Universal Credit: capital and income

September 2011

SUMMARY OF ILLUSTRATIVE REGULATIONS

1. This paper contains an initial, illustrative set of regulations on the treatment of capital and income in Universal Credit. These relate to clauses 5 and 8(3) of, and paragraph 8(1), (2) to (4) and (6) of Schedule 1 to, the Welfare Reform Bill. They do not represent a final version of the regulations, but are intended to inform debate on these aspects of the Bill in the House of Lords.

Financial conditions

2. Regulation 1 prescribes a capital limit of £16,000 for the purposes of clause 5 of the Bill. This limit is the same for single claimants and joint claimants. The limit is the same as that currently applying to income-based Jobseeker's Allowance and other benefits.

Capital

3. Regulations 2 to 8 provide for the calculation of capital in Universal Credit for the purposes of the financial conditions. This provides for the whole of capital to be taken into account unless it is treated as income or disregarded under regulation 5 and the Schedule.

4. The Schedule prescribes capital that is to be disregarded in the calculation of the claimant's capital. As now, there is provision for a rule to apply to capital in some cases in relation to a period of 26 weeks. Regulation 5 provides that where a period of 26 weeks is specified in the Schedule that period may be extended where it is reasonable, as happens now.

Income

5. Regulations 9 to 16 provide for the calculation of monthly income to be taken into account in the calculation of an award. There are separate provisions for earned income and unearned income. This includes provision for deprivation of income.

6. The chapter on the treatment of income is not complete but is included in the illustrative regulations to give context to the provisions on capital. The structure of these regulations is much simpler than the approach taken in existing secondary legislation. For example regulation 18 provides for the treatment of a sum awarded to the claimant in consequence of a personal injury to the claimant in one provision that covers both the capital and income rules. Similarly, regulation 19

7. The treatment of income has been rationalised. The introduction of a taper for earnings, and disregard in appropriate cases, is key to the introduction of Universal Credit. By allowing people to keep a proportion of their earnings it ensures that work pays at all levels of earnings. Some unearned income such as Statutory Sick Pay will also be treated in this way and subject to the taper.

8. Unearned income within the descriptions listed in regulation 14 will reduce payment of Universal Credit pound for pound. Other types of unearned income are completely disregarded by virtue of falling outside the scope of this regulation, including for example Disability Living Allowance, Personal Independence Payment, Child Benefit, Fostering Allowance and child maintenance.

Gaps and further work to be done to the initial capital and income regulations

9. These illustrative regulations are mainly addressing what counts as capital, earned income and unearned income. There will need to be more detailed provisions on how to reach an income figure in relation to a particular assessment period or an incomplete assessment period.

10. Regulations on entitlement will also provide for a minimum amount of Universal Credit payable which will be determined in the light of the design of the delivery system and an assessment of the costs of different options.

11. The chapter on capital will make provision for the treatment of capital where it is held jointly with another person who is not included in the claim. Regulation 7 will make provision for reducing over time the capital a claimant is treated as possessing.

12. Regulations 11 and 12 under clause 8 will be developed to provide for the calculation and treatment of earned income, including earnings from self-employment. This will include provision for a system of flat-rate disregards which will be different for different groups of claimants. The regulations will also provide for a percentage of earnings to be disregarded in calculating an award to produce a taper.

2013 No.

SOCIAL SECURITY

The Universal Credit Regulations 2013 (Capital and Income)

Made - - - -	***
Laid before Parliament	***
Coming into force - -	***

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 5 and 8(3) of, and paragraph 8(1),(2) to (4) and (6) of Schedule 1 to, the Welfare Reform Act 2011:

PART

ENTITLEMENT

Financial Conditions – capital limit

1.—(1) This regulation prescribes the capital limit for the purposes of section 5 of the Act (financial conditions).

(2) In the case of a single claimant the amount of their capital must not be greater than £16,000.

(3) In the case of joint claimants the amount of their combined capital must not be greater than £16,000.

PART

AWARDS

CHAPTER 1

CALCULATION OF CAPITAL AND INCOME

Introduction

2. This Chapter provides for the calculation of capital and income for the purposes of the financial conditions in section 5 of the Act and for the purposes of determining the amounts to be deducted from the maximum amount of universal credit in accordance with section 8(3) of the Act.

