £1,268.08 + £300 = £1,568.08

3. £1,407.35 (total earned income) is **less** than £1,568.08 (the relevant threshold).

Example 3 - weekly paid claimant

Elsa is 27 with 1 child and regular weekly earnings of £330. She normally receives four weekly wages in each assessment period. Her Universal Credit amount is £317.82, her child element is £277.08 and her work allowance is £397. The de-minims is £300.

A typical Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + £277.08 = £594.90

2. £1,320 (earned income) - £397 (work allowance) = £923.00

3. £923 x 0.63 (taper) = £581.49

4. £594.90 - £581.49 = **£13.41** Universal Credit award.

Assessment period 1

Elsa receives 5 weekly wages in this assessment period making her total earned income £1,650. This ends Universal Credit entitlement but surplus earnings will apply to any subsequent claims made within 6 months.

Her Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + £277.08 = £594.90

2. £1,650 (earned income) - £397 (work allowance) = £1,253.00

3. £1,253 x 0.63 (taper) = £789.39

4. £594.90 - £789.39 = -**£194.49** (excess income).

The original surplus is calculated as follows

1. the nil Universal Credit threshold is £594.90 - £0.00 ÷ 63 x 100 = £944.29 + £397 = £1,341.29

2. the relevant threshold is £1,341.29 + £300 = £1,641.29

3. the original surplus is £1,650 - £1,641.29 = **£8.71**.

Assessment period 2 - reclaim received (1st)

Elsa reclaims Universal Credit the following month. She receives 4 weekly wages in this assessment period, otherwise her circumstances are unchanged.

Her Universal Credit award is calculated as follows

1. Maximum Universal Credit amount - £317.82 + £277.08 = £594.90

2. £8.71 (surplus earnings) + £1,320 (actual earned income) = £1,328.71

3. £1,328.71 (total earned income) - £397 (work allowance) = £931.71

4. £931.71 x 0.63 (taper) = £586.98

5. £594.90 - £586.98 = **£7.92** Universal Credit award.

Elsa is therefore entitled to Universal Credit, surplus earnings would no longer apply to any subsequent claims as the total earned income no longer exceeds the relevant threshold (the surplus has been eroded)

1. the nil Universal Credit threshold is £594.90 - £0.00 ÷ 63 x 100 + £397 = £1,341.29

2. the relevant threshold is £1,341.29 + £300 = £1,641.29

3. £1,328.71 (total earned income) is **less** than £1,641.29 (the relevant threshold).

In cases where a claimant is paid weekly, it is likely this pattern of surplus earnings will repeat itself during the course of a year. Where that occurs the claimant will have to submit a new claim each time until the surplus is eroded.

The content of the examples in this document (including use of imagery) is for illustrative purposes only