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## STATUTORY INSTRUMENTS

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# 1996 No. 207

## The Jobseeker's Allowance Regulations 1996

### PART I

### GENERAL

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance Regulations 1996.

(2) These Regulations shall come into force on 7th October 1996.

(3) [<sup>F1</sup>“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;]

In these Regulations—

“the Act” means the Jobseekers Act 1995;

[<sup>F2</sup>“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;]

[<sup>F3</sup>“the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004;]

“attendance allowance” means—

- (a) an attendance allowance under section 64 of the Benefits Act;
- (b) an increase of disablement pension under section 104 or 105 of the Benefits Act (increases where constant attendance needed and for exceptionally severe disablement);
- (c) a payment under regulations made in accordance with section 111 of, and paragraph 7(2) of Schedule 8 to, the Benefits Act (payments for constant attendance in workmen's compensation cases);
- (d) an increase in allowance which is payable in respect of constant attendance under section 111 of, and paragraph 4 of Schedule 8 to, the Benefits Act (industrial diseases benefit schemes);
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 <sup>F4</sup> or any analogous payment;
- (f) any payment based on the need for attendance which is paid as an addition to a war disablement pension;

[<sup>F5</sup>“the benefit Acts” means the Act, the Benefits Act and Part 1 of the Welfare Reform Act 2007;]

“benefit week” means a period of 7 days ending on the day which corresponds with the day of the week specified in a notice given or sent to the claimant in accordance with regulation 23 [<sup>F6</sup>or regulation 23A] (attendance) [<sup>F7</sup>requiring him to provide a signed declaration as referred to in regulation 24(6) or, in the case of a claimant who is not normally required to attend in person, on the day which corresponds with the day of the week specified by the Secretary of State in accordance with regulation 24(10) for the provision of a signed declaration,] except—

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[<sup>F8</sup>(a) where—

- (i) the Secretary of State requires attendance otherwise than at regular two weekly intervals, or in the case of a claimant who is paid benefit in accordance with Part III, other than regulation 20A, of the Claims and Payments Regulations at the time he provides a signed declaration as referred to in regulation 24(6), the “benefit week” ends on such day as the Secretary of State may specify in a notice in writing given or sent to the claimant;
- (ii) in accordance with an award of income support that includes the relevant day, the “benefit week” ends on a Saturday, the “benefit week” shall end on a Saturday, or on such other day as the Secretary of State may specify in a notice in writing given or sent to the claimant; or
- (iii) in accordance with an award of unemployment benefit that includes the relevant day, the claimant is paid benefit in respect of a period of seven days ending on the week-day specified in a written notice given to him by the Secretary of State for the purpose of his claiming unemployment benefit, and that day is a Saturday, the “benefit week” shall end on a Saturday or on such other day as the Secretary of State may specify in a notice in writing given or sent to the claimant;]

[<sup>F9</sup>(aa) where the Secretary of State has set a day for payment of a jobseeker's allowance in respect of a claim, but no notice has yet been given or sent to the claimant in accordance with regulation 23 [<sup>F6</sup>or regulation 23A], the “benefit week” means a period of 7 days ending on the day which has been set;]

- (b) for the purpose of calculating any payment of income in accordance with Part VIII, “benefit week” also means the period of 7 days ending on the day before the first day of the benefit week following the date of claim or, as the case may be, the last day on which a jobseeker's allowance is paid if it is in payment for;

“board and lodging accommodation” means—

- (a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or
- (b) accommodation provided to a person in a hotel, guest house, lodging house or some similar establishment,

except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;

[<sup>F1</sup>“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;]

[<sup>F10</sup>“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;]

[<sup>F11</sup>“the Children Order” means the Children (Northern Ireland) Order 1995;]

“Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987<sup>F12</sup>;

“close relative” means, except in Parts II, <sup>F13</sup>... and V, a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, [<sup>F14</sup>or if any of the preceding persons is one member of a couple, the other member of that couple];

“college of further education” means a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992<sup>F15</sup>;

"concessionary payment" means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit [<sup>F16</sup>or tax credits under the benefit Acts or the Tax Credits Act 2002] are charged;

"co-ownership scheme" means a scheme under which a dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any condition stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

[<sup>F17</sup>"couple" means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;]

"course of advanced education" means—

- (a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education or a higher national diploma; or
- (b) any other course which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), [<sup>F18</sup>a Scottish national qualification (higher or advanced higher)];

[<sup>F19</sup>"course of study" means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;]

"Crown tenant" means a person who occupies a dwelling under a tenancy or licence where the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest belonging to Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

"date of claim" means the date on which the claimant makes, or is treated as making, a claim for a jobseeker's allowance for the purposes of regulation 6 of the Claims and Payments Regulations<sup>F20</sup>;

"disability living allowance" means a disability living allowance under section 71 of the Benefits Act;

<sup>F21</sup> ...

"dwelling occupied as the home" means the dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;

"earnings" has the meaning specified, in the case of an employed earner, in regulation 98, or in the case of a self-employed earner, in regulation 100;

<sup>F22</sup> ...

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“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

[<sup>F23cc</sup>“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;]

“employment-related course” means a course the purpose of which is to assist persons to acquire or enhance skills required for employment, for seeking employment or for a particular occupation;

[<sup>F24cc</sup>“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;]

[<sup>F24cc</sup>“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State<sup>F25</sup>...;]

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“full-time course of advanced education” means a course of advanced education which is<sup>F28</sup>...—

(a) <sup>F29</sup>...a full-time course of study which is not funded in whole or in part by [<sup>F30</sup>the Learning and Skills Council for England or by the [<sup>F31</sup>Welsh Ministers]] or a full-time course of study<sup>F32</sup>... which is not funded in whole or in part by the [<sup>F33</sup>Scottish Ministers] at a college of further education [<sup>F34</sup>or a full-time course of study which is a course of higher education and is funded in whole or in part by the [<sup>F33</sup>Scottish Ministers]];

[<sup>F35</sup>(b) a course of study which is funded in whole or in part by the Learning and Skills Council for England or by the [<sup>F31</sup>Welsh Ministers] if it involves more than 16 guided hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

(i) in the case of a course funded by the Learning and Skills Council for England, in his learning agreement signed on behalf of the establishment which is funded by the Learning and Skills Council for England for the delivery of that course; or,

(ii) in the case of a course funded by the [<sup>F31</sup>Welsh Ministers], in a document signed on behalf of the establishment which is funded by the National Council for Education and Training for Wales for the delivery of that course; or,]

(c) <sup>F36</sup>...a course of study (not being higher education) which is funded in whole or in part by the [<sup>F33</sup>Scottish Ministers] at a college of further education if it involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

(ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person, other than a person in receipt of a training allowance [<sup>F37</sup>or a person who is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person)], who is—

- (a) aged less than 19 and undertaking a full-time course of advanced education or
- (b) aged 19 or over but under pensionable age and—
  - (i) attending a full-time course of study which is not funded in whole or in part by [<sup>F30</sup>the Learning and Skills Council for England or by the [<sup>F38</sup>Welsh Ministers]] or a full-time course of study [<sup>F39</sup>... which is not funded in whole or in part by the [<sup>F40</sup>Scottish Ministers] at a college of further education [<sup>F41</sup>or a full-time course of study which is a course of higher education and is funded in whole or in part by the [<sup>F40</sup>Scottish Ministers] ;]
  - [<sup>F42</sup>(ii) undertaking a course of study which is funded in whole or in part by the Learning and Skills Council for England or by the [<sup>F38</sup>Welsh Ministers] if it involves more than 16 guided hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
    - (aa) in the case of a course funded by the Learning and Skills Council for England, in his learning agreement signed on behalf of the establishment which is funded by the Learning and Skills Council for England for the delivery of that course; or,
    - (bb) in the case of a course funded by the [<sup>F38</sup>Welsh Ministers], in a document signed on behalf of the establishment which is funded by the National Council for Education and Training for Wales for the delivery of that course; or,]
  - (iii) undertaking a course of study (not being higher education) which is funded in whole or in part by the [<sup>F40</sup>Scottish Ministers] at a college of further education if it involves—
    - (aa) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
    - (bb) 16 hours or less per week of classroom or workshop based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

[<sup>F33</sup>“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005;]

[<sup>F43</sup>“Health Service Act” means the National Health Service Act 2006;]

[<sup>F43</sup>“Health Service (Wales) Act” means the National Health Service (Wales) Act 2006;]

“higher education” means higher education within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992<sup>F44</sup>;

[<sup>F45</sup>“housing benefit expenditure” means expenditure in respect of which housing benefit is payable as specified in [<sup>F46</sup>regulation 12(1) of the Housing Benefit Regulations 2006] but does not include any such expenditure in respect of which an amount is applicable under regulation 83(f) or 84(1) (g) (housing costs);]

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“housing benefit expenditure” means expenditure of a kind for which housing benefit may be granted;

[<sup>F47</sup>“Immigration and Asylum Act” means the Immigration and Asylum Act 1999;]

“Income Support Regulations” means the Income Support (General) Regulations 1987<sup>F48</sup>;

[<sup>F1</sup>“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;]

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[<sup>F51</sup>“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;]

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“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“jobseeking period” means the period described in regulation 47 [<sup>F55</sup>except where otherwise provided];

“last day of the course” has the meaning prescribed in regulation 130 for the purposes of the definition of “period of study” in this paragraph;

“liable relative” has the meaning prescribed in regulation 117;

[<sup>F56</sup>“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;]

“lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;

“long tenancy” means a tenancy granted for a term of years certain exceeding twenty one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise and includes a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a lease by sub-demise from one which is not a long tenancy;

[<sup>F57</sup>“long-term patient” means a person who—

(a) is a patient within the meaning of regulation 85(4); and

(b) has been such a patient for a continuous period of more than 52 weeks;]

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“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No.2) Trust” means the trust of that name, established on 2nd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

"the Macfarlane Trust" means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

"making a claim" includes treated as making a claim;

"maternity leave" means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under [<sup>F59</sup>Part VIII of the Employment Rights Act 1996];

"mobility supplement" means any supplement under [<sup>F60</sup>article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006]<sup>F61</sup> including such a supplement by virtue of any other scheme or order or under article 25A of the Personal Injuries (Civilians) Scheme 1983<sup>F62</sup>;

"net earnings" means such earnings as are calculated in accordance with regulation 99;

"net profit" means such profit as is calculated in accordance with regulation 101;

[<sup>F63</sup>"the New Deal options" means the employment programmes specified in regulation 75(1)(a)(ii) and the training scheme specified in regulation 75(1)(b)(ii);]

"non-dependant" has the meaning prescribed in regulation 2;

"non-dependant deduction" means a deduction that is to be made under regulation 83(f) and paragraph 17 of Schedule 2;

<sup>F64</sup> ...

"occupational pension" means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

"partner" means where a claimant—

(a) is a member of [<sup>F65</sup>a couple], the other member of that couple;

(b) is married polygamously to two or more members of his household, any such member;

[<sup>F66</sup>but in so far as this definition applies to a member of a joint-claim couple, it shall only apply to such a member specified in regulation 3E(2)]

"part-time student" means a person who is attending or undertaking a course of study and who is not a full-time student;

[<sup>F67</sup>"paternity leave" means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;]

"payment" includes a part of a payment;

"pay period" means the period in respect of which a claimant is, or expects to be, normally paid by his employer, being a week, a fortnight, four weeks, a month or other longer or shorter period as the case may be;

"period of study" except in Parts II, IV and V means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—

[<sup>F68</sup>(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or,

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if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or]

(ii) in any other case the day before the start of the normal summer vacation appropriate to his course;

(c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

"policy of life insurance" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

"polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

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"qualifying person" means a person in respect of whom payment has been made from the Fund<sup>[F70]</sup>, the Eileen Trust<sup>[F71]</sup>, the Skipton Fund or the London Bombings Relief Charitable Fund]] ;

"relative" means close relative, grand-parent, grand-child, uncle, aunt, nephew or niece;

"relevant enactment" has the meaning prescribed in <sup>[F72]</sup>regulation 78(9)(a)];

"remunerative work" has the meaning prescribed in regulation 51(1);

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<sup>[F74]</sup>"sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007, regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007;]

"self-employed earner" has the meaning it has in Part I of the Benefits Act by virtue of section 2(1) (b) of that Act;

<sup>[F75]</sup>"self-employment route" means assistance in pursuing self-employed earner's employment whilst participating in—

(a) an employment zone programme; or

(b) a programme provided or other arrangements made pursuant to section 2 of the Employment and Training Act 1973 (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment etc.);]

"single claimant" means a claimant who neither has a partner nor is a lone parent;

<sup>[F76]</sup>"the Skipton Fund" means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions;]

<sup>[F77]</sup>"sports award" means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993 out of sums allocated to it for distribution under that section;]

<sup>[F78]</sup>"starting rate", where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);]



[<sup>F24</sup>“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;]

“terminal date” in respect of a claimant means the terminal date in his case for the purposes of regulation 7 of the Child Benefit (General) Regulations 1976;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State<sup>F79</sup> ..., Scottish Enterprise or Highlands and Islands Enterprise; and [<sup>F80</sup> , the Learning and Skills Council for England or the [<sup>F81</sup>Welsh Ministers]]
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State<sup>F79</sup> ..., Scottish Enterprise or Highlands and Islands Enterprise [<sup>F82</sup> or the [<sup>F81</sup>Welsh Ministers]],

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 [<sup>F83</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990,] or is training as a teacher;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

[<sup>F5</sup>“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;]

[<sup>F5</sup>“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;]

[<sup>F5</sup>“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;]

[<sup>F5</sup>“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;]

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“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part V of the Water Industry Act 1991 <sup>F85</sup>;
- (b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992 <sup>F86</sup>;

in so far as such charges are in respect of the dwelling which a person occupies as his home;

“week” in [<sup>F87</sup>the definitions of “full-time course of advanced education” and of “full-time student” and][<sup>F88</sup>Parts III, VI, VII, VIII, IX, X, XI, XII and XIII] means a period of 7 days;

[<sup>F89</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;]

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[<sup>F90</sup>“welfare to work beneficiary” means a person—

- (a) to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies; and
- (b) who again becomes incapable of work for the purposes of Part XIIA of the Contributions and Benefits Act 1992;]

[<sup>F91</sup>“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;]

<sup>F21</sup>  
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“year of assessment” has the meaning prescribed in section 832(1) of the Income and Corporation Taxes Act 1988 <sup>F92</sup> ;

“young person” except in Part IV has the meaning prescribed in regulation 76.

[<sup>F93</sup>(3A) For the purposes of the definition of “full-time student” in paragraph (3) but subject to paragraph (3D), a person shall be regarded as attending or, as the case may be, undertaking a course of study or as being on a sandwich course—

- (a) subject to paragraph (3B), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study, for a period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3B) For the purpose of sub-paragraph (a) of paragraph (3A), the period referred to in that sub-paragraph shall include—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(3C) In paragraph (3A), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

(3D) A full-time student shall not be regarded as undertaking a full-time course of advanced education or a full-time course of study for the period specified in paragraph (3E) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan (as defined in regulation 130) in respect of the period specified in paragraph (3E).

(3E) The period specified for the purposes of paragraph (3D) is the period<sup>[F94]</sup>, not exceeding one year,] beginning on the day on which he ceased to be engaged in caring for that other person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- <sup>[F95]</sup>(b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,]

whichever shall first occur.]

<sup>[F96]</sup>(3F) For the purposes of these Regulations, where a person's principal place of residence is a <sup>[F97]</sup>care home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital]—

- (a) where he is absent because he is a patient, for the first <sup>[F98]</sup>52] weeks of any such period of absence and for this purpose—
  - (i) “patient” has the meaning it has in Schedule 5 by virtue of regulation 85; and
  - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
- (b) for the first three weeks of any other period of absence.]

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered section is to the section of the Act bearing that number;
- (b) to a numbered Part is to the Part of these Regulations bearing that number;
- (c) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(5) Unless the context requires otherwise, any reference to the claimant's family or, as the case may be, to a member of his family, shall be construed for the purposes of these Regulations as if it included in relation to a polygamous marriage a reference to any partner and to any child or young person who is treated as the responsibility of the claimant or his partner, where that child or young person is a member of the claimant's household.

#### Textual Amendments

- F1** Words in [reg. 1\(3\)](#) inserted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), [reg. 1](#), **Sch. 2 para. 1(a)(ii)**
- F2** Words in [reg. 1\(3\)](#) inserted (8.12.2002) by [The Social Security \(Paternity and Adoption\) Amendment Regulations 2002 \(S.I. 2002/2689\)](#), [regs. 1\(1\)\(b\)](#), **3(2)(a)**
- F3** Words in [reg. 1\(3\)](#) inserted (4.4.2005) by [The Social Security \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/574\)](#), [regs. 1\(1\)](#), **2(1)**
- F4** [S.I. 1983/686](#).
- F5** Words in [reg. 1\(3\)](#) inserted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), [regs. 1\(1\)](#), **3(2)(g)**
- F6** Words in [reg. 1\(3\)](#) inserted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [regs. 1\(3\)](#), **13(2)**
- F7** Words in [reg. 1\(3\)](#) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), [regs. 1](#), **2(2)(a)**

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- F8** Words in reg. 1(3) substituted (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(2)(a)(i)**
- F9** Reg. 1(3)(aa) inserted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **2(2)(b)**
- F10** Words in reg. 1(3) inserted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002 (S.I. 2002/2402), reg. 1(3), **Sch. 2 para. 1(a)**
- F11** Words in reg. 1(3) inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1, **5(1)(2)(f)**
- F12** S.I. 1987/1968.
- F13** Word in reg. 1(3) omitted (28.10.1996) by virtue of The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(2)(b)**
- F14** Words in reg. 1(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(2)(a)** (with art. 3)
- F15** 1992 c.37.
- F16** Words in reg. 1(3) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(a)**
- F17** Words in reg. 1(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(2)(b)** (with art. 3)
- F18** Words in reg. 1(3) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security (Students and Income-related Benefits) Amendment Regulations 2004 (S.I. 2004/1708), regs. 1(1)(b), **6(1)**
- F19** Words in reg. 1(3) substituted (31.7.2000) by The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), **6(2)(a)(i)**
- F20** Regulation 6 was amended by S.I. 1988/522, 1989/1686, 1990/725, 2208, 1991/2284, 2741, 1993/2113 and 1994/2319.
- F21** Words in reg. 1(3) omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of The Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002 (S.I. 2002/2402), reg. 1(3), **Sch. 2 para. 1(c)**
- F22** Words in reg. 1(3) omitted (4.4.2005) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/574), regs. 1(1), **6(2)**
- F23** Words in reg. 1(3) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(2)(a)**
- F24** Words in reg. 1(3) inserted (3.4.2000) by The Social Security Amendment (Employment Zones) Regulations 2000 (S.I. 2000/724), regs. 1(1), **reg. 2(d)**
- F25** Words in reg. 1(3) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(2)(a)**
- F26** Words in reg. 1(3) omitted (1.4.2004) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/565), regs. 1(2)(a), **5(2)**
- F27** Words in reg. 1(3) omitted (1.4.2001) by virtue of The Jobseeker's Allowance (Amendment) Regulations 2001 (S.I. 2001/1434), regs. 1(3), **2(2)(a)**
- F28** Words in reg. 1(3) omitted (31.7.2000) by virtue of The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), **reg. 6(2)(a)(ii)(aa)**
- F29** Word in reg. 1(3) omitted (31.7.2000) by virtue of The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), **reg. 6(2)(a)(ii)(bb)**
- F30** Words in reg. 1(3) substituted (1.4.2001) by The Jobseeker's Allowance (Amendment) Regulations 2001 (S.I. 2001/1434), regs. 1(3), **2(2)(b)**

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- F31** Words in reg. 1(3) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(b)**
- F32** Words in reg. 1(3) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **2(3)**
- F33** Words in reg. 1(3) substituted (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(3)(b)**
- F34** Words in reg. 1(3) added (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **2(3)**
- F35** Words in reg. 1(3) substituted (1.4.2001) by The Jobseeker's Allowance (Amendment) Regulations 2001 (S.I. 2001/1434), regs. 1(3), **2(2)(c)**
- F36** Word in reg. 1(3) omitted (31.7.2000) by virtue of The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), **6(2)(a)(ii)(cc)**
- F37** Words in reg. 1(3) inserted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **3(2)**
- F38** Words in reg. 1(3) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(c)**
- F39** Words in reg. 1(3) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **2(2)**
- F40** Words in reg. 1(3) substituted (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(3)(c)**
- F41** Words in reg. 1(3) added (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **2(2)**
- F42** Words in reg. 1(3) substituted (1.4.2001) by The Jobseeker's Allowance (Amendment) Regulations 2001 (S.I. 2001/1434), regs. 1(3), **2(2)(d)**
- F43** Words in reg. 1(3) inserted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(a)**
- F44** 1992 c.37.
- F45** Words in reg. 1(3) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), reg. 1(1)(2), **4(2)**
- F46** Words in reg. 1(3) substituted (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 8(2)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F47** Words in reg. 1(3) inserted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **reg. 4(2)**
- F48** S.I. 1987/1967.
- F49** Words in reg. 1(3) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(b)(i)**
- F50** Words in reg. 1(3) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(b)(ii)**
- F51** Words in reg. 1(3) inserted (1.10.2007) by The Independent Living Fund (2006) Order 2007 (S.I. 2007/2538), arts. 1, **4(2)**
- F52** Words in reg. 1(3) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(b)(iii)**
- F53** Words in reg. 1(3) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(b)(iv)**
- F54** Words in reg. 1(3) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(2)(b)**
- F55** Words in reg. 1(3) added (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **2**
- F56** Words in reg. 1(3) inserted (12.12.2005) by The Income-related Benefits (Amendment) (No. 2) Regulations 2005 (S.I. 2005/3391), regs. 1, **5(2)(a)**

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- F57** Words in reg. 1(3) inserted (coming into force in accordance with reg. 1(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/719), regs. 1(6), **3(2)**
- F58** Words in reg. 1(3) revoked (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), reg. 1(1), **Sch.**
- F59** Words in reg. 1(3) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(2)(a)**
- F60** Words in reg. 1(3) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(d)**
- F61** S.I. 1983/883.
- F62** S.I. 1983/686; amended by S.I. 1983/1164, 1540 and 1986/628.
- F63** Words in reg. 1(3) inserted (6.3.2000) by The Jobseeker's Allowance (Amendment) Regulations 2000 (S.I. 2000/239), regs. 1, **2(2)**
- F64** Words in reg. 1(3) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 1(a)(i)**
- F65** Words in reg. 1(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(2)(c)** (with art. 3)
- F66** Words in reg. 1(3) added (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 1**
- F67** Words in reg. 1(3) inserted (8.12.2002) by The Social Security (Paternity and Adoption) Amendment Regulations 2002 (S.I. 2002/2689), regs. 1(1)(b), **3(2)(b)**
- F68** Words in reg. 1(3) substituted (for specified purposes and with effect in accordance with reg. 1(bi) (bii) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922), regs. 1, **3(2)(a)**
- F69** Words in reg. 1(3) omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. II para. 1(a)**
- F70** Words in reg. 1(3) substituted (12.5.2004) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 (S.I. 2004/1141), regs. 1(1), **2(a)**
- F71** Words in reg. 1(3) substituted (12.12.2005) by The Income-related Benefits (Amendment) (No. 2) Regulations 2005 (S.I. 2005/3391), regs. 1, **5(2)(b)**
- F72** Words in reg. 1(3) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F73** Words in reg. 1(3) omitted (6.10.2003) by virtue of The Social Security (Removal of Residential Allowance and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1121), reg. 1, **Sch. 2 para. 1**
- F74** Words in reg. 1(3) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(2)(c)**
- F75** Words in reg. 1(3) substituted (4.5.2004) by The Social Security (Income-Related Benefits Self-Employment Route Amendment) Regulations 2004 (S.I. 2004/963), regs. 1(1), **2**
- F76** Words in reg. 1(3) inserted (12.5.2004) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 (S.I. 2004/1141), regs. 1(1), **2(b)(iii)**
- F77** Words in reg. 1(3) inserted (23.8.1999) by The Social Security Amendment (Sports Awards) Regulations 1999 (S.I. 1999/2165), regs. 1(1), **2(2)(f)**
- F78** Words in reg. 1(3) inserted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(2)(b)**
- F79** Words in reg. 1(3) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(2)(c)**
- F80** Words in reg. 1(3) added (26.3.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(a), **2(b)(i)**
- F81** Words in reg. 1(3) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(e)**
- F82** Words in reg. 1(3) added (26.3.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(a), **2(b)(ii)**

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- F83** Words in reg. 1(3) inserted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **2(4)**
- F84** Words in reg. 1(3) omitted (5.1.2009) by virtue of The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(2)(f)**
- F85** 1991 c.56.
- F86** 1992 c.15.
- F87** Words in reg. 1(3) inserted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(2)**
- F88** Words in reg. 1(3) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **2(3)**
- F89** Words in reg. 1(3) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(2)(b)**
- F90** Words in reg. 1(3) inserted (5.10.1998) by The Social Security (Welfare to Work) Regulations 1998 (S.I. 1998/2231), regs. 1, **14(2)**
- F91** Words in reg. 1(3) inserted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002 (S.I. 2002/2402), reg. 1(3), **Sch. 2 para. 1(b)**
- F92** 1988 c.1.
- F93** Reg. 1(3A)-(3E) inserted (31.7.2000) by The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), **6(2)(b)**
- F94** Words in reg. 1(3E) inserted (1.8.2002) by The Social Security Amendment (Intercalating Students) Regulations 2002 (S.I. 2002/1763), regs. 1, **2(1)(a)**
- F95** Reg. 1(3E)(b) substituted (1.8.2002) by The Social Security Amendment (Intercalating Students) Regulations 2002 (S.I. 2002/1763), regs. 1, **2(1)(b)**
- F96** Reg. 1(3F) inserted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. II para. 1(b)**
- F97** Words in reg. 1(3F) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 1(b)**
- F98** Word in reg. 1(3F)(a) substituted (coming into force in accordance with reg. 1(f) of the amending S.I.) by The Social Security (Hospital In-Patients and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1195), regs. 1(f), **6(2)**

#### **Modifications etc. (not altering text)**

- C1** Reg. 1 applied (29.11.1999) by The Social Security (Claims and Information) Regulations 1999 (S.I. 1999/3108), regs. 1, **16(3)**
- C2** Reg. 1 applied (15.10.2001) by The Social Security (Breach of Community Order) Regulations 2001 (S.I. 2001/1395), regs. 1(1), **3(7)**
- C3** Reg. 1(3) applied (15.10.2001) by The Social Security (Breach of Community Order) Regulations 2001 (S.I. 2001/1395), regs. 1(1), **3(7)(b)**

#### **Definition of non-dependant**

2.—(1) In these Regulations, "non-dependant" means any person, except a person to whom paragraph (2), (3) or (4) applies, who normally resides with the claimant or with whom the claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant's family;
- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household);

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- (c) a person who lives with the claimant in order to care for him or for the claimant’s partner and who is engaged for that purpose by a charitable or voluntary organisation (other than a public or local authority) which makes a charge to the claimant or the claimant’s partner for the care provided by that person;
- (d) the partner of a person to whom sub-paragraph (c) applies.