Capital

What is included in capital?

3.—(1) The whole of a claimant’s capital is to be taken into account unless—

(a) it is to be treated as income (see paragraphs (3) and (4); or

(b) it is to be disregarded (see regulations 5, 16 and 17).

(2) A claimant’s personal possessions are not to be treated as capital.

(3) Subject to paragraph (4), any sums that are paid regularly and by reference to a period, for example payments under an annuity, are to be treated as income even if they would, apart from this provision, be regarded as capital or as having a capital element.

(4) Where capital is payable by instalments, each payment of an instalment is to be treated as income if the amount outstanding, combined with any other capital of the claimant (or, in the case of joint claimants, the other claimant), exceeds £16,000, but otherwise such payments are to be treated as capital.

Jointly held capital

4. Where a claimant and one or more other persons (who, in the case of joint claimants, may include the other claimant) have a beneficial interest in a capital asset, they are to be treated, in the absence of evidence to the contrary, as if they were each entitled to that asset in equal shares.

Capital disregarded

5.—(1) Any capital specified in the Schedule is to be disregarded from the calculation of a claimant’s capital (see also regulations 16 and 17).

(2) Where a period of 26 weeks is specified in that Schedule, that period may be extended where it is reasonable in the circumstances of the case.

Valuation of capital

6.—(1) Capital is to be calculated at its current market value or surrender value less—

(a) where there would be expenses attributable to sale, 10%; and

(b) the amount of any encumbrances secured on it.

(2) The market value of capital possessed by the claimant in a country outside the UK is:

(a) if there is no prohibition in that country against the transfer of that capital to the UK, the market value in that country; or

(b) if there is such a prohibition the amount it would raise if sold in the UK to a willing buyer.

(3) Where capital is held in currency other than sterling, it is to be calculated after the deduction of any banking charge or commission payable in converting that capital into sterling.

Deprivation of capital

7.—(1) A claimant is to be treated as possessing capital of which the claimant has deprived themself for the purpose of securing entitlement to universal credit or to an increased amount of universal credit.

(2) A claimant is not to be treated as depriving themself of capital if the claimant disposes of it for the purposes of—

(a) reducing or paying a debt owed by the claimant; or

(b) purchasing goods or services if the expenditure was reasonable in the circumstances of the claimant's case.

(3) *[Provision to be included here for reducing the capital a claimant is treated as possessing under this regulation over time. In cases where the capital exceeds £16,000 and, as a result, there is no entitlement to UC, the capital is treated as diminishing by the underlying UC entitlement each month. In cases where the clamant is treated as possessing capital between £6,000 and £16,000 and this is assumed to yield income the capital is treated as diminishing by the value of that assumed income.]*

Capital of a company analogous to a partnership or one person business

8.Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the claimant is to be treated as the sole owner or partner and in such case—

(a) the value of the claimant's holding is to be disregarded; and

(b) the claimant is to be treated as possessing an amount of capital equal to the value, or the claimant's share of the value, of the capital of that company.

Income – general

Calculation of monthly income

9.—(1) A claimant's income is to be calculated as a monthly amount.

(2) Where the period in respect of which a payment of income is made is not a month, an amount is to be calculated as the monthly equivalent, so for example—

(a) weekly payments are multiplied by 52 and divided by 12;

(b) four weekly payments are multiplied by 13 and divided 12;

(c) three monthly payments are multiplied by 4 and divided by 12; and

(d) annual payments are divided by 12.

(3) Where the amount of a claimant's income fluctuates, the monthly equivalent is to be calculated—

(a) where there is an identifiable cycle, over the duration of one such cycle; or

(b) where there is no identifiable cycle, over three months or such other period as may, in the particular case, enable the claimant's income to be determined more accurately.

Deprivation of income and income foregone

10.—(1) A claimant is to be treated as possessing income of which the claimant has deprived themself for the purpose of securing entitlement to universal credit or to an increased amount of universal credit.

(2) If income would be available to a claimant upon the making of an application for that income, the claimant is to be treated as having that income.

