

## THE UNIVERSAL CREDIT (EARNED INCOME) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2020

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### INTRODUCTION

- 1 This Memo provides guidance on the Universal Credit (Earned Income) (Amendment) Regulations (Northern Ireland) 2020 (SR 2020 No 226), (UC (EI) (Amdt) Regs (NI)). The Regulations come into operation on 16.11.2020.

*1 UC (EI) (Amdt) Regs (NI), reg 1*

### BACKGROUND

- 2 The Regulations amend regulation 62 of the Universal Credit Regulations (Northern Ireland) 2016 following the decision of the Court of Appeal in Secretary of State for Work and Pensions v Johnson and Others [2020] EWCA Civ 778.

### REAL TIME INFORMATION

- 3 Where a person is, or has been, engaged in an employment in respect of which their employer is a Real Time Information employer
  1. the amount of the person's employed earnings from that employment in respect of each assessment period is to be based on the information

reported to Her Majesty's Revenue and Customs under the Pay As you Earn Regulations and received by the Department from Her Majesty's Revenue and Customs in that assessment period<sup>1</sup> **and**

2. in respect of an assessment period in which no information is received from Her Majesty's Revenue and Customs, the amount of employed earnings in relation to that employment is to be taken to be nil<sup>2</sup>.

*1 UC Regs (NI) 16, reg 62(2)(a); 2 reg 62(2)(b)*

## **EXCEPTIONS TO USE OF REAL TIME INFORMATION**

4 Paragraph 3 does not apply where—

1. in relation to a particular employment the Department considers that the employer is unlikely to report information to Her Majesty's Revenue and Customs in a sufficiently accurate or timely manner<sup>1</sup>
2. it appears to the Department that the amount of a payment reported to Her Majesty's Revenue and Customs is incorrect, or fails to reflect the definition of employed earnings in regulation 55 (employed earnings), in some material respect<sup>2</sup> **or**
3. no information is received from Her Majesty's Revenue and Customs in an assessment period and the Department considers that this is likely to be because of a failure to report information (which includes the failure of a computer system operated by Her Majesty's Revenue and Customs, the employer or any other person)<sup>3</sup>.

*1 UC Regs (NI) 16, reg 62(3)(a); 2 reg 62(3)(b); 3 reg 62(3)(c)*

5 Where paragraph 3 does not apply by virtue of any of the exceptions in paragraph 4, the Department must determine the amount of employed earnings for the assessment period in question (or, where the exception in paragraph 4 1. applies, for each assessment period in which the person is engaged in that employment) in accordance with regulation 55 (employed earning) using such information or evidence as the Department deems appropriate<sup>1</sup>.

*1 UC Regs (NI) 16, reg 62(4)*

## **RELOCATION OF REPORTED PAYMENTS**

6 Where it appears to the Department that a payment of employed earnings has been reported late, or otherwise reported in the wrong assessment period, the Department may determine that the payment is to be treated as employed earnings in the assessment period in which it was received<sup>1</sup>.

*1 UC Regs (NI) 16, reg 62(5)*

7 Where a person is engaged in an employment where they are paid on a regular monthly basis and more than one payment in relation to that employment is reported in the same assessment period, the Department may, for the purposes

of maintaining a regular pattern, determine that one of those payments is to be treated as employed earnings in respect of a different assessment period<sup>1</sup>.

*1 UC Regs (NI) 16, reg 62(6)*

## **CONSEQUENTIAL ADJUSTMENTS**

- 8 Where the Department makes a determination under any of paragraphs 5 to 7, the Department may make such other adjustments to the calculation of the person's employed earnings as may be necessary to avoid duplication or to maintain a regular payment pattern<sup>1</sup>.

*1 UC Regs (NI) 16, reg 62(7)*

### **Example 1**

Ranjeet has an assessment period that runs from the 28th day of each month to the 27th day of the following month. Ranjeet's employer regularly pays him on the 28th day of each month. Ranjeet was paid his usual salary on 28.11.20. Because 28.12.20 is a public holiday his salary for December is paid on 24.12.20. The following payment is paid as usual on 28.1.21. The decision maker determines that the payment received on 24.12.20 is to be treated as paid in the assessment period that ran from 28.12.20 to 27.1.21.

### **Example 2**

Danielle has an assessment period that runs from the 25th day of each month to the 24th day of the following month. Danielle's employer regularly pays her on the 20th day of each month. Danielle's employer paid her as usual on 20.2.21 but was involved in an accident and did not complete the Real Time Information return until 25.2.21. Danielle received her next payment of salary on 20.3.21. The decision maker determined that the 20.2.21 was reported late and is to be treated as employed earnings in the assessment period in which it was paid.

### **Example 3**

Ingrid has an assessment period that runs from the 28th day of each month to the 27th day of the following month. Ingrid's employer regularly pays her on the 28th day of each month unless it is a non-banking day in which case she is paid on the working day before the 28th. The decision maker determines that Ingrid should be treated as receiving the salary paid on 26.2.21 as though paid on 28.2.21 and the salary paid on 26.3.21 as though paid on 28.3.21.

### **Example 4**

Max has an assessment period that runs from the 27th day of each month to the 26th day of the following month. The decision maker determines that Max should be treated as receiving the salary paid on 24.12.20 as though it was paid on 27.12.20 and the salary paid on 26.2.21 as though paid on 27.2.21 and the salary paid on 26.3.21 as though paid on 27.3.21.

## **ANNOTATIONS**

Please annotate the number of this Memo (ADM Memo 21/20) against ADM paragraphs:

H3191 – H3194

## **CONTACTS**

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