(3) This paragraph applies to a person, other than a close relative of the claimant or the claimant’s partner,—

- (a) who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of his occupation of the claimant’s dwelling;
- (b) to whom the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of his occupation of that person’s dwelling;
- (c) who is a member of the household of a person to whom sub-paragraph (a) or (b) applies.

(4) Subject to paragraph (5), this paragraph applies to—

- (a) a person who jointly occupies the claimant’s dwelling and who is either—
  - (i) a co-owner of that dwelling with the claimant or the claimant’s partner (whether or not there are other co-owners); or
  - (ii) jointly liable with the claimant or the claimant’s partner to make payments to a landlord in respect of his occupation of that dwelling; or
- (b) a partner of a person to whom sub-paragraph (a) applies.

(5) Where a person is a close relative of the claimant or the claimant’s partner, paragraph (4) shall apply to him only if the claimant’s, or the claimant’s partner’s, co-ownership, or joint liability to make payments to a landlord in respect of his occupation, of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant’s partner first occupied the dwelling in question.

(6) For the purposes of this regulation a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.

(7) In this regulation “communal area” means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

**[<sup>F99</sup>Disappication of section 1(1A) of the Administration Act**

**2A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

- <sup>F100</sup>(a) .....
- (b) to any claim for jobseeker’s allowance made or treated as made before 5th October 1998.]

**Textual Amendments**

**F99** Reg. 2A inserted (1.12.1997) by [The Social Security \(National Insurance Number Information: Exemption\) Regulations 1997 \(S.I. 1997/2676\)](#), regs. 1(1), **12**

**F100** Reg. 2A(a) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 1**



### Meanings of certain expressions used in the Jobseekers Act 1995

3. For the purposes of the Act and of these Regulations—

“employed earner” has the meaning it has in Part I of the Benefits Act by virtue of section 2(1)(a) of that Act;

[<sup>F101</sup>“employment”, except as provided in regulations 4 and 75, includes any trade, business, profession, office or vocation;]

“pensionable age” has the meaning it has in Parts I to VI of the Benefits Act by virtue of section 122(1) of that Act.

#### Textual Amendments

**F101** Words in reg. 3 substituted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), 2

## [<sup>F102</sup>PART IA

### JOINT-CLAIM COUPLES

#### Textual Amendments

**F102** Pt. 1A inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), regs. 1(1), 2(2)

### Prescribed description of a joint-claim couple for the purposes of section 1(4)

**3A.**—(1) For the purposes of section 1(4), a joint-claim couple shall include any joint-claim couple within the meaning given in section 1(4) of the Act where at least one member [<sup>F103</sup>is aged 18 or over and] was born after [<sup>F104</sup>28th October [<sup>F105</sup>1947]], unless a member of the couple is treated as responsible for a child or young person under regulation 77(3), or the couple has care of a child or young person in one or more of the circumstances mentioned in regulation 78(4), or a child or young person is living with either member of the couple in the circumstances mentioned in regulation 78(8).

(2) In a case where a person would (but for these Regulations) be a member of more than one joint-claim couple, a joint-claim couple means the couple of which he is a member which that person nominates (or in default of such nomination, which the Secretary of State nominates), to the exclusion of any other couple of which he is a member.

#### Textual Amendments

**F103** Words in reg. 3A(1) inserted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(2), 2(2)

**F104** Words in reg. 3A(1) substituted (28.10.2002) by [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2002 \(S.I. 2002/1701\)](#), regs. 1, 2(a)

**F105** Word in reg. 3A(1) substituted (25.2.2008) by [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2008 \(S.I. 2008/13\)](#), regs. 1, 2(2)

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### **Entitlement of a former joint-claim couple to a jobseeker's allowance**

**3B.**—(1) Where a joint-claim couple cease to be a joint-claim couple because they become, or are treated as, responsible for one or more children—

- (a) any claim made by both members of that couple for a jobseeker's allowance may be treated as a claim for a jobseeker's allowance made by either member of that couple;
- (b) any award of a joint-claim jobseeker's allowance in respect of that couple may be terminated and may be replaced by a replacement award,

where the conditions specified in paragraph (2) have been complied with.

(2) The conditions specified in this paragraph are that a member of the couple—

- (a) provides such evidence as the Secretary of State may require confirming that the couple are responsible for one or more children; and
- (b) advises the Secretary of State as to which member of the couple is to be the claimant.

(3) The claim by a member of the couple for a jobseeker's allowance referred to in paragraph (1) (a) shall be treated as made on the date on which he and his partner were treated as having claimed a jobseeker's allowance as a joint-claim couple as determined in accordance with regulation 6 of the Claims and Payments Regulations.

(4) In this regulation, "replacement award" shall have the meaning ascribed to it by paragraph 9A of Schedule 1 to the Act.

### **Entitlement of a new joint-claim couple to a jobseeker's allowance**

**3C.**—(1) Paragraph (2) shall apply where a couple become a joint-claim couple because the child, or all the children, for which they were responsible have—

- (a) died;
- (b) ceased to be a child or children for whom they are responsible; or
- (c) reached the age of 16 and are [<sup>F106</sup>not qualifying young persons within the meaning of section 142 of the Benefits Act (child and qualifying young person)].

(2) In a case to which this paragraph applies—

- (a) any claim made by either member of that couple for a jobseeker's allowance may be treated as a claim made by both members of the couple;
- (b) any award of an income-based jobseeker's allowance, or a replacement award, in respect of either member of that couple may be terminated and may be replaced by a new award in respect of the couple,

where the conditions specified in paragraph (3) have been complied with.

(3) The conditions specified in this paragraph are that the Secretary of State—

- (a) has sufficient evidence to decide whether a new award should be made; and
- (b) is informed as to which member of the couple is to be the nominated member for the purposes of section 3B.

(4) The claim by both members of the joint-claim couple for a jobseeker's allowance referred to in paragraph (2)(a) shall be treated as made on the date on which the claim by a member of that couple was treated as made in accordance with regulation 6 of the Claims and Payments Regulations.

(5) For the purposes of paragraphs 6 and 7 of Schedule 2 (housing costs), any award of an income-based jobseeker's allowance which related to the day before the day on which the relevant event specified in paragraph (1) occurred and any new award referred to in paragraph (2)(b) shall be treated as a continuous award of an income-based jobseeker's allowance.

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(6) In this regulation, “new award” shall have the meaning ascribed to it by paragraph 9C of Schedule 1 to the Act.

#### Textual Amendments

**F106** Words in reg. 3C(1)(c) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **3(3)**

### Further circumstances in which a joint-claim couple may be entitled to a joint-claim jobseeker's allowance

**3D.**—(1) Subject to paragraph (2), a joint-claim couple are entitled to a joint-claim jobseeker's allowance where—

- (a) the members of that couple claim a jobseeker's allowance jointly;
- (b) one member satisfies the conditions set out in section 1(2)(a) to (c) and (e) to (i); and
- <sup>[F107]</sup>(c) the other member satisfies the condition in section 1(2)(e) and (h) but is not required to satisfy the other conditions in section 1(2B)(b) because, subject to paragraph (3), he is a person to whom any paragraph in Schedule A1 applies; and]
- (d) the conditions set out in section 3A are satisfied in relation to the couple.

(2) A member of a joint-claim couple who falls within any paragraph in Schedule A1 for the purposes of this regulation for any day in a benefit week shall fall within that category for the whole of that week.

(3) Subject to paragraph (4), paragraph 2 of Schedule A1 (students) may only apply to a member of a joint-claim couple in respect of one claim for a jobseeker's allowance made jointly by that couple in respect of a jobseeking period applying to the other member of that couple.

(4) Notwithstanding paragraph (3), paragraph 2 of Schedule A1 may apply to a member of a joint-claim couple in respect of a further claim for a jobseeker's allowance made jointly by the couple where the couple's previous entitlement to a joint-claim jobseeker's allowance ceased because one member of the couple—

- (a) was engaged in remunerative work;
- (b) had been summoned to jury service; or
- (c) was within a linked period as prescribed in regulation 48(2).

#### Textual Amendments

**F107** [Reg. 3D\(1\)\(c\)](#) substituted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(2), **2(3)**

### Entitlement of a member of a joint-claim couple to a jobseeker's allowance without a claim being made jointly by the couple

**3E.**—(1) A member of a joint-claim couple is entitled to a jobseeker's allowance if, without making a claim jointly for that allowance with the other member of the couple—

- (a) he satisfies the conditions set out in section 1(2) (a) to (c) and (e) to (i);
- (b) he satisfies the conditions set out in section 3; and
- (c) the other member of that couple fails to meet the conditions of entitlement set out in section 1(2B)(b) and is a person to whom paragraph (2) applies.

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- (2) This paragraph applies to a member of a joint-claim couple—
- (a) who has failed to attend at the time and place specified by the employment officer for the purposes of regulation 6 of the Claims and Payments Regulations;
  - (b) in respect of whom it has been determined by the Secretary of State that the conditions in section 1(2)(a) to (c) have not been satisfied but only for so long as it has been so determined in respect of that member;
  - (c) who is temporarily absent from Great Britain;
  - (d) who is a person from abroad as defined for the purposes of regulation [F10885A] and Schedule 5;
  - (e) who is subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act;
  - (f) who is over pensionable age;
  - (g) who is engaged, or has agreed to be engaged, in remunerative work for [F10916 hours or more] per week but less than 24 hours per week;
  - (h) who has claimed a maternity allowance payable in accordance with section 35 of the Benefits Act or who has claimed statutory maternity pay payable in accordance with Part XII of that Act;
  - (i) who is or has been pregnant and to whom sub-paragraph (h) does not apply but only for the period commencing 11 weeks before the expected week of confinement and ending seven weeks after the date on which the pregnancy ends [F110where the expected week of confinement begins prior to 6th April 2003 or fifteen weeks after the date on which her pregnancy ends where the expected week of confinement begins on or after 6th April 2003];
  - (j) in respect of whom there is an Order in Council under section 179 of the Administration Act giving effect to a reciprocal agreement which, for the purposes of jobseeker's allowance, has effect as if a payment made by another country is to be treated as a payment of a jobseeker's allowance; F111 ...
  - (k) who is in receipt of statutory sick pay and who, immediately before he became incapable of work, was engaged in remunerative work for [F11216 hours or more] per week [F113or

[  
F113(1) where the other member was entitled to an income-based jobseeker's allowance on [F11424th February 2008], save that this sub-paragraph shall apply only until the day on which he is required to attend at a place specified by an employment officer in a notification given or sent to him.]]

#### Textual Amendments

- F108** Word in reg. 3E(2)(d) substituted (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **3(3)**
- F109** Words in reg. 3E(2)(g) substituted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(2), **2(4)**
- F110** Words in reg. 3E(2)(i) inserted (24.11.2002) by [The Social Security \(Paternity and Adoption\) Amendment Regulations 2002 \(S.I. 2002/2689\)](#), regs. 1(1)(a), **3(3)**
- F111** Word in reg. 3E(2)(j) omitted (28.10.2002) by virtue of [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2002 \(S.I. 2002/1701\)](#), regs. 1, **2(b)(i)**
- F112** Words in reg. 3E(2)(k) substituted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(2), **2(4)**
- F113** Reg. 3E(2)(l) and word added (28.10.2002) by [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2002 \(S.I. 2002/1701\)](#), regs. 1, **2(b)(ii)**

**F114** Words in reg. 3E(2)(1) substituted (25.2.2008) by [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2008 \(S.I. 2008/13\)](#), regs. 1, **2(3)**

## **Transitional case couples: prescribed circumstances and period for the purposes of paragraph 8A(2) of Schedule 1**

<sup>F115</sup>**3F.** .....

### **Textual Amendments**

**F115** Reg. 3F omitted (25.2.2008) by virtue of [The Jobseeker's Allowance \(Joint Claims\) Amendment Regulations 2008 \(S.I. 2008/13\)](#), regs. 1, **2(4)**

## **Supply of information**

**3G.** Where a claim for a jobseeker's allowance has been made jointly by a joint-claim couple, information relating to that claim may be supplied by the Secretary of State to either or both members of that couple for any purpose connected with that claim.]

## **PART II**

## **JOBSEEKING**

### *Chapter I*

### *Interpretation*

## **Interpretation of Parts II, IV and V**

4. In Parts II, IV and V and, as provided below, the Act—

“appropriate office” means the office of the Department for [<sup>F116</sup>Work and Pensions] which the claimant is required to attend in accordance with a notice under regulation 23, or any other place which he is so required to attend;

“caring responsibilities” means responsibility for caring for a child or for an elderly person or for a person whose physical or mental condition requires him to be cared for, who is either in the same household or a close relative;

“casual employment” means employment from which the employee can be released without his giving any notice [<sup>F117</sup>except where otherwise provided];

“close relative” means [<sup>F118</sup>, except in Part IV,] [<sup>F119</sup>a member of a couple], parent, step-parent, grandparent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, sister, grandchild [<sup>F120</sup>or if any of the preceding persons is one member of a couple, the other member of that couple];

“elderly person” means a person of or over pensionable age;

“employment” in sections 1, 3, 6, 8, 14 [<sup>F121</sup>... and 20 and paragraph 8 of Schedule 1 to the Act and in [<sup>F122</sup>Parts II and IV] means employed earner's employment except where otherwise provided;

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"employment officer" means a person who is an employment officer for the purposes of sections 9 and 10;

[<sup>F117</sup>"examination" in relation to a qualifying course means an examination which is specified as an examination related to the qualifying course in a document signed on behalf of the establishment at which the qualifying course is being undertaken;]

[<sup>F123</sup>"made a claim for a jobseeker's allowance" includes treated as having made a claim for the allowance and treated as having an award of the allowance in accordance with regulation 5, 6 or 7 of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996 ]

"Outward Bound course" means any course or programme for personal development which is made available to persons who are not in employment by the charitable trust known as the Outward Bound Trust Limited;

"part-time [<sup>F124</sup>member of a fire brigade" means a person who is a part-time member of a fire brigade maintained in pursuance of the Fire Services Acts 1947-1959 ][<sup>F125</sup>or, in England or Wales, a part-time fire-fighter employed by a fire and rescue authority][<sup>F124</sup>fire-fighter employed by a fire and rescue authority (as defined in section 1 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act][<sup>F126</sup>or, in England, a part-time fire-fighter employed by a fire and rescue authority]<sup>F127</sup>;

"pattern of availability" has the meaning given in regulation 7;

[<sup>F128</sup>"period of study" means—

- (a) the period during which the student is regarded as attending or undertaking the course of study; and
- (b) any period of attendance by the student at his educational establishment or any period of study undertaken by the student, in connection with the course, which occurs before or after the period during which he is to be regarded as undertaking the course of study;]

"a person who is kept on short-time" means a person whose hours of employment have been reduced owing to temporary adverse industrial conditions;

"a person who is laid off" means a person whose employment has been suspended owing to temporary adverse industrial conditions;

[<sup>F129</sup>"qualifying course" has the meaning given in regulation 17A;]

[<sup>F129</sup>"term-time" in relation to a qualifying course means the period specified as term-time in relation to a person to whom regulation 17A(2) applies in a document signed on behalf of the establishment at which the qualifying course is being undertaken;]

[<sup>F129</sup>"vacation" in relation to a qualifying course means any period falling within the period of study, which is not term-time;]

"voluntary work" means work for an organisation the activities of which are carried on otherwise than for profit, or work other than for a member of the claimant's family, where no payment is received by the claimant or the only payment due to be made to him by virtue of being so engaged is a payment in respect of any expenses reasonably incurred by him in the course of being so engaged;

"week" in sections 6 and 7 and in Parts II and IV means benefit week except where provided otherwise in Parts II and IV;

"work camp" means any place in Great Britain where people come together under the auspices of a charity, a local authority or a voluntary organisation to provide a service of benefit to the community or the environment.

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**Textual Amendments**

- F116** Words in reg. 4 substituted (14.4.2008) by The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(3)**
- F117** Words in reg. 4 inserted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **3(a)**
- F118** Words in reg. 4 inserted (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(3)**
- F119** Words in reg. 4 substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(3)(a)** (with art. 3)
- F120** Words in reg. 4 substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(3)(b)** (with art. 3)
- F121** Word in reg. 4 omitted (5.1.1998) by virtue of The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **3(a)**
- F122** Words in reg. 4 substituted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **3(b)**
- F123** Words in reg. 4 inserted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **3(b)**
- F124** Words in reg. 4 substituted (S.) (2.8.2005) by The Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/2060), art. 1(2)(f), **Sch. para. 10(2)**
- F125** Words in reg. 4 inserted (W.) (25.10.2005) by The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005 (S.I. 2005/2929), arts. 1(1), **36(2)**
- F126** Words in reg. 4 inserted (E.) (30.12.2004) by The Fire and Rescue Services Act 2004 (Consequential Amendments) (England) Order 2004 (S.I. 2004/3168), arts. 1(1), **36(2)**
- F127** 1947 c.41, 1951 c.27, and 1959 c.44.
- F128** Words in reg. 4 substituted (31.7.2000) by The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), **6(3)**
- F129** Words in reg. 4 inserted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **3(c)**

*Chapter II*

*Availability for Employment*

**Exceptions to requirement to be available immediately: carers, voluntary workers, persons providing a service and persons under an obligation to provide notice**

5.—<sup>F130</sup>(1) [<sup>F131</sup>Subject to paragraph (1A),] in order to be regarded as available for employment—

<sup>F132</sup>(a) . . . . .

(b) a person who is engaged in voluntary work [<sup>F133</sup>or who has caring responsibilities] is not required to be able to take up employment immediately, providing he is willing and able—

(i) to take up employment on being given one week's notice; and

(ii) to attend for interview in connection with the opportunity of any such employment on being given 48 hours' notice.]

<sup>F134</sup>(1A) In order to be regarded as available for employment, a person who has caring responsibilities in relation to a child is not required to take up employment or attend for interview within the periods referred to in paragraph (1) if those responsibilities make it unreasonable for him to do so, providing he is willing and able—

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- (a) to take up employment on being given 28 days notice; and
- (b) to attend for interview in connection with the opportunity of any such employment on being given 7 days notice.

(1B) For the purposes of paragraph (1A), it is for the claimant to show that it is unreasonable for him to take up employment or attend for interview within the periods referred to in paragraph (1). ]

(2) In order to be regarded as available for employment, a person who is engaged, whether by contract or otherwise, in providing a service with or without remuneration, other than a person who has caring responsibilities or who is engaged in voluntary work, is not required to be able to take up employment immediately, providing he is willing and able to take up employment on being given 24 hours' notice.

(3) In order to be regarded as available for employment, a person who is in employed earner's employment and is not engaged in remunerative work and who is required by [<sup>F135</sup>section 86 of the Employment Rights Act 1996] to give notice to terminate his contract is not required to be able to take up employment immediately, providing he is willing and able to take up employment immediately he is able to do so in accordance with his statutory obligations.

(4) Where in accordance with regulation 7, 13 or 17 a person is only available for employment at certain times, he is not required to be able to take up employment at a time at which he is not available, but he must be willing and able to take up employment immediately he is available.

(5) Where in accordance with paragraph [<sup>F136</sup>(1), (1A) or (2)] a person is not required to be able to take up employment immediately, the <sup>F137</sup>... periods referred to in those paragraphs include periods when in accordance with regulation 7 or 13 he is not available.

[<sup>F138</sup>(6) In this regulation "week" means any period of seven consecutive days.]

#### Textual Amendments

- F130** Reg. 5(1) substituted (1.1.2003) by [The Jobseeker's Allowance \(Amendment\) Regulations 2002 \(S.I. 2002/3072\)](#), regs. 1(b), **3(a)**
- F131** Words in reg. 5(1) inserted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(2)(a)** (with reg. 13)
- F132** Reg. 5(1)(a) omitted (30.5.2006) by virtue of [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(2)(a)**
- F133** Words in reg. 5(1)(b) inserted (30.5.2006) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(2)(b)**
- F134** Reg. 5(1A)(1B) inserted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(2)(b)** (with reg. 13)
- F135** Words in reg. 5(3) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(3)**
- F136** Words in reg. 5(5) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(2)(c)(i)** (with reg. 13)
- F137** Words in reg. 5(5) omitted (24.11.2008) by virtue of [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(2)(c)(ii)** (with reg. 13)
- F138** Reg. 5(6) inserted (1.1.2003) by [The Jobseeker's Allowance \(Amendment\) Regulations 2002 \(S.I. 2002/3072\)](#), regs. 1(b), **3(c)**

#### Employment of at least 40 hours per week

6.—(1) In order to be regarded as available for employment, a person must be willing and able to take up employment of at least 40 hours per week, unless he has restricted his availability in



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accordance with paragraph [<sup>F139</sup>(3), (3A) or (4)] of regulation 13 or paragraph (2) of regulation 17 or two or more of those provisions.

(2) In order to be regarded as available for employment, a person must be willing and able to take up employment of less than 40 hours per week but not for a greater number of hours per week than the number for which he is available in accordance with paragraph [<sup>F139</sup>(3), (3A) or (4)] of regulation 13 or paragraph (2) of regulation 17 or two or more of those provisions.

#### Textual Amendments

**F139** Words in reg. 6 substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(3)** (with reg. 13)

#### Restriction of hours for which a person is available to 40 hours per week

7.—(1) Except as provided in regulation 13 and in regulation 17(2), a person may not restrict the total number of hours for which he is available for employment to less than 40 hours in any week.

(2) A person may restrict the total number of hours for which he is available for employment in any week to 40 hours or more providing

- (a) the times at which he is available to take up employment (his "pattern of availability") are such as to afford him reasonable prospects of securing employment;
- (b) his pattern of availability is recorded in his jobseeker's agreement and any variations in that pattern are recorded in a varied agreement and
- (c) his prospects of securing employment are not reduced considerably by the restriction imposed by his pattern of availability.

(3) A person who has restricted the total number of hours for which he is available in accordance with paragraph (2) and who is not available for employment, and is not to be treated as available for employment in accordance with regulation 14, for one day or more in a week in accordance with his pattern of availability shall not be regarded as available for employment even if he was available for employment for a total of 40 hours or more during that week.

#### Other restrictions on availability

8. Subject to regulations 6, 7 and 9, any person may restrict his availability for employment by placing restrictions on the nature of the employment for which he is available, the terms or conditions of employment for which he is available (including the rate of remuneration) and the locality or localities within which he is available, providing he can show that he has reasonable prospects of securing employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulations 7(2), [<sup>F140</sup>13(2), (3), (3A) or (4)] or 17(2).

#### Textual Amendments

**F140** Words in reg. 8 substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(4)** (with reg. 13)

#### No restrictions on pay after six months

9. After the expiry of the six month period beginning with the date of claim, a person may not restrict his availability for employment by placing restrictions on the level of remuneration in employment for which he is available.

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### Reasonable prospects of employment

**10.**—(1) For the purposes of regulations 7 and 8 and paragraphs (2) and (4) of regulation 13, in deciding whether a person has reasonable prospects of securing employment, regard shall be had, in particular, to the following matters—

- (a) his skills, qualifications and experience;
- (b) the type and number of vacancies within daily travelling distance from his home;
- (c) the length of time for which he has been unemployed;
- (d) the job applications which he has made and their outcome;
- (e) if he wishes to place restrictions on the nature of the employment for which he is available, whether he is willing to move home to take up employment.

(2) It shall be for the claimant to show that he has reasonable prospects of securing employment if he wishes to restrict his availability in accordance with regulation 7 or 8 or paragraph (2) or (4) of regulation 13.

### Part-time students

**11.**—(1) If in any week a person is a part-time student and

- (a) he falls within paragraph (2)
- (b) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), [F141 13(3), (3A) or (4)] or 17(2); and
- (c) the hours of his course of study fall in whole or in part within his pattern of availability, in determining whether he is available for employment no matter relating to his course of study shall be relevant providing he is willing and able to re-arrange the hours of his course in order to take up employment at times falling within his pattern of availability, to take up such employment immediately or, if he falls within paragraph [F142(1), (1A), (2) or (3)] of regulation 5, at the time specified in that paragraph and providing he complies with the requirements of regulation 6.