(3) Paragraph (2) does not apply to income under a personal or occupational pension scheme or a retirement annuity contract where the claimant has not reached the qualifying age for state pension credit.

(4) [Include specific provision in relation to deferral of retirement pensions]

(5) If a claimant provides services for another person and—

(a) the other person makes no payment for that service or pays less than would be paid for a comparable service in the same area; and

(b) the means of the other person were sufficient to pay for, or pay more for, that service, the claimant is to be treated as having received the remuneration that would be reasonable for the provision of that service.

(6) Paragraph (4) does not apply where—

(a) the claimant is a volunteer or is engaged to provide the service by a charitable or voluntary organisation and the Secretary of State is satisfied that it is reasonable to provide the service free of charge;

(b) the service is provided under or in connection with the claimant's participation in an employment or training programme approved by the Secretary of State.

Earned income

Amount to be deducted in respect of earned income

11. *[Provision here for calculation of a single claimant's earned income or joint claimants' combined earned income. Includes provision for disregards and taper.]*

What is included in earned income?

12. *[Categories of earned income specified. Includes earnings from employment and self-employment, income from board and lodgings, statutory sick pay and statutory maternity pay.]*

Unearned income

Amount to be deducted in respect of unearned income

13.—(1) The amount to be deducted in respect of unearned income in accordance with section 8(3) of the Act is the whole of the claimant's unearned income (or the case of joint claimants, the whole of their combined unearned income) calculated in accordance with this Chapter.

What is included in unearned income?

14. A claimant's unearned income is any of their income, including income the claimant is treated as having by virtue of regulation 10 (deprivation of income and income foregone), falling within the following descriptions—

(a) …..

(b) …..

(c) income from an annuity (unless disregarded under regulation 16 or 17);

(d) income from a trust (unless disregarded under regulation 16 or 17);

(e) income that is treated as the yield from a claimant's capital by virtue of regulation 15;

(f) capital treated as income by virtue of regulation 3(3) or (4).

[Categories of unearned income to be listed. For consistency with approach taken in the regulations for state pension credit (and in contrast to the approach in the regulations for income support) any category of income that is not listed is by implication disregarded. The categories specifically mentioned in paragraphs (c) to (f) above and regulation 15 below are included here because they so closely connected to the regulations dealing with capital.]

Income treated as yield from capital

15.—(1) A claimant's capital is to be treated yielding a weekly income of £1 for each £250 in excess of £6,000 and £1 for any excess which is not a complete £250.

(2) Paragraph (1) does not apply where the capital is disregarded or the actual income from that capital is taken into account under regulation 14(c) (income from an annuity) or 14(d) (income from a trust).

(3) Where a claimant's capital is treated as yielding income, any actual income derived from that capital, for example rental, interest or dividends, is to be treated as part of the claimant's capital from the day it is due to be paid to the claimant.

Treatment of personal injury compensation and payments under certain schemes

Personal injury

16.—(1) This regulation applies where a sum by has been awarded to a claimant, or has been agreed by or behalf of a claimant, in consequence of a personal injury to the claimant.

(2) If, in accordance with an order of the court or an agreement, the claimant receives all or part of that sum by way of regular payments, those payments are to be disregarded from the calculation of the claimant's income.

(3) If the sum has been used to purchase an annuity, payments under the annuity are to be disregarded from the calculation of the claimant's income.

(4) If the sum is held in trust, any capital of the trust derived from that sum is to be disregarded from the calculation of the claimant's capital and any income from the trust is to be disregarded from the calculation of the claimant's income;

(5) If the sum is administered by the court on behalf of the claimant or can only be disposed of by direction of the court, it is to be disregarded from the calculation of the claimant's capital and any regular payments from that amount are to be disregarded from the calculation of the claimant's income.

(6) If the sum has been paid to the claimant within the past 52 weeks and is not held in trust or has not been used to purchase an annuity or otherwise disposed of, that sum is to be disregarded from the calculation of the claimant's capital

Special schemes for compensation etc.

