
STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 10

INCOME AND CAPITAL

CHAPTER 1

General

Calculation of income and capital of members of claimant's family and of a polygamous marriage

83.—(1) Subject to paragraph (4), the income and capital of a claimant's partner which by virtue of paragraph 6(2) of Schedule 1 to the Act is to be treated as income and capital of the claimant, is to be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the “claimant” is, except where the context otherwise requires, to be construed, for the purposes of this Part, as if it were a reference to the claimant's partner.

(2) Subject to the following provisions of this Part, the income paid to, or in respect of, and capital of, a child or young person who is a member of the claimant's family is not to be treated as the income or capital of the claimant.

(3) Subject to paragraph (5), where a claimant or the partner of a claimant is married polygamously to two or more members of the claimant's household—

- (a) the claimant is to be treated as possessing capital and income belonging to each such member; and
- (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the claimant.

(4) Where at least one member of a couple is aged less than 18 and the applicable amount of the couple falls to be determined under paragraph 1(3)(e), (f), (g), (h) or (i) of Schedule 4 (amounts), the income of the claimant's partner is not to be treated as the income of the claimant to the extent that—

- (a) in the case of a couple where both members are aged less than 18, the amount specified in paragraph 1(3)(c) of that Schedule exceeds the amount specified in paragraph 1(3)(i) of that Schedule; and
- (b) in the case of a couple where only one member is aged less than 18, the amount specified in paragraph 1(3)(a) of that Schedule exceeds the amount which is specified in paragraph 1(3)(h) of that Schedule.

(5) Where a member of a polygamous marriage is a partner aged less than 18 and the amount which applies in respect of that partner under regulation 68(2) (polygamous marriages) is nil, the claimant is not to be treated as possessing the income of that partner to the extent that an amount in respect of that partner would have been included in the applicable amount if the partner had fallen within the circumstances set out in regulation 68(2)(a) or (b).

Status:

Point in time view as at 27/10/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 83.