(2) A person falls within this paragraph if

- (a) for a continuous period of not less than 3 months falling immediately before the date on which he first attended the course of study he was in receipt of jobseeker's allowance[F143, incapacity benefit or employment and support allowance] or was on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations F144 or
- (b) during the period of 6 months falling immediately before the date on which he first attended the course of study he was
  - (i) for a period, or periods in the aggregate, of not less than 3 months in receipt of jobseeker's allowance[F143, incapacity benefit or employment and support allowance] or on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations and
  - (ii) after the period referred to in (i), or in the case of periods in the aggregate, after the first such period and throughout the remainder of the 6 months for which that sub-paragraph did not apply to him, engaged in remunerative work or other work the emoluments of which are such as to disentitle him from receipt of jobseeker's allowance[F143, incapacity benefit or employment and support allowance] or from receipt of income support which would have been payable because he fell within paragraph 7 of Schedule 1B to the Income Support Regulations

and the period of 3 months referred to in sub-paragraph (i) or, as the case may be, the period of 6 months referred to in sub-paragraph (ii), fell wholly after the terminal date.

(3) In this regulation, "training" means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible [<sup>F145</sup>secured in England and Wales by the Learning and Skills Council for England or by the [<sup>F146</sup>Welsh Ministers], and, in Scotland, provided] directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

#### Textual Amendments

- F141** Words in [reg. 11\(1\)\(b\)](#) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), [regs. 1\(2\)](#), **11(5)(a)** (with [reg. 13](#))
- F142** Words in [reg. 11\(1\)](#) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), [regs. 1\(2\)](#), **11(5)(b)** (with [reg. 13](#))
- F143** Words in [reg. 11\(2\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), [regs. 1\(2\)\(b\)](#), **3(3)**
- F144** Schedule 1B was inserted by regulation 3 of and Schedule 1 to the [Income Support \(General\) \(Jobseeker's Allowance Consequential Amendments\) Regulations 1996, S.I. 1996/206](#).
- F145** Words in [reg. 11\(3\)](#) substituted (26.3.2001) by [The Jobseeker's Allowance \(Amendment\) Regulations 2001 \(S.I. 2001/1434\)](#), [regs. 1\(2\)](#), **2(3)**
- F146** Words in [reg. 11\(3\)](#) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), [regs. 1\(1\)](#), **3(3)**

#### Volunteers

[<sup>F147</sup>12.—(1) Paragraph (2) applies if in any week a person is engaged in voluntary work and—

- (a) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), [<sup>F148</sup>13(3), (3A) or (4)] or 17(2); and
- (b) the hours in which he is engaged in voluntary work fall in whole or in part within his pattern of availability.

(2) In determining whether a person to whom this paragraph applies is available for employment no matter relating to his voluntary work shall be relevant providing—

- (a) on being given one week's notice, he is willing and able to re-arrange the hours in which he is engaged in voluntary work in order to take up employment at times falling within his pattern of availability; and
- (b) on being given 48 hours' notice, he is willing and able to re-arrange the hours in which he is engaged in voluntary work in order to attend for interview at times falling within his pattern of availability in connection with the opportunity of any such employment; and
- (c) he complies with the requirements of regulation 6.

(3) In paragraph (2) "week" means any period of seven consecutive days.]

#### Textual Amendments

- F147** [Reg. 12](#) substituted (1.1.2003) by [The Jobseeker's Allowance \(Amendment\) Regulations 2002 \(S.I. 2002/3072\)](#), [regs. 1\(b\)](#), **4**
- F148** Words in [reg. 12\(1\)\(a\)](#) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), [regs. 1\(2\)](#), **11(6)** (with [reg. 13](#))

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### Additional restrictions on availability for certain groups

13.—(1) In any week a person may restrict his availability for employment in the following ways, if the circumstances set out apply.

(2) Subject to regulations 6, 7 and 9, a person may impose restrictions on the nature of the employment for which he is available by reason of a sincerely held religious belief, or a sincerely held conscientious objection providing he can show that he has reasonable prospects of employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulation 7(2), 8, paragraph [F149(3), (3A) or (4)] of this regulation or regulation 17(1) or (2).

(3) A person may restrict his availability in any way providing the restrictions are reasonable in the light of his physical or mental condition.

[F150(3A) A person who has caring responsibilities in relation to a child and who—

- (a) is the subject of a parenting order concerning that child under section 8 of the Crime and Disorder Act 1998, section 20 of the Anti-social Behaviour Act 2003 (“the 2003 Act”), or in relation to Scotland, under section 102 of the Antisocial Behaviour etc. (Scotland) Act 2004, or
- (b) has entered into a parenting contract concerning that child under section 19 of the 2003 Act,

may restrict his availability in any way providing the restrictions are reasonable in the light of the terms of the order or contract.]

(4) A person with caring responsibilities may restrict the total number of hours for which he is available for employment to less than 40 hours in any week providing

- (a) in that week he is available for employment for as many hours as his caring responsibilities allow and for the specific hours that those responsibilities allow and
- (b) he has reasonable prospects of securing employment notwithstanding that restriction and
- (c) he is available for employment of at least 16 hours in that week.

(5) In deciding whether a person satisfies the conditions in paragraph (4)(a), regard shall be had, in particular, to the following matters—

- (a) the particular hours and days spent in caring;
- (b) whether the caring responsibilities are shared with another person;
- (c) the age and physical and mental condition of the person being cared for.

[F151(6) This paragraph applies to a person who has caring responsibilities in relation to a child if an employment officer determines that, due to the type and number of employment vacancies within daily travelling distance of the person’s home, he would not satisfy the condition in paragraph (4)(b).

(7) Paragraph (4) has effect in relation to a person to whom paragraph (6) applies as if sub-paragraph (b) were omitted.]

#### Textual Amendments

**F149** Words in reg. 13(2) substituted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(7)(a)** (with reg. 13)

**F150** Reg. 13(3A) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(7)(b)** (with reg. 13)

**F151** Reg. 13(6)(7) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(7)(c)** (with reg. 13)

### Circumstances in which a person is to be treated as available

14.—(1) A person, other than one [F152 to whom regulation [F153 15(1)(a), (b)[F154, (bc)] or (c) applies,] shall be treated as available for employment in the following circumstances for as long as those circumstances apply, subject to [F155 paragraph (2B) and to] any maximum period specified in this paragraph—

- (a) notwithstanding regulation 15(a), if he is participating as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;
- (b) if he is attending a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) if he is temporarily absent from Great Britain because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;
- (d) if he is engaged in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple and is looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course and is attending, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) if he is temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) if he has been discharged from detention in a prison, remand centre or youth custody institution, for one week commencing with the date of his discharge;
- [F156(i) if the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days and the circumstances in paragraph (2A) apply, for any part of that period when he is not treated as available for employment under any other provision of this regulation;]
- [F157(j) if the award is terminated other than on the last day of a week, for the period beginning with the beginning of the week in which the award is terminated and ending on the day on which the award is terminated;]
- (k) notwithstanding regulation 15(a), if he is participating in a programme provided by the Venture Trust in pursuance of an arrangement made by [F158 the Scottish Ministers], for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) if he is treated as capable of work [F159 or as not having limited capability for work] in accordance with regulation 55, for the period determined in accordance with that regulation;
- [F160(l) if he is treated as capable of work [F159 or as not having limited capability for work] in accordance with regulation 55A, for the period determined in accordance with that regulation;]
- (m) if he is temporarily absent from Great Britain to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment officer, that he will be so absent for a maximum of one week;

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- (n) if he is a member of a couple [<sup>F161</sup>other than a joint-claim couple] and he and his partner are both absent from Great Britain and a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks.
- [<sup>F162</sup>(mn) if he is a member of a joint-claim couple and he and his partner are both absent from Great Britain and a premium referred to in paragraph 20E, 20F, 20G or 20I of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;]
- [<sup>F163</sup>(o) if
- (i) he is available for employment, or is treated as such, on the day he makes his claim for a jobseeker's allowance; and
  - (ii) the Secretary of State has directed that the prescribed time for claiming a jobseeker's allowance be extended under regulation 19(6) of the Claims and Payments Regulations where the circumstances specified in regulation 19(7)(d) of those Regulations applied in relation to an entitlement to incapacity benefit[<sup>F164</sup>, employment and support allowance] or an entitlement to income support by virtue of paragraph 7 of Schedule 1B to the Income Support Regulations,
- for the period of that extension.]
- [<sup>F165</sup>(p) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c), for the period of any such temporary absence.]
- [<sup>F166</sup>(q) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6AA) or, as the case may be, (6C).]
- [<sup>F167</sup>(r) if he is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
- (s) if, for a maximum of 96 hours before being released, he is in—
    - (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation), or
    - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland) but is not a prisoner as defined by regulation 85(4) (special cases).]
- [<sup>F168</sup>(t) he is looking after a child for whom he has caring responsibilities during the child's school holidays or another similar vacation period and it would be unreasonable for him to make other arrangements for the care of that child;
- (u) he is looking after a child for whom he has caring responsibilities at a time when the child—
    - (i) is excluded from school or another educational establishment, and
    - (ii) is not receiving education pursuant to arrangements made by a local education authority or (in Scotland) an education authority, and
 there are no other arrangements for the care of that child it would be reasonable for him to make]
- (2) [<sup>F169</sup>Subject to paragraph (2ZB),] a person, other than one to whom regulation 15 applies, shall be treated as available for employment in the following circumstances—
- (a) if there is a death or serious illness of a close relative or close friend of his;
  - (b) if there is a domestic emergency affecting him or a close relative or close friend of his;
  - (c) if there is a funeral of a close relative or close friend of his;
  - (d) if he has caring responsibilities and the person being cared for has died;

for the time required to deal with the emergency or other circumstance and for a maximum of one week on the occurrence of any of the circumstances set out in sub-paragraphs (a) to (d), or any combination of those circumstances, and on no more than 4 such periods in any period of 12 months.

[<sup>F170</sup>(2ZA) A person who has caring responsibilities in relation to a child may be treated as available for employment for more than one week, but for no more than 8 weeks, on the occurrence of any of the circumstances set out in paragraph (2)(a) or (b), or any combination of those circumstances, but on no more than one occasion in any period of 12 months.

(2ZB) Where a claimant has been treated as available for employment under paragraph (2ZA) in any period of 12 months, the first week in which he is so treated shall count towards the 4 periods allowable under paragraph (2).]

[<sup>F171</sup>(2A) A person shall be treated as available for employment under paragraph (1)(i) only if—

- (a) where a pattern of availability is recorded in his jobseeker's agreement, or where he has restricted the hours for which he is available in accordance with regulations [<sup>F172</sup>13(3), (3A) or (4)] or 17(2) and that restriction has been agreed with an employment officer, he is available for employment during such of the period referred to in paragraph (1)(i) as he is not treated as available for employment under any other provision of this regulation, in accordance with—
  - (i) his pattern of availability or, as the case may be, the hours to which he has restricted his availability in accordance with regulations [<sup>F172</sup>13(3), (3A) or (4)] or 17(2), and
  - (ii) any other restrictions he has placed on his availability for employment which will apply in the first week after the date of claim, provided those restrictions have been agreed with an employment officer, and
  - (iii) if he falls within regulation 5, that regulation;
- (b) where no pattern of availability is recorded in his jobseeker's agreement, he is available for employment during such of the period referred to in paragraph (1)(i) as he is not treated as available for employment under any other provision of this regulation—
  - (i) in accordance with any restrictions he has placed on his availability for employment which will apply in the first week after the date of claim, provided those restrictions have been agreed with an employment officer, and
  - (ii) for 8 hours on each day falling within that period on which he is not treated as available for employment to any extent under any other provision of this regulation, and
  - (iii) if he falls within regulation 5, in accordance with that regulation.]

[<sup>F173</sup>(2B) A person shall not be treated as available for employment under paragraph (1)(r)—

- (a) for more than eight weeks,
- (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
- (c) where he is a prisoner as defined by regulation 85(4) (special cases).]

(3) If any of the circumstances set out in paragraph (1), except those in sub-paragraphs (i) and (j), or any of those set out in paragraph (2) apply to a person for part of a week, he shall for the purposes of regulation 7(1) be treated as available for 8 hours on any day on which those circumstances applied subject to the maximum specified in paragraph (1) or (2), unless he has restricted the total number of hours for which he is available in a week in accordance with regulation 7(2), [<sup>F174</sup>13(4)] or 17(2). If he has so restricted the total number of hours for which he is available, he shall, for the purposes of regulation [<sup>F174</sup>7(1), 13(4) or 17(2)], be treated as available for the number of hours for which he would be available on that day in accordance with his pattern of availability recorded in

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his jobseeker's agreement, if any of the circumstances set out in paragraph (1) except those in sub-paragraphs (i) and (j) or any of those set out in paragraph (2) applied on that day, subject to the maximum specified in paragraph (1) or (2).

(4) In paragraph (1)(c), "treatment" means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

(5) For the purposes of paragraph (1)(d),

(a) a person is engaged in duties for the benefit of others while—

- (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
- (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
- (iii) assisting in measures being taken to prevent a serious threat to the health of the people,

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;

(b) events which may give rise to an emergency include—

- (i) a fire, a flood or an explosion,
- (ii) a natural catastrophe,
- (iii) a railway or other transport accident,
- (iv) a cave or mountain accident,
- (v) an accident at sea,
- (vi) a person being reported missing and the organisation of a search for that person.

(6) In paragraph (1), except in sub-paragraphs (i) and (j), and in paragraph (2), "week" means any period of 7 consecutive days.

[<sup>F175</sup>(7) In this regulation, "tribunal" means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.]

#### Textual Amendments

- F152** Words in reg. 14(1) substituted (11.3.1997) by [The Social Security \(Jobseekers Allowance and Mariners Benefits\) \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/563\)](#), regs. 1(1), **2(2)**
- F153** Word in reg. 14(1) substituted (9.7.2008) by [The Social Security \(Students Responsible for Children or Young Persons\) Amendment Regulations 2008 \(S.I. 2008/1826\)](#), regs. 1, **3(5)**
- F154** Word in reg. 14(1) inserted (30.5.2006) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(3)(a)(i)**
- F155** Words in reg. 14(1) inserted (30.5.2006) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(3)(a)(ii)**
- F156** Reg. 14(1)(i) substituted (11.3.1997) by [The Social Security \(Jobseekers Allowance and Mariners Benefits\) \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/563\)](#), regs. 1(1), **2(3)**
- F157** Reg. 14(1)(j) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **5(3)**
- F158** Words in reg. 14(1)(k) substituted (14.4.2008) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **4(4)**
- F159** Words in reg. 14(1)(l)(ll) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(4)(a)**



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- F160** Reg. 14(1)(ll) inserted (4.10.2004) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2004 (S.I. 2004/1869), regs. 1, **3(2)(a)**
- F161** Words in reg. 14(1)(n) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims: Consequential Amendments) Regulations 2000 (S.I. 2000/3336), regs. 1, **2(2)**
- F162** Reg. 14(1)(nn) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims: Consequential Amendments) Regulations 2000 (S.I. 2000/3336), regs. 1, **2(3)**
- F163** Reg. 14(1)(o) added (30.11.1999) by The Jobseeker's Allowance (Amendment) (No. 2) Regulations 1999 (S.I. 1999/3087), regs. 1(1), **3**
- F164** Words in reg. 14(1)(o)(ii) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(4)(b)**
- F165** Reg. 14(1)(p) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims: Consequential Amendments) Regulations 2000 (S.I. 2000/3336), regs. 1, **2(4)**
- F166** Reg. 14(1)(q) added (4.10.2004) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2004 (S.I. 2004/1869), regs. 1, **3(2)(b)**
- F167** Reg. 14(1)(r)(s) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(3)(b)**
- F168** Reg. 14(1)(t)(u) added (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(8)(a)** (with reg. 13)
- F169** Words in reg. 14(2) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(8)(b)** (with reg. 13)
- F170** Reg. 14(2ZA)(2ZB) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(8)(c)** (with reg. 13)
- F171** Reg. 14(2A) inserted (11.3.1997) by The Social Security (Jobseekers Allowance and Mariners Benefits) (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/563), regs. 1(1), **2(4)**
- F172** Words in reg. 14(2A) substituted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(8)(d)** (with reg. 13)
- F173** Reg. 14(2B) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(3)(c)**
- F174** Words in reg. 14(3) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **5(4)**
- F175** Reg. 14(7) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(3)(d)**

### Circumstances in which a person is not to be regarded as available

**15.**—<sup>[F176(1)]</sup> A person shall not be regarded as available for employment in the following circumstances—

- <sup>[F177(a)]</sup> subject to paragraph (2), if he is full-time student during the period of study;]
- (b) if he is a prisoner on temporary release in accordance with the provisions of the Prison Act 1952 <sup>F178</sup> or rules made under section 39(6) of the Prisons (Scotland) Act 1989 <sup>F179</sup>;
- <sup>[F180(bb)]</sup> if the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days, for that period, unless he is treated as available for employment for that period in accordance with regulation 14;]
- (bc) <sup>[F181]</sup>if he is on paternity leave or ordinary <sup>[F182]</sup>or additional] adoption leave by virtue of section 75A <sup>[F183]</sup>or 75B] of the Employment Rights Act 1996]
- (c) if she is in receipt of maternity allowance or maternity pay in accordance with section 35 or sections 164-171 respectively of the Benefits Act.

<sup>[F184]</sup>(2) Notwithstanding paragraph (1)(a), a full-time student shall be regarded as available for employment during the period of the summer vacation appropriate to his course, but only if the first and second conditions are satisfied.

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- (3) The first condition is satisfied if—
- (a) in the case of a student with a partner, the partner is also a full-time student and either of them is treated as responsible for a child or a young person; or
  - (b) in any other case, the student is treated as responsible for a child or young person.
- (4) The second condition is satisfied if the student is—
- (a) available for employment in accordance with this Chapter; or
  - (b) treated as available for employment in accordance with regulation 14(1)(a) or (k).]

#### Textual Amendments

- F176** Reg. 15(1): reg. 15 renumbered as reg. 15(1) (9.7.2008) by The Social Security (Students Responsible for Children or Young Persons) Amendment Regulations 2008 (S.I. 2008/1826), regs. 1, **3(2)**
- F177** Reg. 15(1)(a) substituted (9.7.2008) by The Social Security (Students Responsible for Children or Young Persons) Amendment Regulations 2008 (S.I. 2008/1826), regs. 1, **3(3)**
- F178** 1952 c.52.
- F179** 1989 c.45
- F180** Reg. 15(bb) inserted (11.3.1997) by The Social Security (Jobseekers Allowance and Mariners Benefits) (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/563), regs. 1(1), **3**
- F181** Reg. 15(bc) inserted (13.12.2002) by The Jobseeker's Allowance (Amendment) Regulations 2002 (S.I. 2002/3072), reg. 1(a), **reg. 5**
- F182** Words in reg. 15(bc) inserted (14.4.2008) by The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(5)(a)**
- F183** Words in reg. 15(bc) inserted (14.4.2008) by The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(5)(b)**
- F184** Reg. 15(2)-(4) added (9.7.2008) by The Social Security (Students Responsible for Children or Young Persons) Amendment Regulations 2008 (S.I. 2008/1826), regs. 1, **3(4)**

#### Further circumstances in which a person is to be treated as available: permitted period

- 16.**—(1) A person who is available for employment—
- (a) only in his usual occupation;
  - (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
  - (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive

may be treated for a permitted period as available for employment in that period.

(2) Whether a person should be treated as available for a permitted period and if so, the length of that permitted period shall be determined having regard to the following factors—

- (a) the person's usual occupation and any relevant skills or qualifications which he has;
- (b) the length of any period during which he has undergone training relevant to that occupation;
- (c) the length of the period during which he has been employed in that occupation and the period since he was so employed;
- (d) the availability and location of employment in that occupation.

(3) A permitted period shall be for a minimum of one week and a maximum of 13 weeks and shall start on the date of claim and in this paragraph "week" means any period of 7 consecutive days.

## Laid off and short-time workers

17.—(1) A person who is laid off shall be treated as available for employment providing he is willing and able to resume immediately the employment from which he has been laid off and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph [F185(1), (1A) or (2)] of regulation 5, at the time specified in that regulation.

[F186(a)] (2) [F186(a)] A person who is kept on short-time shall be treated as available for employment, providing he is willing and able to resume immediately the employment in which he is being kept on short-time and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph (1) or (2) of regulation 5, at the time specified in that regulation in the hours in which he is not working short-time but the total number of hours for which he works and is available for casual employment must be at least 40 in any week unless paragraph (b) or (c) applies;

(b) [F187]The total number of hours for which a person kept on short-time works and is available for casual employment may be less than 40 in any week if that person has imposed restrictions on his availability which are reasonable in the light of his physical or mental condition;

(c) The total number of hours for which a person kept on short-time works and is available for casual employment may be less than 40 in any week if he has caring responsibilities providing the total number of hours for which he works and is available for casual employment is as many as his caring responsibilities allow and for the specific hours those responsibilities allow and is at least 16 in any week;]

(3) A person shall not be treated as available for employment in accordance with this regulation for more than 13 weeks, starting with the day after the day he was laid off or first kept on short-time.

(4) A person who is laid off or kept on short-time may not be treated as available for employment for a permitted period in accordance with regulation 16, unless he ceases to be laid off or kept on short-time within 13 weeks of the day on which he was laid off or first kept on short time, in which case he may be treated as available for employment for a permitted period ending a maximum of 13 weeks after the date of claim.

(5) In paragraphs (3) and (4), "week" means any period of 7 consecutive days.

### Textual Amendments

**F185** Words in [reg. 17\(1\)](#) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), [regs. 1\(2\)](#), **11(9)** (with [reg. 13](#))

**F186** [Reg. 17\(2\)\(a\)](#) inserted, [reg. 17\(2\)](#) renumbered as [reg. 17\(2\)\(a\)](#), (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), [regs. 1, 6](#)

**F187** [Reg. 17\(2\)\(b\)\(c\)](#) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), [regs. 1, 6](#)

### [F188] Further circumstances in which a person is to be treated as available: full-time students participating in a qualifying course]

[F188]17A.—(1) A person to whom paragraph (2) applies shall, notwithstanding regulation [F189]15(1)(a)], be treated as available for employment in accordance with paragraph (3).

(2) This paragraph applies to a person—

(a) who is aged 25 years or over; and

(b) [F190]subject to paragraph (2A),] who has made a claim for a jobseeker's allowance and has been receiving benefit within a jobseeking period for not less than 2 years as at the date

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he started, or is due to start, the qualifying course and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

[<sup>F191</sup>(2A) A person who has been receiving benefit in accordance with paragraph (b) of the definition of “receiving benefit” in paragraphs (7) shall, for the purposes of paragraph (2)(b), be treated as having received benefit within a jobseeking period.]

(3) Subject to paragraph (4), where an employment officer has determined, having regard to the factors specified in paragraph (5), that a person to whom paragraph (2) applies may undertake a qualifying course, that person shall be treated as available for employment in any week in which he is undertaking the qualifying course as a full-time student and—

- (a) which falls wholly or partly in term-time, providing he—
  - (i) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is attending the establishment when required to attend, in such form as may be required by the employment officer; and
  - (ii) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is making satisfactory progress on the course, in such form as may be required by the employment officer;
- (b) in which he is taking examinations relating to the qualifying course; or
- (c) which falls wholly in a vacation from the qualifying course, if he is willing and able to take up immediately any casual employment.

(4) In a case where the combined duration of—

- (a) any qualifying course, other than one falling within paragraph (6), which a person to whom paragraph (2) applies has previously undertaken in respect of which he was, for any part of such qualifying course, treated as available for employment in accordance with paragraph (3); and
- (b) the qualifying course which he is currently undertaking

is more than 1 year, the person shall only be treated as available for employment in accordance with paragraph (3) if he has been receiving benefit within a jobseeking period for not less than 2 years since the last day of the most recent such qualifying course in respect of which he was, for any part, treated as available in accordance with paragraph (3), and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

(5) The factors which an employment officer must take into account when determining whether a person may undertake a qualifying course are—

- (a) the skills, qualifications and abilities of that person;
- (b) whether the course would assist him to acquire new skills and qualifications;
- (c) whether he would have to give up a course of study in order to undertake this course;
- (d) any needs arising from his physical or mental condition;
- (e) the time which has elapsed since he was last engaged in employment as an employed earner or as a self-employed earner;
- (f) his work experience;
- (g) the number of jobs in the labour market and, if relevant, the local labour market, which require the skills and qualifications which he would acquire on the course; and

(h) any evidence about whether this course or this type of course has facilitated the obtaining by persons of work.

(6) A qualifying course falls within this paragraph if the person had good cause for any act or omission for the purposes of section 19(5)(b) in relation to that course.

“benefit” means income support, unemployment benefit or a jobseeker’s allowance and “receiving benefit” means receiving benefit which that person has claimed and received as an unemployed person or in accordance with Part I of the Act;

“casual employment” means employment from which the employee can be released without his giving any notice or, if he is required to give notice, employment from which he can be released before the end of the vacation;

“duration” in relation to a qualifying course means the period beginning with the start of the course and ending with the last day of the course;

“jobseeking period” means the period described in regulation 47 and any period treated as a jobseeking period pursuant to regulation 47A;

“last day” in relation to a qualifying course means the date on which the last day of the course falls, or the date on which the final examination relating to that course is completed, whichever is the later;

“qualifying course” means a course which—

- (a) is an employment-related course;
- (b) lasts no more than 12 consecutive months; and
- (c) except where it falls within paragraph (8), is either—
  - (i) a course of a description falling within Schedule 2 to the Further and Higher Education Act 1992; or
  - (ii) programme of learning falling within section 6 of the Further and Higher Education (Scotland) Act 1992.