17.—(1) This regulation applies where a claimant receives a payment—

(a) from a scheme approved by the Secretary of State or from a trust established with funds provided by the Secretary of State for the purpose of providing compensation or support in respect of—

(i) imprisonment or internment by the Japanese during the second world war;

(ii) forced labour, property loss or personal injury during the second world war;

(iii) a diagnosis of variant Creutzfeldt-Jacob disease;

(iv) infection from contaminated blood products;

(v) the 2007 London bombings;

(vi) holders of the Victoria Cross or George Cross;

(vii) [Independent living Fund]; or

(b) from a local authority or the Welsh Ministers relating to a service which is provided to develop or sustain the capacity of the claimant to live independently in their accommodation.

(2) Any such payment, if is capital, is to be disregarded from the calculation of the claimant's capital and, if it is income, is to be disregarded from the calculation of the claimant's income.

(3) *[Provision here for limited disregard where compensation inherited, paid to parents etc*.]

CAPITAL TO BE DISREGARDED

Regulation 5

Premises

1.—(1) Premises occupied by a claimant as their home.

(2) For purposes of this paragraph and paragraphs 2 to 5, only one set of premises may be treated as a person's home.

2. Premises occupied by a close relative of a claimant as their home where that close relative has limited capability for work or has reached the qualifying age for state pension credit.

3. Premises occupied by a claimant's former partner as their home where the claimant and their former partner are not estranged, [but living apart by force of circumstances, for example where the claimant is in long term care].

4.—(1) Premises that a claimant intends to occupy as their home where —

(a) the claimant has acquired the premises within the past 26 weeks but not yet taken up occupation; or

(b) the claimant is taking steps to obtain possession and has commenced those steps with the past 26 weeks; or

(c) the claimant is carrying out essential repairs or alterations required to render the premises fit for occupation and these have been commenced within the past 26 weeks.

(2) A person is to be taken to have commenced steps to obtain possession of premises on the date that legal advice is first sought or proceedings are commenced, whichever is earlier.

5. Premises that a claimant has ceased to occupy as their home following an estrangement from their former partner where—

(a) the claimant has ceased to occupy the premises within the past 26 weeks; or

(b) the claimant's former partner is a lone parent and occupies the premises as their home.

6. Premises that a claimant is taking reasonable steps to dispose of where those steps have been commenced within the past 26 weeks.

Business assets

7. Assets of a business where a claimant is engaged in that business as a [self employed person] or where—

(a) the claimant has ceased to be so engaged in the past 26 weeks and is taking reasonable steps to dispose of those assets; or

(b) the claimant has ceased to be so engaged with past 26 weeks because of incapacity but reasonably expects to be reengaged on recovery.

8. Assets of a company that a claimant is treated as possessing by virtue of regulation 8 (company analogous to a partnership or one person business) where the claimant is engaged in activities in the course of the business of that company.

Rights in pensions schemes etc

9. The value of any policy of life insurance.

10. The value of any right to receive a pension under an occupational or personal pension scheme or of any funds held in an occupational or personal pension scheme.

11.—(1) The value of a funeral plan contract.

(2) "Funeral plan contract" means a contract under which the claimant makes payments to a person to secure the provision of a funeral in the UK for the claimant on their death [and where the sole purpose of the plan is the provision of a funeral.]

Amounts earmarked for special purposes

12. An amount deposited with a housing association as a condition of the claimant occupying premises as their home.

13. An amount received within the past 26 weeks which is to be used for the purchase of premises that the claimant intends to occupy as their home where that amount—

(a) is attributable to the proceeds of the sale of premises formerly occupied by the claimant as their home; or

(b) has been deposited with a housing association as mentioned in paragraph 12;

(c) is a grant made to the claimant for the sole purpose of the purchase of a home.

14. An amount received under an insurance policy with the past 26 weeks in connection with the loss or damage to the premises occupied by the claimant as their home or to their personal possessions.

15. An amount received with the past 26 weeks that is to be used for making essential repairs or alterations to premises occupied or intended to be occupied as the claimant's home where that amount has been acquired by the claimant (whether by grant or loan or otherwise) on condition that it is used for that purpose.

Other payments

16. Any payment made under Part 8A of the 1992 Act (maternity grant)

17. *[Provision here for amounts paid since the start of the current award for universal credit by way of arrears of benefit, compensation for late payment of benefit etc.]*