Universal Credit and Surplus Earnings

What are the UC Surplus Earnings Rules?

The Universal Credit 'surplus earnings' rules may affect some Universal Credit claimants if they receive a large payment of earnings from work.

The rules are quite complex, but basically mean that a Universal Credit claimant whose earnings are too high to entitle them to Universal Credit in an Assessment Period, will, in certain circumstances, have some of those earnings taken into account when their Universal Credit is reassessed (for a maximum of 5 Assessment Periods).

These Regulations have been introduced because of a fear that some employed / self-employed claimants could manipulate their earnings payment patterns to maximise Universal Credit awards. It is the earnings received in a Monthly Assessment Period (MAP) that are taken into account for UC - even if those earnings are in respect of a different period. So, without the Surplus Earnings Rule, a UC claimant who would otherwise be entitled to a low UC award or no UC at all based on their monthly income could, in collusion with their employer, have all their earnings paid in just one month in the year (sacrificing their award for that month) but be entitled to their maximum UC award for the other 11 months in the year.

How to work out if someone has 'surplus earnings'

Follow these steps –

Step 1: Has the claimant had an award of UC in the previous 6 months?
If yes go on to Step 2, if no, then there are no surplus earnings.

Step 2: For the Assessment Period in which the claim ended, were the claimant's earnings above their 'relevant threshold'?
If yes, go on to Step 3, if no, then there are no surplus earnings.

Step 3: Include the earnings above the 'relevant threshold' in the previous Assessment Period as earnings in the current assessment.

Step 4: Is the claimant entitled to any UC?
If yes, then the claimant is no longer affected by the surplus earnings rule. If no, then the above steps will be repeated.

'Relevant Threshold' =
(((Maximum UC – unearned income) x 100 / 63) + work allowance) + £2,500

What is the 'relevant threshold'?

A claimant's Surplus Earnings are any earnings above their 'relevant threshold'.
The 'relevant threshold' is the claimant's **'nil UC threshold' plus**:

- **£2,500** for claims made until 31.03.23
- £300 for claims made after that date

What do we mean by 'earnings'?

Employee earnings after tax, NI, pension contributions or self-employed income minus allowable expenses.
This does not include any earnings the claimant is treated as having if the minimum income floor applies.

What is the 'nil UC threshold'?

The 'nil UC threshold' is the point at which the claimant's earned income becomes too high for them to qualify for UC in a particular Monthly Assessment Period.

It is calculated by subtracting any unearned income from the maximum award that the claimant would be entitled to (ie the total of their standard allowance and elements), dividing the result by 63 and multiplying that by 100, then adding any relevant work allowance.

The formula to work out the 'Nil UC threshold' is:

((Maximum UC – unearned income) x 100 / 63) + work allowance.

What happens where a couple who are affected by the 'Surplus Earnings' rules separate?

Where the couple separate during the 5 month period following an award of UC dropping to nil due to earnings, then the surplus will be apportioned between the couple 50/50 - even if only one of the couple was the worker, or, if both working, only one of the couple had the spike in earnings. Although, where the apportionment is unreasonable, the DWP have the discretion to allow a different apportionment.

And the rules include an exemption for victims of domestic abuse to ensure that there is no financial disincentive for these claimants to leave an abusive relationship. No surplus would be apportioned to the claimant affected.

Who is most likely to be affected?

The Surplus Earnings rules only affect claimants whose UC award has dropped to nil due to a huge spike in their earnings.
The increase could be due to or receiving a large sum such as:

- Arrears of pay
- Large bonus
- Pay in lieu of notice
- Lump sum of maternity pay
- Accrued holiday pay
- Being paid two sets of monthly earnings in one MAP
- Self-Employed Income Support Scheme Grant.

Note – Redundancy Pay and lump sum pension payments would not themselves cause surplus earnings. They count as savings, not income.

Is it worth a claimant delaying a claim for UC to avoid being caught by the Surplus Earnings rules?
If they have not been on UC in the previous 6 months, then we would advise probably yes. If someone claims UC and has an abnormally large earnings payment included in their first Monthly Assessment Period they run the risk of the DWP applying the Surplus Earnings rules*. It would therefore be better to delay claiming UC until after the abnormally large earnings payment has been received in order to avoid this risk.
* There is an argument to be made that where the large payment is received within the claimant's first MAP then the surplus earnings rule cannot kick in – but this is, as yet untested.

If a claimant has been affected by the Surplus Earnings Rules:

They should:

- Check that the Surplus Earnings rules do apply in their case ie they are not excluded due to domestic violence.
- Check that they have been worked out correctly (ie that the claimant's Maximum UC is correct and check what has been classed as earnings).
- Continue to reclaim Universal Credit as long as this erodes the surplus earnings figure - although the DWP should treat them as making a new claim due to Regulations* introduced on 21st May, these Regulations use the expression 'may' so the DWP have the discretion not to apply them to all claimants.

Who is not affected?

Where, although the claimant has had a large payment of earnings, it does not:

- take them off Universal Credit, or
- does not take the level of their savings above their 'Relevant Threshold'.