(7) In this regulation—

[<sup>F192</sup>“benefit” means

- (a) income support, unemployment benefit, a jobseeker’s allowance or any earnings credited to a person in accordance with regulation 8A or 9A of the Social Security (Credits) Regulations 1975 or which would be credited to a person in accordance with paragraph (1) of that regulation 9A but are not so credited by reason only of the fact that no further earnings are in his case required for the purpose mentioned in that paragraph; or
- (b) any earnings credited to a person for unemployment in accordance with regulation 9 of the Social Security (Credits) Regulations 1975 as it applied before 7th October 1996 and]

“receiving benefit” means [<sup>F193</sup>receiving—

- (a) benefit which that person has claimed and received as an unemployed person or in accordance with Part I of the Act [<sup>F194</sup>or in accordance with regulation 9A of the Social Security (Credits) Regulations 1975]; or
- (b) income support which that person has claimed and received as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations but only to the extent that—
  - (i) any periods in respect of which he was in receipt of income support as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations link with the jobseeking period which includes the date on which he started, or is due to start, the qualifying course and for this purpose, such periods shall link where they are separated by a period of 12 weeks or less in respect of which he was not in receipt of income support; and

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- (ii) he is, at the date he started, or is due to start, the qualifying course, a person to whom paragraph (7A) applies;]

“casual employment” means employment from which the employee can be released without his giving any notice or, if he is required to give notice, employment from which he can be released before the end of the vacation;

“duration” in relation to a qualifying course means the period beginning with the start of the course and ending with the last day of the course;

“jobseeking period” means the period described in regulation 47 and any period treated as a jobseeking period pursuant to regulation 47A;

“last day” in relation to a qualifying course means the date on which the last day of the course falls, or the date on which the final examination relating to that course is completed, whichever is the later;

“qualifying course” means a course which—

- (a) is an employment-related course;
- (b) lasts no more than 12 consecutive months; and
- (c) except where it falls within paragraph (8), is either—
  - (i) a course of a description falling within Schedule 2 to the Further and Higher Education Act 1992; or
  - (ii) a programme of learning falling within section 6 of the Further and Higher Education (Scotland) Act 1992

[<sup>F195</sup>(7A) Subject to paragraph (7B), this paragraph shall apply in the case of a person—

- (a) who—
  - (i) is a refugee within the definition of Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967; or
  - (ii) has been granted exceptional leave—
    - (aa) to enter the United Kingdom by an immigration officer appointed for the purposes of the Immigration Act 1971; or
    - (bb) to remain in the United Kingdom by the Secretary of State; and
- (b) who was in receipt of income support as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations at any time during the period of 12 weeks immediately preceding the beginning of the jobseeking period which includes the date on which he started, or is due to start, the qualifying course.]

[<sup>F195</sup>(7B) Paragraph (7A) shall include a person who has been recorded as a refugee by the Secretary of State within the definition in sub-paragraph (a) of that paragraph and whose claim for income support was determined in accordance with regulation 21ZA(2) or (3) of the Income Support Regulations (treatment of refugees).]

(8) A course or a programme of learning which is of a standard above that of a course or programme of learning falling within paragraph (c) of the definition of “qualifying course” falls within this paragraph if an employment officer so determines in a particular case.]

### Textual Amendments

- F188** Reg. 17A inserted (1.6.1998) by [The Social Security Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/1274\)](#), regs. 1(1), **4**
- F189** Word in reg. 17A(1) substituted (9.7.2008) by [The Social Security \(Students Responsible for Children or Young Persons\) Amendment Regulations 2008 \(S.I. 2008/1826\)](#), regs. 1, **3(5)**
- F190** Words in reg. 17A(2)(b) inserted (24.11.1998) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/2874\)](#), regs. 1, **2(2)**
- F191** Reg. 17A(2A) inserted (24.11.1998) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/2874\)](#), regs. 1, **2(3)**
- F192** Words in reg. 17A(7) substituted (30.11.1999) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1999 \(S.I. 1999/3083\)](#), regs. 1, **2(2)**
- F193** Words in reg. 17A(7) substituted (24.11.1998) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/2874\)](#), regs. 1, **2(4)**
- F194** Words in reg. 17A(7) inserted (30.11.1999) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1999 \(S.I. 1999/3083\)](#), regs. 1, **2(3)**
- F195** Reg. 17A(7A)(7B) inserted (24.11.1998) by [The Jobseeker's Allowance Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/2874\)](#), regs. 1, **2(5)**

## Chapter III

### Actively Seeking Employment

#### Steps to be taken by persons actively seeking employment

**18.**—<sup>F196</sup>(1) For the purposes of section 7(1) (actively seeking employment) a person shall be expected to have to take more than two steps in any week unless taking one or two steps is all that is reasonable for that person to do in that week.]

- (2) Steps which it is reasonable for a person to be expected to have to take in any week include—
- (a) oral or written applications (or both) for employment made to persons—
    - (i) who have advertised the availability of employment; or
    - (ii) who appear to be in a position to offer employment;
  - (b) seeking information on the availability of employment from—
    - (i) advertisements;
    - (ii) persons who have placed advertisements which indicate the availability of employment;
    - (iii) employment agencies and employment businesses;
    - (iv) employers;
  - (c) registration with an employment agency or employment business;
  - (d) appointment of a third party to assist the person in question in finding employment;
  - (e) seeking specialist advice, following referral by an employment officer, on how to improve the prospects of securing employment having regard to that person's needs and in particular in relation to any mental or physical limitations of that person;
  - (f) drawing up a curriculum vitae;
  - (g) seeking a reference or testimonial from a previous employer;
  - (h) drawing up a list of employers who may be able to offer employment to him with a view to seeking information from them on the availability of employment;

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- (i) seeking information about employers who may be able to offer employment to him;
  - (j) seeking information on an occupation with a view to securing employment in that occupation.
- (3) In determining whether, in relation to any steps taken by a person, the requirements of section 7(1) are satisfied in any week, regard shall be had to all the circumstances of the case, including—
- (a) his skills, qualifications and abilities;
  - (b) his physical or mental limitations;
  - (c) the time which has elapsed since he was last in employment and his work experience;
  - (d) the steps which he has taken in previous weeks and the effectiveness of those steps in improving his prospects of securing employment;
  - (e) the availability and location of vacancies in employment;
  - (f) any time during which he was—
    - (i) engaged in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others,
    - (ii) attending an Outward Bound course,
    - (iii) in the case of a blind person, participating in a course of training in the use of guide dogs,
    - (iv) participating in training in the use of aids to overcome any physical or mental limitations of his in order to improve his prospects of securing employment,
    - (v) engaged in duties as a member of any territorial or reserve force prescribed in Part I of [F<sup>197</sup>Schedule 6 to the Social Security (Contributions) Regulations 2001],
    - (vi) participating as a part-time student in an employment-related course,
    - (vii) participating for less than 3 days in an employment or training programme for which a training allowance is not payable;
  - (g) any time during which he was engaged in voluntary work and the extent to which it may have improved his prospects of securing employment;
  - (h) whether he is treated as available for employment under regulation 14;
  - (i) whether he has applied for, or accepted, a place on, or participated in, a course or programme the cost of which is met in whole or in part out of central funds or by the European Community and the purpose of which is to assist persons to select, train for, obtain or retain employed earner's employment or self-employed earner's employment; and
  - (j) where he had no living accommodation in that week the fact that he had no such accommodation and the steps which he needed to take and has in fact taken to seek such accommodation.
- (4) Any act of a person which would otherwise be relevant for purposes of section 7 shall be disregarded in the following circumstances—
- (a) where, in taking the act, he acted in a violent or abusive manner,
  - (b) where the act comprised the completion of an application for employment and he spoiled the application,
  - (c) where by his behaviour or appearance he otherwise undermined his prospects of securing the employment in question,
- unless those circumstances were due to reasons beyond his control.



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(5) In this regulation—

“employment agency” and “employment business” mean an employment agency or (as the case may be) employment business within the meaning of the Employment Agencies Act 1973<sup>F198</sup>;

“employment or training programme” means a course or programme the person’s participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973<sup>F199</sup> for the purpose of assisting persons to select, train for, obtain or retain employed earner’s employment.

#### Textual Amendments

**F196** Reg. 18(1) substituted (19.4.2004 for specified purposes, 18.10.2004 in so far as not already in force) by [The Jobseeker's Allowance \(Amendment\) Regulations 2004 \(S.I. 2004/1008\)](#), regs. 1(2), **2(2)**

**F197** Words in reg. 18(3)(f)(v) substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **13(3)(a)**

**F198** 1973 c.35.

**F199** 1973 c.50; section 2 was amended by section 25(1) of the [Employment Act 1988 \(c.19\)](#), by Part I of Schedule 7 to the [Employment Act 1989 \(c.38\)](#) and by section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).

#### <sup>F200</sup> Actively seeking employment in the period at the beginning of a claim

**18A.—(1)** Paragraph (2) applies in any case [<sup>F201</sup>, other than a case which falls within regulation 19(1)(i) or (s),] where the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days.

(2) Where this paragraph applies, a person is actively seeking employment in the period referred to in paragraph (1) if he takes in that period such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment and in determining whether a person has taken such steps—

- (a) the steps which it is reasonable for him to be expected to have to take include those referred to in regulation 18(2); and
- (b) regard shall be had to all the circumstances of the case, including those matters referred to in regulation 18(3).]

#### Textual Amendments

**F200** Reg. 18A inserted (11.3.1997) by [The Social Security \(Jobseekers Allowance and Mariners Benefits\) \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/563\)](#), regs. 1(1), **4**

**F201** Words in reg. 18A(1) inserted (30.11.1999) by [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/3087\)](#), regs. 1(1), **4**

#### Circumstances in which a person is to be treated as actively seeking employment

**19.—(1)** A person shall be treated as actively seeking employment in the following circumstances, subject to [<sup>F202</sup>paragraphs (2) and (2A)] and to any maximum period specified in this paragraph—

- (a) in any week during which he is participating for not less than 3 days as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;

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- (b) in any week during which he is attending for not less than 3 days a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) in any week during which he is temporarily absent from Great Britain for not less than 3 days because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;
- (d) in any week during which he is engaged for not less than 3 days in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple, in any week during which he is for not less than 3 days looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course, in any week during which he is attending for not less than 3 days, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) in any week during which he is for not less than 3 days temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) in the first week after the date of claim if he is treated as available for employment to any extent in that week under regulation 14(1)(h);
- [<sup>F203</sup>(i) for any period if he is treated as available for employment to any extent in that period under regulation 14(1)(h);]
- [<sup>F204</sup>(j) if the award is terminated other than on the last day of a week, for the period beginning with the beginning of the week in which the award is terminated and ending on the day on which the award is terminated;]
- (k) in any week during which he is participating for not less than 3 days in a programme provided by the Venture Trust in pursuance of an arrangement made by [<sup>F205</sup>the Scottish Ministers], for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) in any week during which he is for not less than 3 days treated as capable of work [<sup>F206</sup>or as not having limited capability for work] in accordance with regulation 55;
- [<sup>F207</sup>(ll) in any week during which he is for not less than 3 days treated as capable of work [<sup>F206</sup>or as not having limited capability for work] in accordance with regulation 55A;]
- (m) in any week during which he is temporarily absent from Great Britain for not less than 3 days in order to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment officer, that he will be so absent, for a maximum of 1 week;
- (n) if he is a member of a couple [<sup>F208</sup>other than a joint-claim couple], in any week during which he and his partner are both absent from Great Britain for not less than 3 days and in which a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;
- [<sup>F209</sup>(nn) if he is a member of a joint-claim couple, in any week during which he and his partner are both absent from Great Britain for not less than 3 days and in which a premium referred to in paragraph 20E, 20F, 20G or 20I of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;]
- (o) in any week during which he is treated as available for employment on not less than 3 days under regulation [<sup>F210</sup>14(2) or (2ZA)];

- (p) in any week in respect of which he has given notice to an employment officer, in writing if so required by the employment officer, that—
- (i) he does not intend to be actively seeking employment, but
  - (ii) he does intend to reside at a place other than his usual place of residence for at least one day;
- (q) in any week during which he is participating for not less than 3 days in an employment or training programme for which a training allowance is not payable;
- [<sup>F211</sup>(r) in any week, being part of a single period not exceeding 8 weeks falling within a period of continuous entitlement to a jobseeker's allowance, during which he is taking active steps to establish himself in self-employed earner's employment under any scheme for assisting persons to become so employed—
- (i) where, in Wales, his participation under the scheme is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973
  - (ii) where, in Scotland, the scheme—
    - (aa) is established by virtue of arrangements made by Scottish Enterprise or Highlands and Islands Enterprise under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 or
    - (bb) is directly or indirectly provided by, or with financial assistance from, the Secretary of State,
  - (iii) where, in England, the scheme is directly or indirectly provided by, or with financial assistance from, the Secretary of State, the [<sup>F212</sup>Urban Regeneration Agency][<sup>F212</sup>Homes and Communities Agency], an urban development corporation or a housing action trust,
- and the single period referred to above shall begin with the week in which he is accepted on a place under the scheme.]
- [<sup>F213</sup>(s) for any period if he is treated as available for employment to any extent in that period under regulation 14(1)(o).]
- [<sup>F214</sup>(t) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c), for the period of any such temporary absence.]
- [<sup>F215</sup>(u) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6AA) or, as the case may be (6C).]
- [<sup>F216</sup>(v) in any week during which he is, for not less than three days, required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
- (w) if, for a maximum of 96 hours before being released, he is in—
    - (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation), or
    - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland) but is not a prisoner as defined by regulation 85(4) (special cases).]
- (2) In any period of 12 months a person shall be treated as actively seeking employment under paragraph (1)(p) only for the number of weeks specified in one of the following sub-paragraphs—
- (a) a maximum of 2 weeks; or
  - (b) a maximum of 3 weeks during which he is attending for at least 3 days in each such week an Outward Bound course; or

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- (c) if he is a blind person, a maximum of 6 weeks during which, apart from a period of no more than 2 weeks, he participates for a maximum period of 4 weeks in a course of training in the use of guide dogs of which at least 3 days in each such week is spent in that training.

[<sup>F217</sup>(2A) A person shall not be treated as actively seeking employment under paragraph (1)(v)—

- (a) for more than eight weeks,  
 (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or  
 (c) where he is a prisoner as defined by regulation 85(4) (special cases).]

(3) In this regulation—

“employment or training programme” means a course or programme the person’s participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973 for the purpose of assisting persons to select, train for, obtain or retain employment;

“housing action trust” means a corporation established by an order of the Secretary of State pursuant to section 62(1) of the Housing Act 1988 <sup>F218</sup>;

“treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

[<sup>F219</sup>“tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992;]

“urban development corporation” means a corporation established by an order of the Secretary of State pursuant to section 135(1) of the Local Government, Planning and Land Act 1980 <sup>F220</sup>;

[<sup>F221</sup>“Urban Regeneration Agency” means the agency referred to in section 158(1) of the Leasehold Reform, Housing and Urban Development Act 1993 <sup>F222</sup>.]

### Textual Amendments

- F202** Words in [reg. 19\(1\)](#) substituted (30.5.2006) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(4)(a)**
- F203** [Reg. 19\(1\)\(i\)](#) inserted (30.11.1999) by [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/3087\)](#), regs. 1(1), **5(2)**
- F204** [Reg. 19\(1\)\(j\)](#) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **7(3)**
- F205** Words in [reg. 19\(1\)\(k\)](#) substituted (14.4.2008) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **4(6)**
- F206** Words in [reg. 19\(1\)\(l\)\(ll\)](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(5)**
- F207** [Reg. 19\(1\)\(ll\)](#) inserted (4.10.2004) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2004 \(S.I. 2004/1869\)](#), regs. 1, **3(3)(a)**
- F208** Words in [reg. 19\(1\)\(n\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/3336\)](#), regs. 1, **2(5)**
- F209** [Reg. 19\(1\)\(nn\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/3336\)](#), regs. 1, **2(6)**
- F210** Words in [reg. 19\(1\)\(o\)](#) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(10)** (with [reg. 13](#))
- F211** [Reg. 19\(1\)\(r\)](#) substituted (1.6.1998) by [The Social Security Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/1274\)](#), regs. 1(1), **5**

- F212** Words in reg. 19(1)(r)(iii) substituted (E.W.) (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) (No. 2) Order 2008 (S.I. 2008/2831), reg. 1(2), **Sch. 1 para. 7(2)** (with Sch. 3 Sch. 4 paras. 5, 6); reg. 1(2)
- F213** Reg. 19(1)(s) added (30.11.1999) by The Jobseeker's Allowance (Amendment) (No. 2) Regulations 1999 (S.I. 1999/3087), regs. 1(1), **5(3)**
- F214** Reg. 19(1)(t) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims: Consequential Amendments) Regulations 2000 (S.I. 2000/3336), regs. 1, **2(7)**
- F215** Reg. 19(1)(u) added (4.10.2004) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2004 (S.I. 2004/1869), regs. 1, **3(3)(b)**
- F216** Reg. 19(1)(v)(w) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(4)(b)**
- F217** Reg. 19(2A) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(4)(c)**
- F218** 1988 c.50.
- F219** Words in reg. 19(3) inserted (30.5.2006) by The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402), regs. 1, **2(4)(d)**
- F220** 1980 c.65.
- F221** Words in reg. 19(3) omitted (E.W.) (1.12.2008) by virtue of The Housing and Regeneration Act 2008 (Consequential Provisions) (No. 2) Order 2008 (S.I. 2008/2831), reg. 1(2), **Sch. 1 para. 7(3)** (with Sch. 3 Sch. 4 paras. 5, 6); reg. 1(2)
- F222** 1993 c.28.

**Further circumstances in which a person is to be treated as actively seeking employment: permitted period**

**20.**—(1) A person to whom paragraph (2) does not apply shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment in that week—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive.

(2) A person to whom this paragraph applies shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment, self-employed earner's employment, or employment and self-employed earner's employment in that week—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive.

(3) Paragraph (2) applies to a person who has, at any time during the period of 12 months immediately preceding the date of claim, been engaged in his usual occupation in self-employed earner's employment.

**Further circumstances in which a person is to be treated as actively seeking employment: laid off and short-time workers**

**21.** A person who has restricted his availability for employment in accordance with regulation 17(1) or, as the case may be, regulation 17(2), shall in any week in which he has so restricted his availability for not less than 3 days be treated as actively seeking employment in that

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week if he takes such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment for which he is available under regulation 17.

**[<sup>F223</sup> Further circumstances in which a qualifying person is to be treated as actively seeking employment: full-time students participating in a qualifying course**

**21A.** A person who is treated as available for employment in accordance with regulation 17A(3) shall be treated as actively seeking employment in any week—

- (a) which, in relation to the qualifying course, falls wholly or partly in term-time;
- (b) in which he is taking examinations relating to the qualifying course; or
- (c) which falls wholly in a vacation from the qualifying course, if in that week he takes such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment for which he is available under regulation 17A(3)(c).]

**Textual Amendments**

**F223** Reg. 21A inserted (1.6.1998) by [The Social Security Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/1274\)](#), regs. 1(1), 6

**Interpretation of certain expressions for the purposes of regulations 18(3)(f)(i) and 19(1)(d)**

**22.** For the purposes of regulations 18(3)(f)(i) and 19(1)(d)—

- (a) a person is engaged in duties for the benefit of others while—
  - (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
  - (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
  - (iii) assisting in measures being taken to prevent a serious threat to the health of the people,
 as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;
- (b) events which may give rise to an emergency include—
  - (i) a fire, a flood or an explosion,
  - (ii) a natural catastrophe,
  - (iii) a railway or other transport accident,
  - (iv) a cave or mountain accident,
  - (v) an accident at sea,
  - (vi) a person being reported missing and the organisation of a search for that person.

## Chapter IV

### Attendance, Information and Evidence

#### Attendance

[<sup>F224</sup>23. A claimant shall attend at such place and at such time as an employment officer may specify by a notification which is given or sent to the claimant and which may be in writing, by telephone or by electronic means.]

#### Textual Amendments

**F224** Reg. 23 substituted (11.9.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/2194\)](#), regs. 1, **2(2)**

#### [<sup>F225</sup>Attendance by members of a joint-claim couple

**23A.** Each member of a joint-claim couple shall attend at such place and at such time as the employment officer may specify by a notification which is given or sent to that member and which may be in writing, by telephone or by electronic means.]

#### Textual Amendments

**F225** [Reg. 23A](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 2**

#### Provision of information and evidence

**24.—(1)** A claimant shall provide such information as to his circumstances, his availability for employment and the extent to which he is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the claimant to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount.

[<sup>F226</sup>(1A) A member of a joint-claim couple shall provide such information as to the circumstances of each or either member of a couple, the availability for employment of each or either member of the couple and the extent to which each or either member of the couple is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the couple to a jobseeker's allowance, whether that allowance is payable to the couple and, if so, in what amount.]

(2) A claimant shall furnish such other information in connection with the claim, or any question arising out of it, as may be required by the Secretary of State.

(3) Where—

- (a) a jobseeker's allowance may be claimed by either member of a couple, or
- (b) entitlement to a jobseeker's allowance or whether that allowance is payable and, if so, in what amount, is or may be affected by the circumstances of either member of a couple or any member of a polygamous marriage,

the Secretary of State may require the member of the couple other than the claimant to certify in writing whether he agrees to the claimant's making the claim, or that he, or any member of a polygamous marriage, confirms the information given about his circumstances[<sup>F227</sup>, and in this paragraph "couple" does not include a joint-claim couple].

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[<sup>F228</sup>(3A) Where entitlement to a joint-claim jobseeker's allowance or whether that allowance is payable and, if so, in what amount, is or may be affected by the circumstances of any member of a polygamous marriage, the Secretary of State may require either member of the joint-claim couple to certify in writing that any member of the polygamous marriage confirms the information given about that member's circumstances.]

(4) A claimant shall furnish such certificates, documents and other evidence as may be required by the Secretary of State for the determination of the claim.

(5) A claimant shall furnish such certificates, documents and other evidence affecting his continuing entitlement to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount as the Secretary of State may require.

[<sup>F229</sup>(5A) A member of a joint-claim couple shall furnish such certificates, documents and other evidence affecting the continuing entitlement of the couple to a jobseeker's allowance, whether that allowance is payable to the couple and, if so, in what amount as the Secretary of State may require.]

(6) A claimant shall, if the Secretary of State requires him to do so, provide a signed declaration to the effect that—

[<sup>F230</sup>(a) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph he has either been available for employment or satisfied the circumstances to be treated as available for employment, save as he has otherwise notified the Secretary of State,]

(b) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph he has either been actively seeking employment to the extent necessary to give him his best prospects of securing employment or he has satisfied the circumstances to be treated as actively seeking employment, save as he has otherwise notified the Secretary of State, and

(c) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph there has been no change to his circumstances which might affect his entitlement to a jobseeker's allowance or the <sup>F231</sup>... amount of such an allowance, save as he has notified the Secretary of State.

(7) A claimant shall notify the Secretary of State—

(a) of any change of circumstances which has occurred which he might reasonably be expected to know might affect his entitlement to a jobseeker's allowance [<sup>F232</sup>or, in the case of a joint-claim couple, the entitlement of the couple to a joint-claim jobseeker's allowance] or the payability or amount of such an allowance; and

(b) of any such change of circumstances which he is aware is likely so to occur,

and shall do so as soon as reasonably practicable after its occurrence or, as the case may be, after he becomes so aware, by giving notice [<sup>F233</sup>of the change to an office of the Department for Work and Pensions specified by the Secretary of State—

(i) in writing or by telephone (unless the Secretary of State determines in any particular case that notice must be in writing or may be given otherwise than in writing or by telephone); or

(ii) in writing if in any class of case he requires written notice (unless he determines in any particular case to accept notice given otherwise than in writing)].

(8) Where, pursuant to paragraph (1)[<sup>F234</sup>,(1A)] or (2), a claimant is required to provide information he shall do so when he attends in accordance with a [<sup>F235</sup>notification] under regulation 23 [<sup>F234</sup>or 23A], if so required by the Secretary of State, or within such period as the Secretary of State may require.



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(9) Where, pursuant to paragraph (4) or (5) [<sup>F236</sup>or (5A)], a claimant is required to provide certificates, documents or other evidence he shall do so within seven days of being so required or such longer period as the Secretary of State may consider reasonable.

(10) Where, pursuant to paragraph (6), a claimant is required to provide a signed declaration he shall provide it on the day on which he is required to attend in accordance with a [<sup>F237</sup>notification] under regulation 23 [<sup>F238</sup>or 23A] or on such other day as the Secretary of State may require.

