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STATUTORY INSTRUMENTS

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**2013 No. 378**

**The Jobseeker's Allowance Regulations 2013**

**PART 5**

**Conditions of entitlement**

**Persons approaching retirement and the jobseeking period**

**40.**—(1) The provisions of this regulation apply only to days—

- (a) which fall after 6th October 1996 and within a tax year in which the claimant has attained the qualifying age for state pension credit (which is, in the case of a woman, pensionable age and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man) but is under pensionable age; and
- (b) in respect of which a jobseeker's allowance is not payable because the decision of the determining authority is that the claimant—
  - (i) has exhausted their entitlement to a jobseeker's allowance;
  - (ii) fails to satisfy one or both of the contribution conditions specified in section 2(1) (a) and (b) of the Act; or
  - (iii) is entitled to a jobseeker's allowance but the amount payable is reduced to nil by virtue of deductions made in accordance with regulation 51 for pension payments.

(2) For the purposes of regulation 37(1) (jobseeking period) but subject to paragraphs (3), (4) and (5), any days to which paragraph (1) applies and in respect of which the person does not satisfy the condition specified in section 1(2)(b) of the Act (conditions of entitlement to a jobseeker's allowance), are to be days on which the person is treated as satisfying the condition in section 1(2) (b) and (e) to (i) of the Act.

(3) Where a person is employed as an employed earner or a self-employed earner for a period of more than 12 weeks, then no day which falls within or follows that period is to be a day on which the person is treated as satisfying those conditions, but this paragraph is not to prevent paragraph (2) from again applying to a person who makes a claim for a jobseeker's allowance after that period.

(4) Any day which is, for the purposes of section 30C of the Benefits Act(1), a day of incapacity for work falling within a period of incapacity for work is not to be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).

(5) Any day which, for the purposes of Part 1 of the Welfare Reform Act 2007, is a day where the person has limited capability for work falling within a period of limited capability for work is not to be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).

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(1) Section 30C was inserted by section 3 of the Social Security (Incapacity for Work) Act 1994 and amended by paragraph 25 of Schedule 3 to the Tax Credits Act 2002 (c.21).