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Denise Whitehead
Secretary, Social Security Advisory Committee
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10th October 2014

Dear Denise

THE UNIVERSAL CREDIT (SURPLUSES AND SELF-EMPLOYED LOSSES) REGULATIONS 2014

The Department for Work and Pensions ("the Department") proposes to make amendments to the Universal Credit Regulations 2013[1] ('the 2013 Regulations') via The Universal Credit (Surpluses and Self-employed Losses) Regulations 2014 ('the 2014 Regulations') to support the continuing implementation of Universal Credit (UC).

The proposed 2014 Regulations affect UC claimants who have had an award of UC that ends and who then re-claim UC within six assessment periods of their previous UC award ceasing. If a person reclaims more than 6 assessment periods after the last day of their previous UC award terminating, surpluses are ignored.

The effects of the regulations are summarised as follows:

- **Regulation 2** inserts regulation 57A into the 2013 Regulations to allow previous losses from self-employment to be considered when assessing self-employed earnings in future assessment periods. In order to support this we will also allow self-employed workers to off-set losses between

[1] http://www.legislation.gov.uk/uksi/2013/376/contents/made

multiple self-employed businesses (although claimants will still need to report on a business by business basis). Any losses will only be available to be used once and will be considered for a maximum of 11 assessment periods following the one in which the loss arose.

- **Regulation 3** inserts regulation 64A into the 2013 Regulation so that surplus earnings can be calculated and applied to UC awards for a maximum of six assessment periods where:

    - paid workers (employed and self-employed) have lost entitlement to UC for up to six assessment periods; and
    - they have subsequently regained entitlement to UC within six assessment periods of the last day of their previous entitlement (either as an individual or as part of a joint claim).

Regulation 64A also deals with the calculation of surplus earnings where paid workers regain entitlement to UC but:

- have formed a couple; or
- have separated from their partner.

Along with the draft Regulations, I enclose an Explanatory Memorandum which gives more detail of the proposed amendments and provides background to the regulations. I have also enclosed a Keeling version showing the proposed amendments in place.

Officials attended the Committee's 1st October meeting and following this discussion we understand it would be helpful to clarify the following points.

(1) Where a claimant continues to receive the same amount of earnings but their circumstances change and their UC award decreases, then the level of earnings that reduce their award to nil will also change at the same time. A simple example would be a couple where one person works. If the couple separate and the working person claims UC their new award will be at a single person rate and their earnings will reduce that award.

    If their earnings are such that as a single person they are not entitled to UC, then a surplus might be considered but only if they return to UC within six assessment periods of their award becoming nil. This might be because their earnings have reduced or their circumstances have undergone further change.

(2) The Committee also expressed an interest in the interaction between surplus earnings policy and redundancy payments. If a claimant loses their job but has not had an award of UC within the previous six assessment periods (either as a single person or a member of a couple) then no surplus will apply to them. Statutory redundancy payments are treated as capital rather than earnings for UC purposes and the UC capital rules will apply. Other final earnings payments such as pay in lieu of notice and accrued holiday pay are taken into account as earnings for UC purposes.

I hope this letter and enclosures will be helpful to the Committee. I would be happy to provide any further information the Committee may require.

Yours sincerely

By email

Michelle Odgers