[<sup>F239</sup>(11) In this regulation, references to the "Secretary of State" include a reference to persons designated as employment officers by an Order made by the Secretary of State under section 8(3) of the Jobseekers Act 1995. ]

#### Textual Amendments

- F226** Reg. 24(1A) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(a)**
- F227** Words in reg. 24(3) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(b)**
- F228** Reg. 24(3A) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(c)**
- F229** Reg. 24(5A) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(d)**
- F230** Reg. 24(6)(a) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **8(2)**
- F231** Words in reg. 24(6)(c) omitted (7.10.1996) by virtue of The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **8(3)**
- F232** Words in reg. 24(7)(a) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(e)**
- F233** Words in reg. 24(7) substituted (10.4.2006) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **4**
- F234** Words in reg. 24(8) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(f)**
- F235** Word in reg. 24(8) substituted (11.9.2000) by The Jobseeker's Allowance (Amendment) (No. 3) Regulations 2000 (S.I. 2000/2194), regs. 1, **2(3)**
- F236** Words in reg. 24(9) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(g)**
- F237** Word in reg. 24(10) substituted (11.9.2000) by The Jobseeker's Allowance (Amendment) (No. 3) Regulations 2000 (S.I. 2000/2194), regs. 1, **2(3)**
- F238** Words in reg. 24(10) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 3(h)**
- F239** Reg. 24(11) added (29.11.1999) by The Social Security (Claims and Information) Regulations 1999 (S.I. 1999/3108), reg. 1, **Sch. 3 para. 1(3)**

#### Entitlement ceasing on a failure to comply

**25.—(1)** Subject to regulation 27, entitlement to a jobseeker's allowance shall cease in the following circumstances—

- (a) if [<sup>F240</sup>a claimant] fails to attend on the day specified in a [<sup>F241</sup>notification] under regulation 23 [<sup>F242</sup>or 23A], other than a [<sup>F241</sup>notification] requiring attendance under an employment programme or a training scheme;
- (b) if—

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- [<sup>F243</sup>(i) [<sup>F244</sup>that claimant] attends on the day specified in a [<sup>F241</sup>notification] under regulation 23 [<sup>F242</sup>or 23A] but fails to attend at the time specified in that [<sup>F241</sup>notification] (other than a [<sup>F241</sup>notification] requiring attendance under an employment programme or a training scheme), and the Secretary of State has informed the claimant in writing that a failure to attend, on the next occasion on which he is required to attend, at the time specified in such a [<sup>F241</sup>notification] may result in his entitlement to a jobseeker's allowance ceasing, and]
- (ii) he fails to attend at the time specified in such a [<sup>F241</sup>notification] on the next occasion;
- (c) if [<sup>F244</sup>that claimant] was required to provide a signed declaration as referred to in regulation 24(6) and he fails to provide it on the day on which he ought to do so in accordance with regulation 24(10).
- (2) In this regulation, "an employment programme" and "a training scheme" have the meaning given in regulation 75.

#### Textual Amendments

- F240** Words in reg. 25(1)(a) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 4(a)**
- F241** Word in reg. 25 substituted (11.9.2000) by The Jobseeker's Allowance (Amendment) (No. 3) Regulations 2000 (S.I. 2000/2194), regs. 1, **2(4)**
- F242** Words in reg. 25(1)(a)(b) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 4(b)**
- F243** Reg. 25(1)(b)(i) substituted (25.3.1999) by The Jobseeker's Allowance (Amendment) Regulations 1999 (S.I. 1999/530), regs. 1, **2**
- F244** Words in reg. 25(1)(b)(c) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 4(c)**

#### Time at which entitlement is to cease

**26.** Entitlement to a jobseeker's allowance shall cease in accordance with regulation 25 on whichever is the earlier of—

- (a) the day after the last day in respect of which [<sup>F245</sup>that claimant] has provided information or evidence which [<sup>F246</sup>shows that he continues to be entitled] to a jobseeker's allowance,
- (b) if [<sup>F247</sup>regulation 25(1)(a) or (b)] applies, the day on which he was required to attend, and
- (c) if [<sup>F248</sup>regulation 25(1)(c)] applies, the day on which he ought to have provided the signed declaration,

provided that it shall not cease earlier than the day after he last attended in compliance with a [<sup>F249</sup>notification] under regulation 23 [<sup>F250</sup>or 23A].

#### Textual Amendments

- F245** Words in reg. 26(a) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 5(a)**
- F246** Words in reg. 26(a) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **9**
- F247** Words in reg. 26(b) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 1**

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- F248** Words in reg. 26(c) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 1**
- F249** Word in reg. 26 substituted (11.9.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/2194\)](#), regs. 1, **2(5)**
- F250** Words in reg. 26 inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 5(b)**

### Where entitlement is not to cease

27.—(1) Entitlement to a jobseeker's allowance shall not cease if [<sup>F251</sup>a claimant] shows, before the end of the fifth working day after the day on which he failed to comply with a [<sup>F252</sup>notification] under regulation 23 [<sup>F253</sup>or 23A] or to provide a signed declaration in accordance with regulation 24, that he had good cause for the failure.

(2) In this regulation, "working day" means any day on which the appropriate office is not closed.

### Textual Amendments

- F251** Words in reg. 27(1) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 6(a)**
- F252** Word in reg. 27(1) substituted (11.9.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/2194\)](#), regs. 1, **2(5)**
- F253** Words in reg. 27(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 6(b)**

### Matters to be taken into account in determining whether a claimant has good cause for failing to comply with a notice under regulation 23

28.—(1) Subject to regulation 30, in determining, for the purposes of regulation 27, whether a claimant has good cause for failing to comply with a [<sup>F254</sup>notification] under regulation 23 [<sup>F255</sup>or 23A] the matters which are to be taken into account shall include the following—

- (a) whether the claimant misunderstood the requirement on him due to any learning, language or literacy difficulties of the claimant or any misleading information given to the claimant by an employment officer;
- (b) whether the claimant was attending a medical or dental appointment, or accompanying a person for whom the claimant has caring responsibilities to such an appointment, and whether it would have been unreasonable, in the circumstances, to rearrange the appointment;
- (c) any difficulty with the claimant's normal mode of transport and whether there was any reasonable available alternative;
- (d) the established customs and practices of the religion, if any, to which the claimant belongs;
- (e) whether the claimant was attending an interview for employment.

(2) In this regulation, "employment" means employed earner's employment except in relation to a claimant to whom regulation 20(2) applies and for the duration only of any permitted period determined in his case in accordance with regulation 16, in which case, for the duration of that period, it means employed earner's employment or self-employed earner's employment.

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### Textual Amendments

- F254** Word in reg. 28(1) substituted (11.9.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/2194\)](#), regs. 1, **2(5)**
- F255** Words in reg. 28(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 7**

### Matters to be taken into account in determining whether a claimant has good cause for failing to provide a signed declaration

**29.** In determining, for the purposes of regulation 27, whether a claimant has good cause for failing to comply with a requirement to provide a signed declaration, as referred to in regulation 24(6), on the day on which he ought to do so the matters which are to be taken into account shall include the following—

- (a) whether there were adverse postal conditions;
- (b) whether the claimant misunderstood the requirement on him due to any learning, language or literacy difficulties of the claimant or any misleading information given to the claimant by an employment officer.

### Circumstances in which a claimant is to be regarded as having good cause for failing to comply with a [<sup>F256</sup>notification] under regulation 23 [<sup>F257</sup>or 23A]

**30.** For the purposes of regulation 27, a claimant is to be regarded as having good cause for failing to comply with a [<sup>F256</sup>notification] under regulation 23 [<sup>F257</sup>or 23A]—

- (a) where, if regulation 5(1)<sup>F258</sup>... [<sup>F259</sup>(b)] applies in his case, he was required to attend at a time less than 48 hours from receipt by him of the [<sup>F256</sup>notification];
- [<sup>F260</sup>(aa) where, if regulation 5(1A) applies in his case, he was required to attend on a date less than 7 days from receipt by him of the notification;]
- (b) where, if regulation 5(2) applies in his case, he was required to attend at a time less than 24 hours from receipt by him of the [<sup>F256</sup>notification];
- (c) where he was, in accordance with regulation 14(1)(a)—(g), (k)—(n), [<sup>F261</sup>(r) to (u) or 14(2) or (2ZA)], treated as available for employment on the day on which he failed to attend;
- (d) where the day on which he failed to attend falls in a week in which he was, in accordance with regulation 19(1)(p) and 19(2), treated as actively seeking employment.

### Textual Amendments

- F256** Word in reg. 30 substituted (11.9.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/2194\)](#), regs. 1, **2(5)**
- F257** Words in reg. 30 inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 8**
- F258** Words in reg. 30(a) omitted (30.5.2006) by virtue of [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2006 \(S.I. 2006/1402\)](#), regs. 1, **2(5)(a)**
- F259** Word in reg. 30(a) inserted (1.1.2003) by [The Jobseeker's Allowance \(Amendment\) Regulations 2002 \(S.I. 2002/3072\)](#), regs. 1(b), **6**
- F260** Reg. 30(aa) inserted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(11)(a)** (with reg. 13)

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**F261** Words in reg. 30(c) substituted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(11)(b)** (with reg. 13)

## Chapter V

### Jobseeker's Agreement

#### Contents of Jobseeker's Agreement

**31.** The prescribed requirements for a jobseeker's agreement are that it shall contain the following information—

- (a) the claimant's name;
- (b) where the hours for which the claimant is available for employment are restricted in accordance with regulation 7, the total number of hours for which he is available and any pattern of availability;
- (c) any restrictions on the claimant's availability for employment, including restrictions on the location or type of employment, in accordance with regulations 5, 8, 13 and 17;
- (d) a description of the type of employment which the claimant is seeking;
- (e) the action which the claimant will take—
  - (i) to seek employment; and
  - (ii) to improve his prospects of finding employment;
- (f) the dates of the start and of the finish of any permitted period in his case for the purposes of sections 6(5) and 7(5);
- (g) a statement of the claimant's right—
  - (i) to have a proposed jobseeker's agreement referred to [<sup>F262</sup>the Secretary of State];
  - (ii) to seek a [<sup>F263</sup>revision or supersession] of any determination of, or direction given by, [<sup>F262</sup>the Secretary of State]; and
  - (iii) to appeal to a [<sup>F264</sup>an appeal tribunal] against any determination of, or direction given by, [<sup>F262</sup>the Secretary of State][<sup>F265</sup>following a revision or supersession ].
- (h) the date of the agreement.

#### Textual Amendments

- F262** Words in reg. 31(g) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**
- F263** Words in reg. 31(g)(ii) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 1(a)**
- F264** Words in reg. 31(g)(iii) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 1(b)(i)**
- F265** Words in reg. 31(g)(iii) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 1(b)(ii)**

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### Back-dating of a Jobseeker's Agreement <sup>F266</sup> ...

**32.** In giving a direction under section 9(7)(c), [<sup>F267</sup>the Secretary of State] shall take into account all relevant matters including—

- (a) where the claimant refused to accept the agreement proposed by the employment officer, whether he was reasonable in so refusing;
- (b) where the claimant has signified to the employment officer or to [<sup>F267</sup>the Secretary of State] that the claimant is prepared to accept an agreement which differs from the agreement proposed by the employment officer, whether the terms of the agreement which he is prepared to accept are reasonable;
- (c) where the claimant has signified to the employment officer or to [<sup>F267</sup>the Secretary of State] that the claimant is prepared to accept the agreement proposed by the employment officer, that fact;
- (d) the date on which, in all the circumstances, he considers that the claimant was first prepared to enter into an agreement which [<sup>F267</sup>the Secretary of State] considers reasonable; and
- (e) where the date on which the claimant first had an opportunity to sign a jobseeker's agreement was later than the date on which he made a claim, that fact.

#### Textual Amendments

**F266** Words in reg. 32 heading omitted (18.10.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 3](#)

**F267** Words in reg. 32 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

### Notification of Determinations and Directions under Section 9

**33.** The claimant shall be notified of—

- (a) any determination of [<sup>F268</sup>the Secretary of State] under section 9;
- (b) any direction given by [<sup>F268</sup>the Secretary of State] under section 9.

#### Textual Amendments

**F268** Words in reg. 33 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

### Jobseeker's Agreement treated as having been made

**34.** A claimant is to be treated as having satisfied the condition mentioned in section 1(2)(b)—

- (a) where he is permitted to make a claim for a jobseeker's allowance without attending at an office of the [<sup>F269</sup>Department for Work and Pensions], for the period beginning with the date of claim and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (b) where, after the date of claim, the claim is terminated before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;

- (c) as long as he is treated as available for employment in accordance with regulation 14 where the circumstances set out in that regulation arise after the date of claim and before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (d) as long as there are circumstances not peculiar to the claimant which make impracticable or unduly difficult the normal operation of the provisions governing, or the practice relating to, the claiming, awarding or payment of jobseeker's allowance.
- [<sup>F270</sup>(e) where the claimant was in receipt of a training allowance and was, in accordance with regulation 170, entitled to an income-based jobseeker's allowance without being available for employment, having entered into a jobseeker's agreement or actively seeking employment, for the period beginning with the date on which regulation 170 ceased to apply to him and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement.]
- [<sup>F271</sup>(f) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c), for the period of any such temporary absence.]

#### Textual Amendments

- F269** Words in [reg. 34\(a\)](#) substituted (27.6.2002) by [The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 \(S.I. 2002/1397\)](#), art. 1(2), **Sch. para. 26**
- F270** [Reg. 34\(e\)](#) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), **regs. 1(1), 3**
- F271** [Reg. 34\(f\)](#) added (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), **reg. 1(1), Sch. 2 para. 9**

#### Automatic Back-dating of Jobseeker's Agreement

**35.** Where a jobseeker's agreement is signed on a date later than the date of claim and there is no reference of that agreement to [<sup>F272</sup>the Secretary of State] under section 9(6), the agreement shall be treated as having effect on the date of claim.

#### Textual Amendments

- F272** Words in [reg. 35](#) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**

#### Jobseeker's Agreement to remain in effect

**36.** A jobseeker's agreement entered into by a claimant shall not cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him—

- (a) where a further claim for a jobseeker's allowance is made within a period not exceeding 14 days; or
- [<sup>F273</sup>(b) in respect of any part of a period of suspension, where—
  - (i) the Secretary of State has directed under regulation 37(1A) of the Claims and Payments Regulations that payment under an award be suspended for a definite or indefinite period on the ground that a question arises whether the conditions for entitlement to that allowance are or were fulfilled or the award ought to be revised,

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- (ii) subsequently that suspension expires or is cancelled in respect of a part only of the period for which it has been in force, and
  - (iii) it is then determined that the award should be revised to the effect that there was no entitlement to the allowance in respect of all or any part of the period between the start of the period over which the award has been suspended and the date when the suspension expires or is cancelled; or]
- (c) for as long as the claimant satisfies the conditions of entitlement to national insurance credits, other than any condition relating to the existence of a jobseeker's agreement, in accordance with the Social Security (Credits) Regulations 1975<sup>F274</sup>.

#### Textual Amendments

**F273** Reg. 36(b) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **10**

**F274** [S.I. 1975/556](#); relevant amending instruments are [S.I. 1976/1736](#); 1977/788; 1978/409; 1981/1501; 1982/96; 1983/197; 1987/414; 1987/687; 1988/516; 1988/1545; 1989/1627; 1992/726; 1994/1837 and 1995/829.

#### Variation of Jobseeker's Agreement

**37.** The prescribed manner for varying a jobseeker's agreement shall be in writing and signed by both parties in accordance with section 10(2) on the proposal of the claimant or the employment officer.

#### Direction to vary Agreement: time for compliance

**38.** The prescribed period for the purposes of section 10(6)(c) shall be the period of 21 days beginning with the date on which the direction was issued.

#### Variation of Agreement: matters to be taken into account

**39.** In giving a direction under section 10(6)(b) or (d) [<sup>F275</sup>the Secretary of State] shall take into account the preference of the claimant if he considers that both the claimant's proposals and those of the employment officer satisfy the requirements of section 10(5).

#### Textual Amendments

**F275** Words in reg. 39 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**

#### Notification of Determinations and Directions under Section 10

- 40.** The claimant shall be notified of—
- (a) any determination of [<sup>F276</sup>the Secretary of State] under section 10;
  - (b) any direction of [<sup>F276</sup>the Secretary of State] under section 10.



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**Textual Amendments**

**F276** Words in reg. 40 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

**Procedure for Reviews**

<sup>F277</sup>**41.** .....

**Textual Amendments**

**F277** Regs. 41-45 revoked (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 4](#)

**Appeals to Social Security Appeal Tribunal**

<sup>F277</sup>**42.** .....

**Textual Amendments**

**F277** Regs. 41-45 revoked (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 4](#)

**Direction of Social Security Appeal Tribunal: time limit for compliance**

<sup>F277</sup>**43.** .....

**Textual Amendments**

**F277** Regs. 41-45 revoked (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 4](#)

**Appeals to the Commissioner**

<sup>F277</sup>**44.** .....

**Textual Amendments**

**F277** Regs. 41-45 revoked (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 4](#)

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## Appropriate person

<sup>F277</sup>45. ....

### Textual Amendments

**F277** Regs. 41-45 revoked (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 4**

## PART III

### OTHER CONDITIONS OF ENTITLEMENT

#### Waiting Days

- 46.—(1) Paragraph 4 of Schedule 1 to the Act shall not apply in a case where—
- (a) a person's entitlement to a jobseeker's allowance commences within 12 weeks of an entitlement of his to income support, incapacity benefit<sup>F278</sup>, employment and support allowance] or [<sup>F279</sup>carer's allowance] coming to an end; or
  - (b) a claim for a jobseeker's allowance falls to be determined by reference to section 3(1)(f)(ii) (persons under the age of 18)<sup>F280</sup>; or]
  - <sup>F281</sup>(c) a joint-claim couple are entitled to a joint-claim jobseeker's allowance in respect of themselves and that paragraph of that Schedule has already applied to one member of that couple in respect of a jobseeking period which is linked to a jobseeking period relating to that member which has commenced by virtue of his having claimed a jobseeker's allowance as a member of that couple;
  - (d) a joint-claim couple have claimed a jobseeker's allowance jointly within 12 weeks of either member of that couple being entitled to a jobseeker's allowance, income support, incapacity benefit<sup>F282</sup>, employment and support allowance] or [<sup>F279</sup>carer's allowance];
  - (e) a member of a joint-claim couple is both in receipt of a training allowance and the nominated member for the purposes of section 3B.]
- (2) In the case of a person to whom paragraph 4 of Schedule 1 to the Act applies, the number of days is [<sup>F283</sup>7].

### Textual Amendments

- F278** Words in [reg. 46\(1\)\(a\)](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(6)(a)**
- F279** Words in [reg. 46](#) substituted (1.4.2003) by [The Social Security \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/511\)](#), regs. 1, **3(4)(5)**
- F280** Word in [reg. 46\(1\)\(b\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 10(a)**
- F281** [Reg. 46\(1\)\(c\)-\(e\)](#) added (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 10(b)**
- F282** Words in [reg. 46\(1\)\(d\)](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(6)(b)**

**F283** Word in reg. 46(2) substituted (5.4.1999) by [The Jobseeker's Allowance \(Amendment\) Regulations 1998 \(S.I. 1998/71\)](#), regs. 1(1), 2 (with reg. 4)

## Jobseeking Period

47.—(1) For the purposes of the Act, but subject to paragraphs (2) and (3), the “jobseeking period” means any period throughout which the claimant satisfies or is treated as satisfying the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1 (conditions of entitlement to a jobseeker’s allowance).

(2) Any period in which—

- (a) a claimant does not satisfy any of the requirements in section 1(2)(a) to (c), and
- (b) a jobseeker’s allowance is payable to him in accordance with Part IX (Hardship), [<sup>F284</sup>or, where the claimant is a member of a joint-claim couple, a jobseeker’s allowance is payable in accordance with Part IXA (hardship)]

shall, for the purposes of paragraph (1), be treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1.

[<sup>F285</sup>(2A) Any period in which a claimant is entitled to a jobseeker’s allowance in accordance with regulation 11(3) of the Jobseeker’s Allowance (Transitional Provisions) Regulations 1995 shall, for the purposes of paragraph (1), be treated as a period in which he satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1.]

(3) The following periods shall not be, or be part of, a jobseeking period—

- (a) any period in respect of which no claim for a jobseeker’s allowance has been made or treated as made;
- (b) such period as falls before the day on which a claim for a jobseeker’s allowance is made or treated as made <sup>F286</sup>...;
- (c) where a claim for a jobseeker’s allowance has been made or treated as made but no entitlement to benefit arises in respect of a period before the date of claim by virtue of section 1(2) of the Administration Act (limits for backdating entitlement), that period;
- (d) where—
  - (i) a claimant satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1; and
  - (ii) entitlement to a jobseeker’s allowance ceases in accordance with regulation 25 (entitlement ceasing on a failure to comply),  
the period beginning with the date in respect of which, in accordance with regulation 26, entitlement ceases and ending with the day before the date in respect of which the claimant again becomes entitled to a jobseeker’s allowance; or
- (e) any week in which a claimant is not entitled to a jobseeker’s allowance in accordance with section 14 (trade disputes).
- [<sup>F287</sup>(f) subject to regulation 2A, any period in respect of which the claimant is not entitled to a jobseeker’s allowance because section 1(1A) of the Administration Act (requirement to state national insurance number) applies.]

(4) For the purposes of section 5 (duration of a contribution-based jobseeker’s allowance) any day—

- (a) which falls within a jobseeking period [<sup>F288</sup>and either];

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- [<sup>F289</sup>(b) (i) on which the claimant satisfies the conditions specified in section 2 (the contribution-based conditions) other than the conditions specified in subsection (1)(c) and (d) of that section; and
- (ii) on which a contribution-based jobseeker's allowance is not payable to the claimant by virtue of section 19 [<sup>F290</sup> or on which the claimant is a member of a joint-claim couple and a joint-claim jobseeker's allowance is not payable or is reduced because he is subject to sanctions by virtue of section 20A [<sup>F291</sup> or by virtue of a restriction imposed pursuant to section 62 or 63 of the Child Support, Pensions and Social Security Act 2000 [<sup>F292</sup> or section 7, 8 or 9 of the Social Security Fraud Act 2001] (loss of benefit provisions)]]; or
- (c) which falls within a period which is treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1, in accordance with paragraph (2),]

shall be treated as if it was a day in respect of which he was entitled to a contribution-based jobseeker's allowance.

#### Textual Amendments

- F284** Words in reg. 47(2)(b) added (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), **Sch. 2 para. 11**
- F285** Reg. 47(2A) inserted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(4)**
- F286** Words in reg. 47(3)(b) omitted (5.4.1999) by virtue of [The Social Security Benefits \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/714\)](#), **reg. 2(1)(a)**
- F287** Reg. 47(3)(f) inserted (6.9.1999) by [The Social Security \(Incapacity Benefit and Jobseeker's Allowance\) Amendment Regulations 1999 \(S.I. 1999/2226\)](#), regs. 1, **3**
- F288** Words in reg. 47(4) added (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **14(2)**
- F289** Reg. 47(4)(b)(i)(ii)(c) substituted for reg. 47(4)(b)(c) (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **14(3)**
- F290** Words in reg. 47(4)(b)(ii) added (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(1), **2(5)**
- F291** Words in reg. 47(4)(b)(ii) added (E.W.) (15.10.2001) by [The Social Security \(Breach of Community Order\) \(Consequential Amendments\) Regulations 2001 \(S.I. 2001/1711\)](#), regs. 1, **2(4)(a)**
- F292** Words in reg. 47(4)(b)(ii) inserted (1.4.2002) by [The Social Security \(Loss of Benefit\) \(Consequential Amendments\) Regulations 2002 \(S.I. 2002/490\)](#), regs. 1(1), **7**

#### [<sup>F293</sup> **Jobseeking periods: periods of interruption of employment**

**47A.**—[<sup>F294</sup>(1)] For the purposes of section 2(4)(b)(i) and for determining any waiting days—

[ where a linked period commenced before 7th October 1996<sup>F296</sup> ..., any days of  
<sup>F295</sup>(za) unemployment which form part of a period of interruption of employment where the last day of unemployment in that period of interruption of employment was no more than 8 weeks before the date upon which that linked period commenced;]

- (a) where a jobseeking period or a linked period commences on 7th October 1996, any period of interruption of employment ending within the 8 weeks preceding the day the jobseeking period or linked period commenced,
- (b) where a jobseeking period or a linked period commences after 7th October 1996, any period of interruption of employment ending within the 12 weeks preceding that date,

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shall be treated as a jobseeking period [<sup>F297</sup>and, for the purposes of paragraph (za), a day shall be treated as being, or not being, a day of unemployment in accordance with section 25A of the Social Security Contributions and Benefits Act 1992 and with any regulations made under that section, as in force on 6th October 1996].]

[<sup>F298</sup>(2) In paragraph (1) "period of interruption of employment" in relation to a period prior to 7th October 1996 has the same meaning as it had in the Benefits Act by virtue of section 25A of that Act (determination of days for which unemployment benefit is payable) as in force on 6th October 1996.]

#### Textual Amendments

- F293** Reg. 47A inserted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(5)**
- F294** Reg. 47A(1): reg. 47A renumbered as reg. 47A(1) (6.4.1998) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1(1), **16(1)**
- F295** Reg. 47A(za) inserted (1.12.1997) by [The Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2677\)](#), regs. 1, **2(a)**
- F296** Words in reg. 47A(1)(za) omitted (6.4.1998) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1(1), **16(1)**
- F297** Words in reg. 47A added (1.12.1997) by [The Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2677\)](#), regs. 1, **2(b)**
- F298** Reg. 47A(2) added (6.4.1998) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1(1), **16(2)**

#### Linking Periods

**48.**—(1) For the purposes of the Act, two or more jobseeking periods shall be treated as one jobseeking period where they are separated by a period comprising only—

- (a) any period of not more than 12 weeks;
- (b) linked period;
- (c) any period of not more than 12 weeks falling between—
  - (i) any two linked periods; or
  - (ii) a jobseeking period and a linked period;

[<sup>F299</sup>(d) a period in respect of which the claimant is summoned for jury service and is required to attend court.]

