

## Surplus earnings rule and how it could affect you if you receive SEISS or are made redundant

The surplus earnings rule was introduced because the DWP believed that claimants and employers might change earnings patterns to maximise UC awards eg: receiving your whole year's salary in a single assessment period (AP). The rule applies to all earned income whether from employment or self-employment. Payments of the SEISS (Self-Employed Income Support Scheme) grant or final salary payments/pay in lieu of notice may mean that the surplus earnings rule affects your award of UC.

The surplus earnings rule means if you receive an increase in earned income that takes you out of entitlement to UC, your award of UC may also be lower than you expect in subsequent APs. If the earned income is high enough it can affect you for up to the following 5 APs.

There is a 'buffer' for determining when the surplus earnings rules come into effect. This is currently set at £2500. This means that the surplus earnings rules only affect your future UC calculations when your net earnings take you out of entitlement for UC by over £2500.

### How does it work?

The way the 'surplus' earnings are spread over the following APs is quite complicated but the principle is that net earnings that take you out of entitlement to UC by over £2500 in one Assessment Period will create 'surplus earnings' that are assumed to exist when calculating your award in the next Assessment Period (AP). If your net earnings in one AP are very high you may lose entitlement to UC in more than one future AP. Seek advice if you are affected by the Surplus Earnings Rule so that the calculation can be checked and explained to you in more detail.

### What should I do for my Universal Credit claim?

In the Assessment Period in which you receive your SEISS grant, you will need to enter it as earnings on your UC account. It should be entered as a receipt at step 1 of the calculation of self-employed earnings. Actual expenses paid out in that AP, also entered at step 1, payments to HMRC entered at step 3 and carried forward losses will reduce the net earnings figure. Final salary payments and pay in lieu of notice will normally be reported via the RTI system direct from HMRC to Universal Credit. If the amount takes you out of entitlement to UC by more than £2500 it is likely that the UC calculation for the following AP will also be affected. You should be treated as having made a new claim on the first day of the following AP, but you will need to log on and

update your account to make sure any additional income or change of circumstances are recorded. This may include updating your capital figure.

If your actual earnings (if you have any) in the next AP, plus the assumed 'surplus earnings' carried over take you out of entitlement to UC you will not receive any UC again for this AP, but must continue to keep your account up to date with income figures and any changes of circumstance. Even if you receive the maximum SEISS grant, the surplus earnings will have been used up and it is likely you will receive at least some UC again by the third AP after the one in which the SEISS grant is paid. If you receive less than the maximum SEISS grant and/or if you have a UC award that includes extra amounts e.g. for children and/or rent, you may well become entitled to UC again earlier. This could be as early as the AP following receipt of the SEISS grant. How long final salary earnings impact on your UC award will depend upon the amount received. Seek advice.

### **The unspent SEISS grant or final salary / pay in lieu of notice payments**

If in the AP following the award of the SEISS or when you receive end of employment payments, you have more than £6000 in the bank, ignoring income received in the new AP, this is a change of circumstances which should be recorded in your UC journal. The government has created a disregard for capital from grants and loans to meet the expenses or losses of a trade, profession or vocation in relation to the outbreak of coronavirus disease . The disregard is for 52 weeks from its receipt. It is not clear whether or not the SEISS itself will be disregarded; we are still waiting for guidance on how it will be treated.

If the specific grants and loans disregard for the coronavirus crisis does not apply, capital remaining at the end of the AP may still fall within the scope of existing capital disregards. If the money is going to be used in your business, consider if it falls within the business asset disregard. If no disregard applies your UC payment in future APs may be reduced, or if it means you have capital over £16,000 you will lose entitlement while your capital is over the limit. It is always advisable to document, even disregarded, capital in your account in order to avoid problems arising in the future. When reporting such capital it is important to explain that it should be disregarded and why.

Statutory and contractual redundancy payments are capital from the AP in which they are paid. They can take you out of entitlement in that AP if they are over £16,000. If they are between £6,000 and £16,000 your calculation will include an assumed unearned income of £4.35 for every £250 between the two limits.

**This information was correct on 7 August 2020**