(2) Linked periods for the purposes of the Act are any of the following periods—

- (a) to the extent specified in paragraph (3), any period throughout which the claimant is entitled to [<sup>F300</sup>a][<sup>F300</sup>carer's allowance] under section 70 of the Benefits Act;
- (b) any period throughout which the claimant is incapable of work, or is treated as incapable of work, in accordance with Part XIIA of the Benefits Act <sup>F301</sup>;
- [<sup>F302</sup>(bb) any period throughout which the claimant has, or is treated as having, limited capability for work for the purposes of Part 1 of the Welfare Reform Act;]
- (c) any period throughout which the claimant was entitled to a maternity allowance under section 35 of the Benefits Act;
- (d) any period throughout which the claimant was engaged in training for which a training allowance is payable.

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- [<sup>F303</sup>(e) a period which includes 6th October [<sup>F304</sup>1996] during which the claimant attends court in response to a summons for jury service and which was immediately preceded by a period of entitlement to unemployment benefit.]
- [<sup>F305</sup>(f) any period throughout which the claimant was participating—
- (i) in the [<sup>F306</sup>Self-Employed] Employment Option of the New Deal as specified in regulation 75(1)(a)(ii)(aa);
  - [<sup>F307</sup>(ii) in the Voluntary Sector Option of the New Deal specified in regulation 75(1)(a)(ii)(bb), in the Environment Task Force Option of the New Deal specified in regulation 75(1)(a)(ii)(cc) [<sup>F308</sup>or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)] and was not entitled to a jobseeker's allowance because, as a consequence of his participation, the claimant was engaged in remunerative work or failed to satisfy the condition specified either in section 2(1)(c) or in section 3(1)(a).]
- [ any period throughout which the claimant was participating in an employment zone
- <sup>F309</sup>(g) programme and was not entitled to a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).]
- [
- <sup>F310</sup>(2A) A period is a linked period for the purposes of section 2(4)(b)(ii) of the Act only where it ends within 12 weeks or less of the commencement of a jobseeking period or of some other linked period.]
- (3) A period of entitlement to [<sup>F300</sup>carer's allowance] shall be a linked period only where it enables the claimant to satisfy contribution conditions for entitlement to a contribution-based jobseeker's allowance which he would otherwise be unable to satisfy.]

#### Textual Amendments

- F299** Reg. 48(1)(d) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **15**
- F300** Words in reg. 48 substituted (1.4.2003) by [The Social Security \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/511\)](#), regs. 1, **3(4)(5)**
- F301** Part XIII A was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), **section 5**.
- F302** Reg. 48(2)(bb) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(7)**
- F303** Reg. 48(2)(e) added (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(6)(a)**
- F304** Word in reg. 48(2)(e) inserted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(4)**
- F305** Reg. 48(2)(f) added (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **4**
- F306** Words in reg. 48(2)(f)(i) inserted (14.10.2002) by [The Social Security Amendment \(Employment Programme\) Regulations 2002 \(S.I. 2002/2314\)](#), regs. 1, **2(3)**
- F307** Reg. 48(2)(f)(ii) substituted (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **3**
- F308** Words in reg. 48(2)(f)(ii) substituted (14.4.2008) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **4(7)**
- F309** Reg. 48(2)(g) added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **4(4)(a)**
- F310** Reg. 48(2A) inserted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(6)(b)**

## Persons approaching Retirement and the Jobseeking Period

49.—(1) [<sup>F311</sup>Subject to paragraph (5),] the provisions of this regulation apply only to days which fall—

- (a) after 6th October 1996; and
- (b) within a tax year in which the claimant has attained the age of 60 but is under pensionable age,

and 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 his entitlement to a contribution-based jobseeker's allowance; or (ii) fails to satisfy one or both the contribution conditions specified in section 2(1)(a) and (b); or
- (iii) is entitled to a contribution-based jobseeker's allowance but the amount payable is reduced to Nil by virtue of deductions made in accordance with regulation 81 for pension payments.

[<sup>F312</sup>(2) For the purposes of paragraph (1) of regulation 47 (jobseeking period) but subject to paragraphs [<sup>F313</sup>(3), (4) and (4A)], any days to which paragraph (1) applies and in respect of which the person does not satisfy or is not treated in accordance with regulation 14, 16, 17, 19, 20, 21 or 34 as satisfying the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1 (conditions of entitlement to a jobseeker's allowance), shall be days on which the person is treated as satisfying the condition in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section (1).]

(3) Where a person—

<sup>F314</sup>(a) .....

- (b) 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 shall be days on which the person is treated as satisfying those conditions so however that this paragraph shall not 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 <sup>F315</sup>, a day of incapacity for work falling within a period of incapacity for work shall not be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).

[<sup>F316</sup>(4A) Any day which, for the purposes of Part 1 of the Welfare Reform Act, is a day where the person has limited capability for work falling within a period of limited capability for work shall not be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).]

[<sup>F317</sup>(5) This regulation shall not apply in respect of any days in respect of which a joint-claim jobseeker's allowance has been claimed.]

### Textual Amendments

**F311** Words in reg. 49(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 12(a)**

**F312** Reg. 49(2) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **16(2)**

**F313** Words in reg. 49(2) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(8)(a)**

**F314** Reg. 49(3)(a) omitted (7.10.1996) by virtue of [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **16(3)**

**F315** Section 30C was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), **section 3**.

**F316** Reg. 49(4A) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(8)(b)**

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**F317** Reg. 49(5) added (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [Sch. 2 para. 12\(b\)](#)

### Persons temporarily absent from Great Britain

**50.**—(1) For the purposes of the Act, a claimant shall be treated as being in Great Britain during any period of temporary absence from Great Britain—

- (a) not exceeding 4 weeks in the circumstances specified in paragraphs (2), (3) and (4);
  - (b) not exceeding 8 weeks in the circumstances specified in paragraph (5).
- (2) The circumstances specified in this paragraph are that—
- (a) the claimant is in Northern Ireland and satisfies the conditions of entitlement to a jobseeker's allowance; and
  - (b) immediately preceding the period of absence from Great Britain the claimant was entitled to a jobseeker's allowance; and
  - (c) the period of absence is unlikely to exceed 52 weeks.
- (3) The circumstances specified in this paragraph are that—
- (a) immediately preceding the period of absence from Great Britain the claimant was entitled to a jobseeker's allowance; and
  - (b) the period of absence is unlikely to exceed 52 weeks; and
  - (c) while absent from Great Britain, the claimant continues to satisfy, or be treated as satisfying, the other conditions of entitlement to a jobseeker's allowance; and
  - (d) is one of a couple, both of whom are absent from Great Britain, where a premium referred to in paragraphs 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of the claimant's partner.
- (4) The circumstances of this paragraph are that—
- (a) while absent from Great Britain the person is in receipt of a training allowance; and
  - (b) regulation 170 (person in receipt of training allowance) applies in his case; and
  - (c) immediately preceding his absence from Great Britain, he was entitled to a jobseeker's allowance.
- (5) The circumstances specified in this paragraph are that—
- (a) immediately preceding the period of absence from Great Britain, the claimant was entitled to a jobseeker's allowance; and
  - (b) the period of absence is unlikely to exceed 52 weeks; and
  - (c) the claimant continues to satisfy or be treated as satisfying the other conditions of entitlement to a jobseeker's allowance; and
  - (d) the claimant is, or the claimant and any other member of his family are, accompanying a member of the claimant's family who is a child or young person solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement; and
  - (e) those arrangements relate to treatment—
    - (i) outside Great Britain;
    - (ii) during the period whilst the claimant is, or the claimant and any member of his family are, temporarily absent from Great Britain; and



(iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.

(6) A person shall also be treated, for the purposes of the Act, as being in Great Britain during any period of temporary absence from Great Britain where—

- (a) the absence is for the purpose of attending an interview for employment; and
- (b) the absence is for 7 consecutive days or less; and
- (c) notice of the proposed absence is given to the employment officer before departure, and is given in writing if so required by the officer; and
- (d) on his return to Great Britain the person satisfies the employment officer that he attended for the interview in accordance with his notice.

[<sup>F318</sup>(6AA) For the purposes of the Act a claimant shall be treated as being in Great Britain during any period of temporary absence from Great Britain if—

- (a) he was entitled to a jobseeker's allowance immediately before the beginning of that period of temporary absence; and]

[<sup>F319</sup>(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—

- (i) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);
- (ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or
- (iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.]

[<sup>F320</sup>(6A) A member of a joint-claim couple shall be treated, for the purposes of the Act, as being in Great Britain where he is a member of a transitional case couple as defined for the purposes of paragraph 8A(2) of Schedule 1 to the Act and, as at the date on which Schedule 7 to the Welfare Reform and Pensions Act 1999 comes into force—

- (a) he is temporarily absent from Great Britain; or
- (b) he has made definite arrangements to be temporarily absent from Great Britain from some future date,

and that member shall be so treated during any such period of temporary absence from Great Britain.

(6B) A member of a joint-claim couple shall be treated, for the purposes of the Act, as being in Great Britain during any period of temporary absence from Great Britain—

- (a) not exceeding 4 weeks where he is in Northern Ireland and the period of absence is unlikely to exceed 52 weeks;
- (b) not exceeding 4 weeks where he is in receipt of a training allowance during the period of absence and regulation 170 applies in his case; or
- (c) not exceeding 7 days where the absence is for the purpose of attending an interview for employment,

where that member is so temporarily absent as at the date of claim by the other member of that couple.]

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[<sup>F321</sup>(6C) For the purposes of the Act a member of a joint-claim couple (“the first member”) shall be treated as being in Great Britain during any period of temporary absence if—

(a) he and the other member of that couple were entitled to a joint-claim jobseeker’s allowance immediately before the beginning of that period of temporary absence; and]

[<sup>F322</sup>(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—

(i) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);

(ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State’s arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister’s arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or

(iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.]

(7) In this regulation—

“appropriately qualified” means qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

“employment officer” means a person who is an employment officer for the purposes of sections 9 and 10.

#### Textual Amendments

**F318** Reg. 50(6AA) inserted (4.10.2004) by The Social Security (Income Support and Jobseeker’s Allowance) Amendment Regulations 2004 (S.I. 2004/1869), regs. 1, **3(4)(a)**

**F319** Reg. 50(6AA)(b) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(3)**

**F320** Reg. 50(6A)(6B) inserted (19.3.2001) by The Jobseeker’s Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 13**

**F321** Reg. 50(6C) inserted (4.10.2004) by The Social Security (Income Support and Jobseeker’s Allowance) Amendment Regulations 2004 (S.I. 2004/1869), regs. 1, **3(4)(b)**

**F322** Reg. 50(6C)(b) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(3)**

#### Remunerative Work

**51.**—(1) For the purposes of the Act “remunerative work” means—

(a) in the case of [<sup>F323</sup>a claimant], work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; and

(b) in the case of any partner of the claimant, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 24 hours per week [<sup>F324</sup>and;

(c) in the case of a non-dependant, or of a child or young person to whom paragraph 18 of Schedule 6 refers, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week,]

and for those purposes, [<sup>F325</sup>“work” is work] for which payment is made or which is done in expectation of payment.

(2) For the purposes of paragraph (1), the number of hours in which [<sup>F326</sup>a claimant] or his partner is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person's work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
  - (i) if there is a recognisable cycle of work, and sub-paragraph (c) does not apply, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
  - (ii) in any other case, the period of five weeks immediately before the date of claim or the date of [<sup>F327</sup>suppression], or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately;
- (c) where the person works at a school or other educational establishment or at some other place of employment and the cycle of work consists of one year but with school holidays or similar vacations during which he does no work, by disregarding those periods and any other periods in which he is not required to work.

(3) In determining in accordance with this regulation the number of hours for which a person is engaged in remunerative work—

- (a) that number shall include any time allowed to that person by his employer for a meal or for refreshments, but only where the person is, or expects to be, paid earnings in respect of that time;
- (b) no account shall be taken of any hours in which the person is engaged in an employment or scheme to which any one of paragraphs (a) to (h) of regulation 53 (person treated as not engaged in remunerative work) applies;
- (c) no account shall be taken of any hours in which the person is engaged otherwise than in an employment as an earner in caring for—
  - (i) a person who is in receipt of attendance allowance <sup>F328</sup>... or the care component of disability living allowance at the highest or middle rate; or
  - (ii) a person who has claimed an attendance allowance <sup>F329</sup>... or a disability living allowance, but only for the period beginning with the date of claim and ending on the date the claim is determined or, if earlier, on the expiration of the period of 26 weeks from the date of claim; or
  - (iii) another person [<sup>F330</sup>and] is in receipt of [<sup>F331</sup>a][<sup>F331</sup>carer's allowance] under Section 70 of the [<sup>F332</sup>Benefits Act] or;
  - (iv) a person who has claimed either attendance allowance or disability living allowance and has an award of attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made.]

(4) In the case of a person to whom regulation 22 of the Income Support (General) Amendment No.4 Regulations 1991 <sup>F333</sup> would have applied had he been entitled to income support and not a jobseeker's allowance, paragraph (1)(a) shall have effect as if for the reference to 16 hours there was substituted a reference to 24 hours.

(5) In determining for the purposes of paragraph (4) whether regulation 22 of the 1991 Regulations applies, regulations 23 and 24 of those Regulations shall have effect as if the references to income support included also a reference to income-based jobseeker's allowance.

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### Textual Amendments

- F323** Words in reg. 51(1)(a) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 14**
- F324** Reg. 51(1)(c) and word added (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **9(2)**
- F325** Words in reg. 51(1) substituted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(5)**
- F326** Words in reg. 51(2) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 14**
- F327** Words in reg. 51(2)(b)(ii) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 5**
- F328** Words in reg. 51(3)(c)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **9(3)**
- F329** Words in reg. 51(3)(c)(ii) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **9(3)**
- F330** Word in reg. 51(3)(c)(iii) inserted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F331** Words in reg. 51 substituted (1.4.2003) by The Social Security (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/511), regs. 1, **3(4)(5)**
- F332** Reg. 51(3)(c)(iv) substituted for words in reg. 51(3)(c)(iii)(7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **9(4)**
- F333** S.I. 1991/1559.

### Persons treated as engaged in remunerative work

**52.**—(1) Except in the case of a person on maternity leave<sup>[F334]</sup>, paternity leave, adoption leave] or absent from work through illness, a person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in regulation 51(1) (remunerative work) where the absence is either without good cause or by reason of a recognised, customary or other holiday.

(2) For the purposes of an income-based jobseeker's allowance <sup>[F335]</sup>but not a joint-claim jobseeker's allowance], the partner of a claimant shall be treated as engaged in remunerative work where—

- (a) the partner is or was involved in a trade dispute; and
- (b) had the partner claimed a jobseeker's allowance, section 14 (trade disputes) would have applied in his case; and
- (c) the claimant was not entitled to an income-based jobseeker's allowance when the partner became involved in the trade dispute;

and shall be so treated for a period of 7 days beginning on the date the stoppage of work at the partner's place of employment commenced, or if there was no stoppage of work, the date on which the partner first withdrew his labour in furtherance of the trade dispute.

<sup>[F336]</sup>(2A) For the purposes of a joint-claim jobseeker's allowance, a member of a joint-claim couple shall be treated as engaged in remunerative work where—

- (a) he is or was involved in a trade dispute;
- (b) had the joint-claim couple of which he is a member claimed a jobseeker's allowance jointly, section 14 (trade disputes) would have applied in the case of one or both members of that couple; and

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(c) the joint-claim couple were not entitled to a joint-claim jobseeker's allowance when that member of the joint-claim couple became involved in the trade dispute, and shall be so treated for a period of 7 days beginning on the date the stoppage of work commenced at that member's place of employment or, if there was no stoppage of work, the date on which that member first withdrew his labour in furtherance of the trade dispute.]

(3) [F337Subject to paragraph (3A), a person] who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which [F33898(1)(c)] (earnings of employed earners) applies are paid, shall be treated as engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part VIII.

[F339(3A) Paragraph (3) shall not apply to earnings disregarded under paragraph 1 of Schedule 6 to these regulations.]

- F340(4) . . . . .
- F340(5) . . . . .
- F340(6) . . . . .

**Textual Amendments**

**F334** Words in [reg. 52\(1\)](#) inserted (8.12.2002) by [The Social Security \(Paternity and Adoption\) Amendment Regulations 2002 \(S.I. 2002/2689\)](#), [regs. 1\(1\)\(b\)](#), **3(4)**

**F335** Words in [reg. 52\(2\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [reg. 1\(1\)](#), **Sch. 2 para. 15(a)**

**F336** [Reg. 52\(2A\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [reg. 1\(1\)](#), **Sch. 2 para. 15(b)**

**F337** Words in [reg. 52\(3\)](#) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), [regs. 1\(1\)](#), **8(4)(a)**

**F338** Word in [reg. 52\(3\)](#) substituted (14.4.2008) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [regs. 1\(1\)](#), **4(8)**

**F339** [Reg. 52\(3A\)](#) inserted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), [regs. 1\(1\)](#), **8(4)(b)**

**F340** [Reg. 52\(4\)-\(6\)](#) omitted (9.4.2001) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2001 \(S.I. 2001/488\)](#), [regs. 1\(1\)](#), **12(a)**

**Persons treated as not engaged in remunerative work**

53. A person shall be treated as not engaged in remunerative work in so far as—

- (a) he is engaged by a charity or a voluntary organisation or is a volunteer where the only payment received by him or due to be paid to him is a payment which is to be disregarded under regulation 103(2) and paragraph 2 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings);
- (b) he is engaged on a scheme for which a training allowance is being paid;

[F341(bb) he is receiving assistance [F342under the self-employment route];]

[F343(c) a person who—

- (i) is in employment;
- (ii) lives in, or is temporarily absent from a care home, an Abbeyfield Home or an independent hospital; and
- (iii) requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness.]

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- (d) he is engaged in employment as—
- (i) [<sup>F344</sup>a part-time member of a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;]
  - [<sup>F345</sup>(ia) a part-time fire-fighter employed by a fire and rescue authority;]
  - (ia) [<sup>F346</sup>a part-time fire-fighter employed by a fire and rescue authority;]
  - [<sup>F347</sup>(ib) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;]
  - (ii) an auxiliary coastguard in respect of coastal rescue activities;
  - (iii) a person engaged part-time in the manning or launching of a lifeboat;
  - (iv) a member of any territorial or reserve force prescribed in Part I of [<sup>F348</sup>Schedule 6 to the Social Security (Contributions) Regulations 2001];
- (e) he is performing his duties as a councillor, and for this purpose “councillor” has the same meaning as in section 171F(2) of the Benefits Act<sup>F349</sup>;
- (f) he is engaged in caring for a person who is accommodated with him by virtue of arrangements made under any of the provisions referred to in paragraph 27 or 28 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings), and is in receipt of any payment specified in that paragraph;
- (g) he is—
- (i) the partner of the claimant; and
  - (ii) involved in a trade dispute; and (iii) not a person to whom regulation 52(2) applies, and had he claimed a jobseeker’s allowance, section 14 (trade disputes) would have applied in his case;
- [<sup>F350</sup>(gg) he is—
- (i) a member of a joint-claim couple; and
  - (ii) involved in a trade dispute; and
  - (iii) not a person to whom regulation 52(2A) applies,
- and had the joint-claim couple of which he is a member claimed a jobseeker’s allowance jointly, section 14 (trade disputes) would have applied in the case of one or both members of that couple;]
- (h) he is mentally or physically disabled, and by reason of that disability—
- (i) his earnings are reduced to 75 per cent. or less of what a person without that disability and working the same number of hours would reasonably be expected to earn in that employment or in comparable employment in the area; or
  - (ii) his number of hours [<sup>F351</sup>of] work are 75 per cent. or less of what a person without that disability would reasonably be expected to undertake in that employment or in comparable employment in the area.
- [<sup>F352</sup>(i) he is engaged in an activity in respect of which—
- (i) a sports award had been made, or is to be made, to him; and
  - (ii) no other payment is made or is expected to be made to him.]

### Textual Amendments

- F341** Reg. 53(bb) inserted (27.11.2000) by [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 3**
- F342** Words in [reg. 53\(bb\)](#) substituted (4.5.2004) by [The Social Security \(Income-Related Benefits Self-Employment Route Amendment\) Regulations 2004 \(S.I. 2004/963\)](#), regs. 1(1), **4**
- F343** Reg. 53(c) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 2**
- F344** Reg. 53(d)(i) revoked (S.) (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), art. 1(2)(f), **Sch. para. 10(3)(a)**
- F345** Reg. 53(d)(ia) inserted (W.) (25.10.2005) by [The Fire and Rescue Services Act 2004 \(Consequential Amendments\) \(Wales\) Order 2005 \(S.I. 2005/2929\)](#), arts. 1(1), **36(3)**
- F346** Reg. 53(d)(ia) inserted (30.12.2004) by [The Fire and Rescue Services Act 2004 \(Consequential Amendments\) \(England\) Order 2004 \(S.I. 2004/3168\)](#), arts. 1(1), **36(3)**
- F347** Reg. 53(d)(ib) inserted (S.) (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), art. 1(2)(f), **Sch. para. 10(3)(b)**
- F348** Words in [reg. 53\(d\)\(iv\)](#) substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **13(3)(b)**
- F349** Section 171F was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), **section 6(1)**.
- F350** Reg. 53(gg) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 16**
- F351** Word in [reg. 53\(h\)\(ii\)](#) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F352** Reg. 53(i) added (23.8.1999) by [The Social Security Amendment \(Sports Awards\) Regulations 1999 \(S.I. 1999/2165\)](#), regs. 1(1), **7(2)**

### Modifications etc. (not altering text)

- C4** Reg. 53 modified (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), regs. 1(1)(b), **13(1)**

### Relevant education

**54.**—(1) Only full-time education which is undertaken by a child or young person and which is not a course of advanced education shall be treated as relevant education for the purposes of the Act.

[<sup>F353</sup>(2) A child or young person shall be treated as receiving full-time education where he is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person).]

(3) A young person who—

- (a) is a part-time student; and
- (b) before he became a part-time student fulfilled the requirements specified for a person falling within paragraph (2) of regulation 11 (part-time students); and
- (c) is undertaking a course of study, other than a course of advanced education or a course of study of a kind specified in head (i), (ii) or (iii) of the definition of “full-time student” in regulation 1(3),

shall not be treated as receiving relevant education.

(4) A young person to whom paragraph (3) applied and who has completed or terminated his course of part-time study shall not be treated as receiving relevant education.

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[<sup>F354</sup>(5) A young person who is participating in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii) shall not be treated as receiving relevant education.]

#### Textual Amendments

**F353** Reg. 54(2) substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **3(4)**

**F354** Reg. 54(5) added (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **5**

#### Short periods of sickness

**55.**—(1) Subject to the following provisions of this regulation, a person who—

- (a) [<sup>F355</sup>has been awarded a jobseeker's allowance] or is a person to whom any of the circumstances mentioned in section 19(5) or (6) [<sup>F356</sup>or 20A(2)] apply; and
- (b) proves to the satisfaction of [<sup>F357</sup>the Secretary of State] that he is unable to work on account of some specific disease or disablement; and
- (c) but for his disease or disablement, [<sup>F358</sup>would satisfy] the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(a), (c) and (f) (available for and actively seeking employment, and capable of work [<sup>F359</sup>or not having limited capability for work]),

shall be treated for a period of not more than 2 weeks as capable of work [<sup>F360</sup>or as not having limited capability for work], except where the claimant states in writing that for the period of his disease or disablement he proposes to claim or has claimed incapacity benefit<sup>F361</sup>, employment and support allowance,] severe disablement allowance or income support.

(2) The evidence which is required for the purposes of paragraph (1)(b) is a declaration made by the claimant in writing, in a form approved for the purposes by the Secretary of State, that he has been unfit for work from a date or for a period specified in the declaration.

(3) The preceding provisions of this regulation shall not apply to a claimant on more than two occasions in any one jobseeking period or where a jobseeking period exceeds 12 months, in each successive 12 months within that period and for the purposes of calculating any period of 12 months, the first 12 months in the jobseeking period commences on the first day of the jobseeking period.

(4) The preceding provisions of this regulation shall not apply to any person where the first day in respect of which he is unable to work falls within [<sup>F362</sup>12 weeks of an entitlement of his to employment and support allowance or] 8 weeks of—

- (a) an entitlement of his to incapacity benefit, severe disablement allowance or statutory sick pay; or
- (b) an entitlement to income support where the person claiming a jobseeker's allowance satisfied the requirements for a disability premium by virtue of paragraph 12(1)(b) of Schedule 2 to the Income Support Regulations.

[<sup>F363</sup>(5) The preceding provisions of this regulation shall not apply to a claimant who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(6AA) or, as the case may be, (6C).]



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### Textual Amendments

- F355** Words in reg. 55(1)(a) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **17(2)**
- F356** Words in reg. 55(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 17**
- F357** Words in reg. 55(1)(b) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**
- F358** Words in reg. 55(1)(c) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **17(3)**
- F359** Words in reg. 55(1)(c) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(9)(a)(i)**
- F360** Words in reg. 55(1) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(9)(a)(ii)**
- F361** Words in reg. 55(1) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(9)(a)(iii)**
- F362** Words in reg. 55(4) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(9)(b)**
- F363** Reg. 55(5) added (4.10.2004) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2004 \(S.I. 2004/1869\)](#), regs. 1, **3(5)**

### <sup>F364</sup>Periods of sickness and persons receiving treatment outside Great Britain

**55A.—(1)** A person—

- (a) who has been awarded a jobseeker's allowance, a joint-claim jobseeker's allowance or is a person to whom any of the circumstances mentioned in section 19(5) or (6) or 20A(2) apply; and
- (b) who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(6AA) or, as the case may be, (6C); and
- (c) who proves to the satisfaction of the Secretary of State that he is unable to work on account of some specific disease or disablement; and
- (d) but for his disease or disablement, would satisfy the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(a), (c) and (f) (available for and actively seeking employment and capable of work [<sup>F365</sup>or not having limited capability for work]),

shall be treated during that period of temporary absence abroad as capable of work [<sup>F366</sup>or as not having limited capability for work], except where that person has stated in writing before that period of temporary absence abroad begins that immediately before the beginning of the period of that temporary absence abroad he has claimed incapacity benefit [<sup>F367</sup>, employment and support allowance], severe disablement allowance or income support.

(2) The evidence which is required for the purposes of paragraph (1)(c) is a declaration made by that person in writing, in a form approved for the purposes by the Secretary of State, that he will be unfit for work from a date or for a period specified in the declaration.]

### Textual Amendments

- F364** Reg. 55A inserted (4.10.2004) by [The Social Security \(Income Support and Jobseeker's Allowance\) Amendment Regulations 2004 \(S.I. 2004/1869\)](#), regs. 1, **3(6)**

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- F365** Words in reg. 55A(1)(d) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(10)(a)**
- F366** Words in reg. 55A(1) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(10)(b)**
- F367** Words in reg. 55A(1) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(10)(c)**

### Prescribed amount of earnings

**56.**—(1) The prescribed amount of earnings for the purposes of section 2(1)(c) (the contribution-based conditions) shall be calculated by applying the formula—

$$(A + D) \div £0.01$$

where—A is the age-related amount applicable to the claimant in accordance with section 4(2); and D is any amount disregarded from the claimant's earnings in accordance with regulation 99(2) (calculation of net earnings of employed earners) or regulation 101(2) (calculation of net profit of self-employed earners) and Schedule 6.

(2) For the avoidance of doubt in calculating the amount of earnings in accordance with paragraph (1), only the claimant's earnings shall be taken into account.

## PART IV YOUNG PERSONS

### Interpretation of Part IV

**57.**—(1) In this Part—

“the Careers Service” means a person of any description with whom the Secretary of State has made an arrangement under section 10(1) of the Employment and Training Act 1973 <sup>F368</sup> and any person to whom he has given a direction under section 10(2) of that Act;

[<sup>F369</sup>“child benefit extension period” means the extension period within the meaning of regulation 5(3) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 year olds).]

“chronically sick or mentally or physically disabled” has the same meaning as in regulation 13(3) (b) of the Income Support Regulations (circumstances in which persons in relevant education may be entitled to income support);

[<sup>F370</sup>“the Connexions Service” means a person of any description with whom the Secretary of State has made an arrangement under section 114(2)(a) of the Learning and Skills Act 2000 and section 10(1) of the Employment and Training Act 1973 and any person to whom he has given a direction under section 114(2)(b) of the Learning and Skills Act 2000 and section 10(2) of the Employment and Training Act 1973;]

“full-time education” has the same meaning as in regulation 1 of the Child Benefit (General) Regulations 1976 <sup>F371</sup>;

“suitable training” means training which is suitable for that young person in vocationally relevant respects, namely his personal capacity, aptitude, his preference, the preference of the training provider, the level of approved qualification aimed at, duration of the training, proximity and prompt availability of the training;

“training” in sections 3, 16 and 17 and in this Part except in regulation 65 read with section 7 and except in the phrase—

“suitable training”, means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible [<sup>F372</sup>secured by the Learning and Skills Council for England or by the [<sup>F373</sup>Welsh Ministers] and, in Scotland, provided], directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name);

“treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

[<sup>F374</sup>“young person” means a person—

- (a) who has reached the age of 16 but not the age of 18;
- (b) who does not satisfy the conditions in section 2 or whose entitlement to a contribution-based jobseeker's allowance has ceased as a result of section 5(1); and
- (c) who is not a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies]

(2) A young person falls within this paragraph if he is

- (a) a member of a married couple [<sup>F375</sup>or of a civil partnership] where the other member of that couple [<sup>F376</sup>or civil partnership]
  - (i) has reached the age of 18 or
  - (ii) is a young person who has registered for employment and training in accordance with regulation 62 or
  - (iii) is a young person to whom paragraph (4) applies;
- (b) a person who has no parent nor any person acting in the place of his parents;
- (c) a person who—
  - (i) is not living with his parents nor any person acting in the place of his parents; and
  - (ii) immediately before he attained the age of 16 was
    - (aa) [<sup>F377</sup>in England and Wales] being looked after by a local authority pursuant to a relevant enactment which placed him with some person other than a close relative of his<sup>F378</sup> ...
    - (bb) in custody in any institution to which the Prison Act 1952<sup>F379</sup> applies or under [<sup>F380</sup>the Prisons (Scotland) Act 1989]<sup>F381</sup>; [<sup>F382</sup>or
    - [<sup>F383</sup>(cc) in Scotland, in the care of a local authority under a relevant enactment and whilst in that care was not living with his parents or any close relative.]
- (d) a person who is in accommodation which is other than his parental home and which is other than the home of a person acting in the place of his parents, who entered that accommodation—
  - (i) as part of a programme of rehabilitation or resettlement, that programme being under the supervision of the probation service or a local authority; or
  - (ii) in order to avoid physical or sexual abuse; or
  - (iii) because of a mental or physical handicap or illness and he needs such accommodation because of his handicap or illness;

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- (e) a person who is living away from his parents and any person who is acting in the place of his parents in a case where his parents are or, as the case may be, that person is, unable financially to support him and his parents are, or that person is—
- (i) chronically sick or mentally or physically disabled; or
  - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (iii) prohibited from entering or re-entering Great Britain;
- (f) a person who of necessity has to live away from his parents and any person acting in the place of his parents because—
- (i) he is estranged from his parents and that person; or
  - (ii) he is in physical or moral danger; or
  - (iii) there is a serious risk to his physical or mental health.
- (3) In this regulation any reference to a person acting in the place of a person's parents includes a reference—
- [<sup>F384</sup>(a) in England and Wales, any reference in this regulation to a person acting in place (b) of a person's parents includes a reference to—
- (i) where the person is being looked after by a local authority or voluntary organisation which places him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement; or
  - (ii) in any other case, any person with parental responsibility for the child, and for this purpose "parental responsibility" has the meaning it has in the Children Act 1989 by virtue of section 3 of that Act; and
- (b) in Scotland, any reference in this regulation to a person acting in place of a person's parents includes a reference to a local authority or voluntary organisation where the person is in its care under a relevant enactment, or to a person with whom the person is boarded out by a local authority or voluntary organisation whether or not any payment is made by it.]
- (4) This paragraph applies to
- (a) a person who falls under any of the following paragraphs of Schedule 1B to the Income Support Regulations <sup>F385</sup>

Paragraph 1	(lone parents)
Paragraph 2	(single person looking after foster children)
Paragraph 3	(persons temporarily looking after another person)
Paragraph 4	(persons caring for another person)
Paragraph 10	(disabled students)
Paragraph 11	
Paragraph 12	
Paragraph 13	(blind persons)
Paragraph 14	(pregnancy)
Paragraph 15	(persons in education)

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Paragraph 18	(refugees)
Paragraph 21	(persons from abroad)
Paragraph 23	(member of couple looking after children while other member temporarily abroad)
Paragraph 28	(persons in receipt of a training allowance);

- (b) a person who is a member of a couple and is treated as responsible for a child who is a member of his household;
- (c) a person who is laid off or kept on short-time, who is available for employment in accordance with section 6 and Chapter II of Part II read with regulation 64 and who has not been laid off or kept on short-time for more than 13 weeks;
- (d) a person who is temporarily absent from Great Britain because he is taking a member of his family who is a child or young person abroad for treatment, and who is treated as being in Great Britain in accordance with regulation 50(1)(b) or whose entitlement to income support is to continue in accordance with regulation 4(3) of the Income Support Regulations and who is not claiming a jobseeker's allowance or income support;
- (e) a person who is incapable of work and training by reason of some disease or bodily or mental disablement if, in the opinion of a medical practitioner, that incapacity is unlikely to end within 12 months because of the severity of that disease or disablement.

### Textual Amendments

- F368** 1973 c.50; section 10 was inserted by section 45 of the Trade Union Reform and Employment Rights Act 1993, 1993 c.19.
- F369** Words in reg. 57 substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **3(5)**
- F370** Words in reg. 57(1) inserted (1.4.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(b), **5(a)**
- F371** S.I. 1976/965.
- F372** Words in reg. 57(1) substituted (26.3.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(a), **5(c)**
- F373** Words in reg. 57(1) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(4)**
- F374** Words in reg. 57(1) substituted (1.10.2001) by The Children (Leaving Care) Act 2000 (Commencement No. 2 and Consequential Provisions) Order 2001 (S.I. 2001/3070), art. 3(1), **Sch. 4 (a)**
- F375** Words in reg. 57(2)(a) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(4) (a)** (with art. 3)
- F376** Words in reg. 57(2)(a) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(4) (b)** (with art. 3)
- F377** Words in reg. 57(2)(c)(ii)(aa) inserted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **11(2)(a)**
- F378** Word in reg. 57(2)(c)(ii)(aa) deleted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **11(2)(a)**
- F379** 1952 c.52.
- F380** Words in reg. 57(2)(c)(ii)(bb) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **11(2)(b)**

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**F381** 1989 c. 45

**F382** Word in reg. 57(2)(c)(ii)(bb) inserted (7.10.1996) by *The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996* (S.I. 1996/1517), regs. 1, **11(2)(b)**

**F383** Reg. 57(2)(c)(ii)(cc) inserted (7.10.1996) by *The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996* (S.I. 1996/1517), regs. 1, **11(2)(c)**

**F384** Reg. 57(3) substituted (7.10.1996) by *The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996* (S.I. 1996/1517), regs. 1, **11(3)**

**F385** S.I. 1987/1967; Schedule 1B is inserted by Regulation 3 of and Schedule 1 to the *Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996*, S.I. 1996/206.

### [<sup>F386</sup> **Young persons to whom section 3(1)(f)(iii) or 3A(1)(e)(ii) applies**

**58.** For the period specified in relation to him, a young person to whom regulation 59, 60 or 61 applies shall be regarded as a person within prescribed circumstances for the purposes of section 3(1)(f)(iii) or section 3A(1)(e)(ii) (conditions of entitlement for certain persons under the age of 18).]

#### Textual Amendments

**F386** Reg. 58 substituted (19.3.2001) by *The Jobseeker's Allowance (Joint Claims) Regulations 2000* (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 18**

### **Young persons in the child benefit extension period**

**59.**—(1) For the period specified in paragraph (2), this regulation applies to a young person who falls within paragraph (2) of regulation 57.

(2) The period in the case of any person falling within paragraph (1) is the child benefit extension period, except where regulation 61(1)(d) or (e) applies.

### **Young persons at the end of the child benefit extension period**

**60.**—(1) For the period specified in relation to him in paragraph (2), this regulation applies to a young person who is—

- (a) a person who has ceased to live in accommodation provided for him by a local authority under Part III of the Children Act 1989 <sup>F387</sup> (local authority support for children and families) and is of necessity living away from his parents and any person acting in place of his parents;
  - (b) a person who has been discharged from any institution to which the Prison Act 1952 <sup>F388</sup> applies or from custody under the Criminal Procedure (Scotland) Act 1975 <sup>F389</sup> after the child benefit extension period and who is a person falling within paragraph (2) of regulation 57.
- (a) (2) (a) Except where regulation 61(1)(d) or (e) applies, the period in the case of a person falling within paragraph 1(a) is the period which begins on the day on which that paragraph first applies to that person and ends on the day before the day on which that person attains the age of 18 or the day at the end of a period of 8 weeks immediately following the day on which paragraph 1(a) first had effect in relation to him, whichever is the earlier; and this period may include any week in which regulation 7 of the Child Benefit (General) Regulations 1976 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child) also applies to that person;
- (b) except where regulation 61(1)(d) or (e) applies, the period in the case of any person falling within paragraph 1(b) is the period beginning on the day after he was discharged, and ends

on the last day of the period of 8 weeks beginning with the date on which the period began or on the day before the date on which that person attains the age of 18, whichever first occurs.

(3) In this regulation, "week" means any period of 7 consecutive days.

#### Textual Amendments

**F387** 1989 c.41.

**F388** 1952 c.52.

**F389** 1975 c.21.

#### Other young persons in prescribed circumstances

**61.**—(1) For the period specified in relation to him in paragraph (2), this regulation applies to a young person—

- (a) who is a person who is laid off or kept on short-time and is available for employment in accordance with section 6 and Chapter II of Part II read with regulation 64;
- (b) who is a member of a couple and is treated as responsible for a child who is a member of his household;
- (c) who falls within a prescribed category of persons for the purposes of section 124(1)(e) of the Benefits Act <sup>F390</sup> and who is not claiming income support;
- (d) to whom section 3(1)(f)(ii) [<sup>F391</sup>or section 3A(1)(e)(i)] does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60 or sub-paragraph (b) or (c) and who is unable to register with the Careers Service [<sup>F392</sup>or the Connexions Service] because of an emergency affecting the Careers Service [<sup>F392</sup>or the Connexions Service] and registers with the Employment Service in accordance with regulation 62(2);
- (e) to whom section 3(1)(f)(ii) [<sup>F391</sup>or section 3A(1)(e)(i)] does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60 or sub-paragraph (b) or (c) and who would suffer hardship because of the extra time it would take him to register with the Careers Service [<sup>F392</sup>or the Connexions Service] and registers with the Employment Service in accordance with regulation 62(3);
- (f) who has accepted a firm offer of enlistment by one of the armed forces with a starting date not more than 8 weeks after the offer was made who was not in employment or training at the time of that offer and whose jobseeker's allowance has never been reduced in accordance with regulation 63 or section 19(5)(b) or (c) or section 19(6)(c) or (d) [<sup>F393</sup>or section 20A(2)(b), (c), (f) or (g)] read with regulation 68 or rendered not payable in accordance with section 19(6)(a) or (b) read with Part V.

[<sup>F394</sup>(g) who has limited capability for work for the purposes of Part 1 of the Welfare Reform Act.]

- (a) (2) (a) The period in the case of any person falling within paragraph (1)(a) is the period starting with the date on which he was laid off or first kept on short-time and ending on the date on which he ceases to be laid off or kept on short-time or the day before the day he attains the age of 18 or at the expiry of the 13 week period starting with the date of the lay off, or date he was first kept on short-time, whichever first occurs;
- (b) except where paragraph (1)(d) or (e) applies, the period in the case of any person falling within paragraph [<sup>F395</sup>1(b), (c) or (g)] is the period until the day before that person attains the age of 18 or until paragraph [<sup>F395</sup>1(b), (c) or (g)] ceases to apply, whichever first occurs;

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- (c) the period in the case of any person falling within paragraph (1)(d) is the period starting with the date of registration with the Employment Service and ending on the day on which the person is next due to attend in accordance with regulation 23 <sup>F396</sup>or regulation 23A] or on the date on which the period calculated in accordance with regulation 59(2) or 60(2) or sub-paragraph (b) would have expired, whichever first occurs;
- (d) the period in the case of any person falling within paragraph 1(e) is the period starting on the date of registration with the Employment Service and ending five days after that date or on the day after the day on which he registered with the Careers Service, or on the date on which the period calculated in accordance with regulation 59(2) or 60(2) or sub-paragraph (b) would have expired, whichever first occurs;
- (e) the period in the case of any person falling within paragraph 1(f) is the period starting with the date of claim and ending with the day before the day on which he is due to enlist or the day before he attains the age of 18, whichever first occurs.
- (3) In this regulation "week" means a period of 7 consecutive days.

#### Textual Amendments

- F390** See regulation 4ZA of the Income Support (General) Regulations, inserted by Regulation 3 of the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996, S.I. 1996/206.
- F391** Words in reg. 61(1)(d)(e) inserted (19.3.2001) by *The Jobseeker's Allowance (Joint Claims) Regulations 2000* (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 19(a)**
- F392** Words in reg. 61(1)(d)(e) inserted (1.4.2001) by *The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001* (S.I. 2001/652), regs. 1(1)(b), **5(b)**
- F393** Words in reg. 61(1)(f) inserted (19.3.2001) by *The Jobseeker's Allowance (Joint Claims) Regulations 2000* (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 19(b)**
- F394** Reg. 61(1)(g) added (27.10.2008) by *The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008* (S.I. 2008/1554), regs. 1(2)(b), **3(11)(a)**
- F395** Words in reg. 61(2)(b) substituted (27.10.2008) by *The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008* (S.I. 2008/1554), regs. 1(2)(b), **3(11)(b)**
- F396** Words in reg. 61(2)(c) inserted (19.3.2001) by *The Jobseeker's Allowance (Joint Claims) Regulations 2000* (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 19(c)**

#### Registration

**62.**—(1) Except in the circumstances set out in paragraphs (2) and (3) a young person to whom section 3(1)(f)(ii) or (iii) <sup>F397</sup>or section 3A(1)(e)(i) or (ii)] applies other than one falling within regulation 61(1)(a) or (f), must register with the Careers Service <sup>F398</sup>or the Connexions Service] for both employment and training.

(2) A young person who is unable to register with the Careers Service <sup>F398</sup>or the Connexions Service] because of an emergency affecting the Careers Service <sup>F398</sup>or the Connexions Service] such as a strike or fire must register with the Employment Service for both employment and training.

(3) A young person who would suffer hardship because of the extra time it would take him to register with the Careers Service <sup>F398</sup>or the Connexions Service] must register with the Employment Service for both employment and training.



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### Textual Amendments

- F397** Words in reg. 62 inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 20**
- F398** Words in reg. 62 inserted (1.4.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(b), **5(b)**

### Reduced payments under section 17

**63.**—(1) Except as provided in paragraph (3), the amount of an income-based jobseeker's allowance which would otherwise be payable to a young person shall be reduced by<sup>F399</sup>, if he is a single person or a lone parent,] a sum equal to 40% of the amount applicable in his case by way of a personal allowance determined <sup>F400</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple, a sum equal to 40% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1] for the period set out in paragraph (2) if

- (a) he was previously entitled to an income-based jobseeker's allowance and that entitlement ceased by virtue of the revocation of a direction under section 16 because he had failed to pursue an opportunity of obtaining training or rejected an offer of training;
- (b) his allowance has at any time in the past been reduced in accordance with this regulation or in accordance with regulation 68 because he has done an act or omission falling within section 19(5)(b) or (c) <sup>F401</sup>or section 20A(2)(b) or (c)] or rendered not payable in accordance with section 19(6)(a) or (b) <sup>F402</sup>or section 20A(2)(d) or (e)] read with Part V and he has—
  - (i) failed to pursue an opportunity of obtaining training without showing good cause for doing so,
  - (ii) rejected an offer of training without showing good cause for doing so or
  - (iii) failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure;
- (c) he has—
  - (i) done an act or omission falling within section 16(3)(b)(i) or (ii) and has not shown good cause for doing so or done an act or omission falling within section 19(5)(b) (i), (ii) or (iv) <sup>F403</sup>or section 20A(2)(b)(i), (ii) or (iv)] without good cause or done an act or omission falling within section 19(5)(b)(i), (ii), or (iv) <sup>F403</sup>or section 20A(2) (b)(i), (ii) or (iv)] for which he was regarded as having good cause in accordance with regulation 67(1) and
  - (ii) after that act or omission failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and at the time he did the act or omission falling within sub-paragraph (i) he was a new jobseeker;
- (d) he has—
  - (i) failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure or done an act or omission falling within section 19(5)(b)(iii) <sup>F404</sup>or section 20A(2)(b)(iii)] without good cause or done an act or omission falling within section 19(5)(b)(iii) <sup>F404</sup>or section 20A(2) (b)(iii)] for which he was regarded as having good cause in accordance with regulation 67(1) and

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- (ii) after that failure he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and on the day before the day he first attended the course referred to in sub-paragraph (i) he was a new jobseeker; or
- (e) he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and on the day before he first attended the course he was not a new jobseeker; or
- (f) he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and he lost his place on the course through his misconduct.
- (2) The period shall start with the date on which the first severe hardship direction is made under section 16 after the act or acts referred to in paragraph (a), (b), (c), (d), (e) or (f) of paragraph (1) have taken place and shall end fourteen days later.
- (3) In the case of a young person who is pregnant or seriously ill who does an act falling within sub-paragraphs (a)—(f) of paragraph (1), the reduction shall be <sup>F405</sup>if he is a single person or a lone parent] of 20% of the amount applicable in his case by way of a personal allowance <sup>F406</sup>determined in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple, of 20% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1].
- (4) For the purposes of this regulation, “new jobseeker” means a young person who has not since first leaving full-time education been employed or self-employed for 16 or more hours per week or completed a course of training or failed to complete a course of training and no certificate has been issued to him to show good cause for that failure under subsection (4) of section 17 or done an act or omission falling within section 19(5)(b)(iii) <sup>F407</sup>or section 20A(2)(b)(iii)] without good cause or done an act or omission falling within section 19(5)(c) <sup>F407</sup>or section 20A(2)(c)].
- (5) A reduction under paragraph (1) or (3) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

#### Textual Amendments

- F399** Words in reg. 63(1) inserted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), reg. 1(1), **2(2)**
- F400** Words in reg. 63(1) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), reg. 1(1), **2(2)**
- F401** Words in reg. 63(1)(b) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 21(a)(i)(aa)**
- F402** Words in reg. 63(1)(b) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 21(a)(i)(bb)**
- F403** Words in reg. 63(1)(c) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 21(a)(ii)**
- F404** Words in reg. 63(1)(d) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 21(a)(iii)**
- F405** Words in reg. 63(3) inserted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), reg. 1(1), **2(3)**
- F406** Words in reg. 63(3) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), reg. 1(1), **2(3)**
- F407** Words in reg. 63(4) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 21(b)**

## Availability for employment

64.—(1) A young person is required to be available for employment in accordance with section 6 and Chapter II of Part II except as provided in paragraphs (2) and (3).

(2) A young person whose jobseeker's allowance has not been reduced in accordance with regulation 63 or in accordance with regulation 68 because he has done an act or omission falling within section 19(5)(b) or (c) or section 19(6)(c) or (d) [<sup>F408</sup>or section 20A(2)(b), (c), (f) or (g)] or rendered not payable in accordance with section 19(6)(a) or (b) [<sup>F408</sup>or section 20A(2)(d) or (e)] read with Part V and who does not fall within regulation 61(1)(a) or (f) may restrict his availability for employment to employment where suitable training is provided by the employer.

(3) A young person who places restrictions on the nature of employment for which he is available as permitted by paragraph (2) does not have to show that he has reasonable prospects of securing employment notwithstanding those restrictions.

### Textual Amendments

**F408** Words in [reg. 64\(2\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/3336\)](#), regs. 1, **2(8)**

## Active seeking

65.—(1) Subject to the following paragraphs, Section 7 and Chapter III of Part II shall have effect in relation to a young person as if "employment" included "training".

(2) Subject to paragraphs (4) and (5), in order to have the best prospects of securing employment or training a young person can be expected to have to take more than one step on one occasion in any week unless taking one step on one occasion is all that it is reasonable for that person to do in that week, and unless it is reasonable for him to take only one step on one occasion, he can be expected to have to take at least one step to seek training and one step to seek employment in that week.

(3) Subject to paragraph (4), steps which it is reasonable for a young person to be expected to have to take include, in addition to those set out in regulation 18(2)—

- (a) seeking training and
- (b) seeking full-time education.

(4) Paragraphs (1), (2) and (3) do not apply to a young person falling within regulation 61(1)(a) or (f).

(5) Paragraphs (1) and (2) do not apply to a young person who has had his jobseeker's allowance reduced in accordance with regulation 63 or regulation 68 because he has done an act or omission falling within section 19(5)(b) or (c) or Section 19(6)(c) or (d) [<sup>F409</sup>or section 20A(2)(b), (c), (f) or (g)] or rendered not payable in accordance with section 19(6)(a) or (b) [<sup>F409</sup>or section 20A(2)(d) or (e)] read with Part V but paragraph (3) does apply to such a young person.

(6) "Training" in section 7 and in this regulation means suitable training.

### Textual Amendments

**F409** Words in [reg. 65\(5\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/3336\)](#), regs. 1, **2(9)**

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## [<sup>F410</sup> Attendance, information and evidence

**65A.** A young person who does not fall within regulation 61(1)(a) or (f) shall, if the Secretary of State requires him to do so, provide, in addition to the declaration specified in regulation 24(6), a declaration to the effect that since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this regulation he has been actively seeking suitable training to the extent necessary to give him his best prospects of securing suitable training save as he has otherwise notified the Secretary of State.]

### Textual Amendments

**F410** Reg. 65A inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, 12

## The jobseeker's agreement

**66.—(1)** In a jobseeker's agreement with a young person, other than one falling within regulation 61(1)(a) or (f), the following information is required in addition to that prescribed in chapter V of Part II: a broad description of the circumstances in which the amount of the person's benefit may be reduced in accordance with section 17 and regulation 63, or may be rendered not payable in accordance with section 19 [<sup>F411</sup>or section 20A] read with Part V or may be payable at a reduced rate in accordance with sections 19 and 20 [<sup>F411</sup>or sections 20A and 20B] and regulation 68.

(2) A young person is to be treated as having entered into a jobseeker's agreement and as having satisfied the condition mentioned in section 1(2)(b) as long as the circumstances set out in [<sup>F412</sup>regulation 62(2) or 62(3)] apply.

### Textual Amendments

**F411** Words in reg. 66(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 22**

**F412** Words in reg. 66(2) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 1**

## Sanctions

**67.—(1)** Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(5)(b) [<sup>F413</sup>or section 20A(2)(b)], and in addition to the circumstances listed in regulation 73, a young person is to be regarded as having good cause for any act or omission for the purposes of section 19(5)(b) [<sup>F413</sup>or section 20A(2)(b)] where

- (a) this is the first occasion on which he has done an act or omission falling within section 19(5)(b) [<sup>F413</sup>or section 20A(2)(b)] and he has not while claiming a jobseeker's allowance failed to pursue an opportunity of obtaining training without good cause or rejected an offer of training without good cause or failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that training; and
- (b) at the time he did the act or omission falling within section 19(5)(b)(i), (ii) or (iv) [<sup>F414</sup>or section 20A(2)(b)(i), (ii) or (iv)] he was <sup>F415</sup>... a new jobseeker or, in the case of an act or

omission falling within section 19(5)(b)(iii) [<sup>F414</sup>or section 20A(2)(b)(iii)], at the time he first attended the scheme or programme he was <sup>F415</sup>... a new jobseeker.

(2) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) or (d) [<sup>F416</sup>or section 20A(2)(f) or (g)], a young person is to be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) or (d) [<sup>F416</sup>or section 20A(2)(f) or (g)] where the employer did not offer suitable training unless he falls within regulation 61(1)(a) or (f) or his jobseeker's allowance has been reduced in accordance with regulation 63 or in accordance with regulation 68 because he has done an act or omission falling within section 19(5)(b) or (c) [<sup>F417</sup>or section 20A(2)(b) or (c)] or section 19(6)(c) or (d) [<sup>F416</sup>or section 20A(2)(f) or (g)] or rendered not payable in accordance with section 19(6)(a) or (b) [<sup>F418</sup>or section 20A(2)(d) or (e)] read with Part V.

(3) For the purposes of this regulation, "new jobseeker" means a young person who has not since first leaving full-time education been employed or self-employed for 16 or more hours per week or completed a course of training or failed to complete a course of training and no certificate has been issued to him to show good cause for that failure under subsection (4) of section 17 or done an act or omission falling within section 19(5)(b)(iii) [<sup>F419</sup>or section 20A(2)(b)(iii)] without good cause or done an act or omission falling within section 19(5)(c) [<sup>F420</sup>or section 20A(2)(c)].

#### Textual Amendments

- F413** Words in reg. 67(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(a)(i)**
- F414** Words in reg. 67(1)(b) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(a)(ii)**
- F415** Words in reg. 67(1)(b) deleted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **13**
- F416** Words in reg. 67(2) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(b)(i)**
- F417** Words in reg. 67(2) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(b)(ii)**
- F418** Words in reg. 67(2) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(b)(iii)**
- F419** Words in reg. 67(3) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(c)(i)**
- F420** Words in reg. 67(3) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 23(c)(ii)**

#### Reduced amount of allowance

**68.**—(1) Subject to paragraphs (2) and (4), the amount of an income-based jobseeker's allowance which would otherwise be payable to a young person shall be reduced<sup>F421</sup>, if he is a single person or a lone parent,] by a sum equal to 40% of the amount applicable in his case by way of a personal allowance determined <sup>F422</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple <sup>F423</sup>(including a joint-claim couple)], a sum equal to 40% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1] for a period of two weeks from the beginning of the first week after <sup>F424</sup>the Secretary of State] decision where the young person has done any act or omission falling within section 19(5) or within 19(6)(c) or (d) [<sup>F423</sup>or within section 20A(2)(a) to (c), (f) or (g)], unless the young person reaches the age of 18 before that two week period expires,

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in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

(2) Subject to paragraph (4), in a case where the young person or any member of his family is pregnant or seriously ill the amount of an income-based jobseeker's allowance which would otherwise be payable to the young person shall be reduced by<sup>F425</sup>, if he is a single person or a lone parent,] a sum equal to 20% of the amount applicable in his case by way of a personal allowance determined <sup>F426</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple <sup>F423</sup>(including a joint-claim couple)], a sum equal to 20% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1] for a period of two weeks from the beginning of the first week after <sup>F427</sup>the Secretary of State] decision where the young person has done any act or omission falling within section 19(5) or within 19(6)(c) or (d) <sup>F423</sup>or within section 20A(2)(a) to (c), (f) or (g)], unless the young person reaches the age of 18 before that two week period expires, in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(4) If a young person's claim for an income-based jobseeker's allowance is terminated before the expiry of the period determined in accordance with paragraphs (1) and (2), and he makes a fresh claim for the allowance, it shall be payable to him at the reduced rate determined in accordance with paragraph (1) or (2) for the balance of the time remaining of that two weeks, unless the young person reaches the age of 18 before that two week period expires, in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

(5) An income-based jobseeker's allowance shall be payable to a young person at the full rate applicable in his case after the expiry of the two week period referred to in paragraphs (1) and (2).

#### Textual Amendments

- F421** Words in reg. 68(1) inserted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **3(2)**
- F422** Words in reg. 68(1) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **3(2)**
- F423** Words in reg. 68(1)(2) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 24**
- F424** Words in reg. 68(1) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**
- F425** Words in reg. 68(2) inserted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **3(3)**
- F426** Words in reg. 68(2) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **3(3)**
- F427** Words in reg. 68(2) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**

## PART V

### SANCTIONS

#### Modifications etc. (not altering text)

- C5** Pt. V modified (temp.) (30.11.1998) by [The Social Security \(New Deal Pilot\) Regulations 1998 \(S.I. 1998/2825\)](#), regs. 1(1), 7 (with reg. 1(2))
- C6** Pt. V modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), 7 (with regs. 1(2), 19)

#### <sup>F428</sup>Prescribed period for purposes of section 19(2)

- 69.**—(1) The prescribed period for the purposes of <sup>F429</sup>sections 19(2) and 20A(3)] shall be—
- (a) 2 weeks, in any case which does not fall within <sup>F430</sup>sub-paragraph (b), <sup>F431</sup>(c), (d) or (e)]] below;
- (b) 4 weeks, in any case <sup>F432</sup>(other than a case where a jobseeker's allowance is determined not to be payable in circumstances relating to the employment programme known as "Gateway to Work" specified in regulation 75(1)(a)(i)(bb))]<sup>F433</sup>or a case which falls within sub-paragraph (e)]<sup>F434</sup>or a case where sub-paragraph (e) applies] in which
- (i) a jobseeker's allowance is determined not to be payable to the claimant in circumstances falling within section 19(5) <sup>F435</sup>or section 20A(2)(a) to (c)], and
- (ii) one of the following circumstances applies—
- (aa) where the determination in (i) above does not relate to one of the New Deal options <sup>F436</sup>or the Intensive Activity Period specified in regulation 75(1)(a)(iv)], on a previous occasion the jobseeker's allowance was determined not to be payable to him in circumstances falling within section 19(5) <sup>F435</sup>or section 20A(2)(a) to (c)], or
- (bb) where the determination in (i) above relates to one of the New Deal options, on a previous occasion the jobseeker's allowance was determined not to be payable to him in circumstances falling within section 19(5) <sup>F435</sup>or section 20A(2)(a) to (c)] that relate to one of those options, <sup>F437</sup>or]
- (cc) <sup>F438</sup>where the determination in (i) above relates to the Intensive Activity Period specified in regulation 75(1)(a)(iv), on a previous occasion the jobseeker's allowance was determined not to be payable to him in circumstances falling within section 19(5) or section 20A(2)(a) to (c) that relate to any Intensive Activity Period specified in regulation 75(1)(a)(iv), and]
- (iii) the first date on which the jobseeker's allowance was not payable to him on that previous occasion falls within the period of 12 months preceding the date of the determination mentioned in (b)(i) above;
- (c) 26 weeks in any case <sup>F439</sup>(other than a case where a jobseeker's allowance is determined not to be payable in circumstances relating to the employment programme known as "Gateway to Work" specified in regulation 75(1)(a)(i)(bb))] in which—
- (i) a jobseeker's allowance is determined not to be payable to the claimant in circumstances falling within section 19(5) <sup>F435</sup>or section 20A(2)(a) to (c)] and the

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determination relates to an act or omission arising after this regulation comes into force in respect of one of the New Deal options; and

(ii) on two or more previous occasions a jobseeker's allowance has been determined not to be payable to the claimant in circumstances falling within section 19(5) [<sup>F435</sup>or section 20A(2)(a) to (c)] and each such determination relates to one of the New Deal options; and

(iii) no more than 12 months have elapsed between the beginning of the day on which the determination mentioned in (c)(i) above is made and the beginning of the first day on which a jobseeker's allowance was not payable to the claimant as a result of the determination which most recently preceded it whether the preceding determination is either—

(aa) a determination falling within sub-paragraph (b)(i) to which the circumstances in sub-paragraph (b)(ii)(bb) apply; or

(bb) itself an earlier determination falling within sub-paragraph (c)(i).

[<sup>F440</sup>(d) 26 weeks in any case (other than a case where a jobseeker's allowance is determined not to be payable in circumstances relating to the employment programme known as "Gateway to Work" specified in regulation 75(1)(a)(i)(bb)) in which—

(i) a jobseeker's allowance is determined not to be payable to the claimant in circumstances falling within section 19(5) or section 20A(2)(a) to (c) and the determination relates to an act or omission arising after this regulation comes into force in respect of the Intensive Activity Period specified in regulation 75(1)(a)(iv); and

(ii) on two or more previous occasions a jobseeker's allowance has been determined not to be payable to the claimant in circumstances falling within section 19(5) or section 20A(2)(a) to (c) and each such determination relates to any Intensive Activity Period specified in regulation 75(1)(a)(iv); and

(iii) no more than 12 months have elapsed between the beginning of the day on which the determination mentioned in (d)(i) above is made and the beginning of the first day on which a jobseeker's allowance was not payable to the claimant as a result of the determination which most recently preceded it whether the preceding determination is either—

(aa) a determination falling within sub-paragraph (b)(i) to which the circumstances in paragraph (b)(ii)(cc) apply; or

(bb) itself an earlier determination falling within sub-paragraph (d)(i).]

[<sup>F441</sup>(e) one week in a case where a jobseeker's allowance is determined not to be payable in circumstances—

(i) relating to the employment programme known as the Jobseeker Mandatory Activity Pilot, and

(ii) falling within section 19(5) or 20A(2)(a) to (c).]

[<sup>F442</sup>(e) one week in a case where a jobseeker's allowance is determined not to be payable in circumstances relating to the employment programme known as the Jobseeker Mandatory Activity Pilot and falling within section 19(5) or section 20A(2)(a) to (c).]

(2) The prescribed period for the purposes of [<sup>F443</sup>sections 19(2) and 20A(3)] shall begin—

(a) where, in accordance with regulation 26A(1) of the Claims and Payments Regulations, a jobseeker's allowance is paid otherwise than fortnightly in arrears, on the day following the end of the last benefit week in respect of which that allowance was paid; and



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- (b) in any other case, on the first day of the benefit week following the date on which a jobseeker's allowance is determined not to be payable.
- (3) In a case falling within paragraph (1)(c) [<sup>F444</sup>or (d)] of this regulation in which—
- (a) or the first time a determination is made that for a period of 26 weeks a jobseeker's allowance is not payable to the claimant; and
  - (b) no further such determination is made; and
  - (c) the Secretary of State gives notice in writing to the claimant that he is no longer required to participate in any of the New Deal options [<sup>F445</sup>or the Intensive Activity Period specified in regulation 75(1)(a)(iv)],
- an income-based jobseeker's allowance shall be payable to the claimant during the period specified in paragraph (4) even though section 19 [<sup>F446</sup>or section 20A] would otherwise prevent the payment of such an allowance.
- (4) The period referred to in paragraph (3) shall—
- (a) begin on either—
    - (i) the day specified in a notice by the Secretary of State [<sup>F447</sup>either] as being the day on which the claimant is or was no longer required to participate in any of the New Deal options [<sup>F448</sup>or the day on which the claimant is or was no longer required to participate in the Intensive Activity Period specified in regulation 75(1)(a)(iv)]; or
    - (ii) the day four weeks after the first day on which a jobseeker's allowance was not payable as a result of the first determination mentioned in paragraph (3),
 whichever is the later;
  - (b) end on the last day when a jobseeker's allowance was not payable as a result of the first determination mentioned in paragraph (3); but
  - (c) not include any period during which a jobseeker's allowance is again determined not to be payable to the claimant in circumstances falling within section 19(5) or (6) [<sup>F449</sup>or section 20A(2)].

### Textual Amendments

- F428** Reg. 69 substituted (6.3.2000) by [The Jobseeker's Allowance \(Amendment\) Regulations 2000 \(S.I. 2000/239\)](#), regs. 1, **2(3)**
- F429** Words in reg. 69(1) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 25(a)(i)**
- F430** Words in reg. 69(1)(a) substituted (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **4(a)**
- F431** Words in reg. 69(1)(a) substituted (2.4.2007) by [The Jobseeker's Allowance \(Jobseeker Mandatory Activity\) Pilot Regulations 2007 \(S.I. 2007/1082\)](#), regs. 1(1), **3(1)(a)(i)** (with reg. 4)
- F432** Words in reg. 69(1)(b) inserted (19.6.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/1370\)](#), regs. 1, **2(2)**
- F433** Words in reg. 69(1)(b) inserted (2.4.2007) by [The Jobseeker's Allowance \(Jobseeker Mandatory Activity\) Pilot Regulations 2007 \(S.I. 2007/1082\)](#), regs. 1(1), **3(1)(a)(ii)** (with reg. 4)
- F434** Words in reg. 69(1)(b) inserted (temp.) (3.4.2006) by [The Jobseeker's Allowance \(Jobseeker Mandatory Activity\) Pilot Regulations 2005 \(S.I. 2005/3466\)](#), regs. 1(1)(2), **3(1)(a)(ii)(2)(3)**, (with reg. 3(4))
- F435** Words in reg. 69(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 25(a)(ii)**
- F436** Words in reg. 69(1)(b)(ii)(aa) inserted (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **4(b)**

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- F437** Word in reg. 69(1)(b)(ii)(bb) substituted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(c)**
- F438** Reg. 69(1)(b)(ii)(cc) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(d)**
- F439** Words in reg. 69(1)(c) inserted (19.6.2000) by The Jobseeker's Allowance (Amendment) (No. 2) Regulations 2000 (S.I. 2000/1370), regs. 1, **2(3)**
- F440** Reg. 69(1)(d) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(e)**
- F441** Reg. 69(1)(e) inserted (2.4.2007) by The Jobseeker's Allowance (Jobseeker Mandatory Activity) Pilot Regulations 2007 (S.I. 2007/1082), regs. 1(1), **3(1)(a)(iii)** (with reg. 4)
- F442** Reg. 69(1)(e) inserted (temp.) (3.4.2006) by The Jobseeker's Allowance (Jobseeker Mandatory Activity) Pilot Regulations 2005 (S.I. 2005/3466), regs. 1(1)(2), **3(1)(a)(iii)(2)(3)**, (with reg. 3(4))
- F443** Words in reg. 69(2) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 25(b)**
- F444** Words in reg. 69(3) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(f)(i)**
- F445** Words in reg. 69(3)(c) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(f)(ii)**
- F446** Words in reg. 69(3) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 25(c)**
- F447** Word in reg. 69(4)(a)(i) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(g)(i)**
- F448** Words in reg. 69(4)(a)(i) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **4(g)(ii)**
- F449** Words in reg. 69(4)(c) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 25(d)**

## Sanctions of discretionary length

**70.** In determining a period under section 19(3) [<sup>F450</sup>or section 20A(4)] [<sup>F451</sup>the Secretary of State] shall take into account all the circumstances of the case and, in particular, the following circumstances—

- (a) where the employment would have lasted less than 26 weeks, the length of time which it was likely to have lasted;
- (b) in a case falling within section 19(6)(a) [<sup>F452</sup>or section 20A(2)(d)] in which the employer has indicated an intention to re-engage the claimant, the date when he is to be re-engaged;
- (c) where the claimant has left his employment voluntarily and the hours of work in that employment were 16 hours or less a week, the rate of pay and hours of work in the employment which he left; and
- (d) where the claimant left his employment voluntarily or has neglected to avail himself of a reasonable opportunity of employment, any mitigating circumstances of physical or mental stress connected with his employment.

### Textual Amendments

- F450** Words in reg. 70 inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 26(a)**
- F451** Words in reg. 70 substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**

**F452** Words in reg. 70 inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 26(b)**

## Voluntary Redundancy

**71.**—(1) A claimant is to be treated as not having left his employment voluntarily—

- (a) where he has been dismissed by his employer by reason of redundancy after volunteering or agreeing to be so dismissed, <sup>F453</sup> ...
- (b) where he has left his employment on a date agreed with his employer without being dismissed, in pursuance of an agreement relating to voluntary redundancy [<sup>F454</sup> or
- (c) where he has been laid off or kept on short-time to the extent specified in [<sup>F455</sup> section 148 of the Employment Rights Act 1996], and has complied with the requirements of that section.]

(2) In paragraph (1) "redundancy" means one of the facts set out in paragraphs (a) and (b) of section [<sup>F456</sup> 139(1) of the Employment Rights Act 1996].

### Textual Amendments

**F453** Word in reg. 71(1)(a) deleted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **5**

**F454** Reg. 71(1)(c) and word inserted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **5**

**F455** Words in reg. 71(1)(c) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(5)(a)**

**F456** Words in reg. 71(2) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(5)(b)**

## Good Cause for the purposes of section 19(5)(a) and (6)(c) and (d)

**72.**—(1) This regulation shall have effect for the purposes of section 19 (circumstances in which a jobseeker's allowance is not payable) [<sup>F457</sup> and section 20A (denial or reduction of joint-claim jobseeker's allowance)].

(2) Subject to paragraph (3), in determining whether a person has good cause for any act or omission for the purposes of section 19(5)(a) and (6)(c) and (d) [<sup>F458</sup> and section 20A(2)(a), (f) and (g)] the matters which are to be taken into account shall include the following—

- (a) any restrictions on availability which apply in the claimant's case in accordance with regulations 6, 7, 8 [<sup>F459</sup>, 13 and 17A] having regard to the extent of any disparity between those restrictions and the requirements of the vacancy in question;
- (b) any condition or personal circumstance of that person which indicates that a particular employment or carrying out the jobseeker's direction would be likely to or did—
  - (i) cause significant harm to his health; or
  - (ii) subject him to excessive physical or mental stress;
- (c) the fact that the failure to undertake a particular employment or to carry out the jobseeker's direction resulted from a religious or conscientious objection sincerely held;
- (d) any caring responsibilities which would, or did, make it unreasonable for the person to undertake a particular employment or carry out the jobseeker's direction;

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- (e) the time it took, or would normally take, for the person to travel from his home to the place of the employment or to a place mentioned in the jobseeker's direction and back to his home by a route and means appropriate to his circumstances and to the employment or to the carrying out of the jobseeker's direction;
- (f) the expenses which were, or would be, necessarily and exclusively incurred by the person for the purposes of the employment or of carrying out the jobseeker's direction, together with any expenses of travelling to and from the place of the employment or a place mentioned in the jobseeker's direction by a route and means appropriate to his circumstances, if those expenses did, or would, represent an unreasonably high proportion of—
- (i) in the case of employment, the remuneration which it is reasonable to expect that he would derive from that employment; or
- (ii) in any other case, the income which he received, or would receive, while carrying out the jobseeker's direction.
- [<sup>F460</sup>(g) any child care expenses which were, or would be, necessarily incurred by the person as a result of his being in the employment or of carrying out the jobseeker's direction if those expenses did, or would, represent an unreasonably high proportion of—
- (i) in the case of employment, the remuneration which it is reasonable to expect that he would derive from that employment; or
- (ii) in any other case, the income which he received, or would receive, while carrying out the jobseeker's direction.]
- [<sup>F461</sup>(2A) For the purposes of paragraph (2)(d), where the person has caring responsibilities in relation to a child, in considering whether those responsibilities would, or did, make it unreasonable for him to undertake a particular employment or carry out the jobseeker's direction, regard shall be had, in particular, to the following matters—
- (a) child care would not be, or was not, reasonably available to him, or
- (b) if it would be, or it was, available, it would be, or was, unsuitable due to his particular needs or those of the child.]
- (3) For the purposes of paragraph (2)(f) [<sup>F462</sup>and (g)], in considering whether expenses did, or would, represent an unreasonably high proportion of remuneration or income, the principle shall apply that the greater the level of remuneration or income the higher the proportion thereof which it is reasonable should be represented by expenses.
- [<sup>F463</sup>(3A) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) and (d) [<sup>F464</sup>and section 20A(2)(f) and (g)], a person to whom regulation 17A(2) applies, in respect of whom an employment officer has determined that he may undertake a qualifying course, and who is undertaking such a course as a full-time student, is to be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) and (d) [<sup>F464</sup>and section 20A(2)(f) and (g)] where—
- (a) the act or omission took place within a period of 4 weeks before the end of his qualifying course or of his examinations; or
- (b) the employment consists of employment for which he is not required to be available in accordance with regulation 17A(3)(c) unless it is permanent full-time employment.
- (3B) In paragraph (3A)(b), "full-time employment" means remunerative work as defined in regulation 51(1)(a).]
- (4) Where a person has undergone training for a particular kind of employment for a period of not less than 2 months, he is to be regarded for a period of 4 weeks beginning with the day on which

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the training ends as having good cause for any act or omission for the purposes of section 19(5)(a) and (6)(c) and (d) <sup>F465</sup> and section 20A(2)(a), (f) and (g)], for—

- (a) refusing or failing to apply for, or refusing to accept, employment of any other kind when offered to him;
- (b) neglecting to avail himself of a reasonable opportunity of employment of any other kind;
- (c) refusing or failing to carry out a jobseeker's direction given to him with a view to assisting him to find employment of any other kind.

(5) A person is to be regarded as having good cause for any act or omission for the purposes of section 19(5)(a) and (6)(c) and (d) <sup>F465</sup> and section 20A(2)(a), (f) and (g)] if, and to the extent that, the reason for that act or omission—

- (a) results from restrictions on availability which apply in the claimant's case for the period permitted in accordance with regulations 16 and 17;
- (b) results from the fact that the claimant is, in accordance with regulation 5(1) to (3) and (5), excepted from any requirement to be able to take up employment immediately, or is, in accordance with regulation 5(4), excepted from any requirement to be able to take up employment at a time when he is not available;

<sup>F466</sup>(c) .....

<sup>F467</sup>(5A) A person is to be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) and (d) <sup>F468</sup> and section 20A(2)(f) and (g)] if—

- (a) in a case where it has been agreed that the claimant may restrict his hours of availability to less than 24 hours a week, the employment in question is for less than 16 hours a week; or
- (b) in a case not falling within sub-paragraph (a), the employment is for less than 24 hours a week.]

(6) Subject to paragraphs (8) and (9), a person is not to be regarded as having good cause for any act or omission for the purposes of section 19(5)(a) and (6)(c) and (d) <sup>F465</sup> and section 20A(2)(a), (f) and (g)] if, and to the extent that, the reason for that act or omission relates to—

- (a) subject to paragraph (7), his income or outgoings or the income or outgoings of any other member of his household, or the income or outgoings which he or any other member of his household would have if he were to become employed or to carry out the jobseeker's direction, or did have whilst carrying out the jobseeker's direction, but for the purposes of this sub-paragraph a person's outgoings shall not include any expenses taken into account under paragraph (2)(f) <sup>F469</sup> or (g);]
- (b) the time it took, or would normally take, for the person to travel from his home to the place of the employment, or a place mentioned in the jobseeker's direction, and back to his home where that time was or is normally less than<sup>F470</sup>,—

(i) during the first 13 weeks of entitlement to a jobseeker's allowance, one hour either way; and

(ii) in all other cases, one hour and thirty minutes either way,

by a route and means appropriate to his circumstances and to the employment, or to the carrying out of the jobseeker's direction, unless, in view of the health of the person or any caring responsibilities of his, that time was or is unreasonable.]

(7) Paragraph (6)(a) shall not apply—

- (a) where the claimant has agreed a restriction on the level of remuneration he was prepared to accept under regulations 13(3) and 16; or
- (b) the employment is remunerated only by commission.

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(8) A person shall be regarded for the purposes of section 19(6)(d) [<sup>F471</sup>and section 20A(2)(g)] as having good cause for neglecting to avail himself of an opportunity of employment unless the situation is a qualifying former employment of that person.

(9) For the purposes of paragraph (8) a situation is a qualifying former employment of any person if—

- (a) it is employment with an employer for whom he has previously worked or with an employer who has succeeded that employer; and
- (b) not more than 12 months have elapsed between—
  - (i) the date when he last worked for that employer and
  - (ii) the date when the question under section 19(6)(d) [<sup>F472</sup>or section 20A(2)(g)] arose or, as the case may be, arises, and
- (c) the terms and conditions of employment in the situation are not less favourable than those in the situation which he held when he last worked for that employer.

#### Textual Amendments

- F457** Words in reg. 72(1) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(a)**
- F458** Words in reg. 72(2) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(b)**
- F459** Words in reg. 72(2)(a) substituted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **7(a)**
- F460** Reg. 72(2)(g) added (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(12)(a)** (with reg. 13)
- F461** Reg. 72(2A) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(12)(b)** (with reg. 13)
- F462** Words in reg. 72(3) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(12)(c)** (with reg. 13)
- F463** Reg. 72(3A)(3B) inserted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **7(b)**
- F464** Words in reg. 72(3A) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(c)**
- F465** Words in reg. 72(4)(5)(6) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(b)**
- F466** Reg. 72(5)(c) omitted (7.4.1997) by virtue of The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(6)(a)**
- F467** Reg. 72(5A) inserted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(6)(b)**
- F468** Words in reg. 72(5A) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(c)**
- F469** Words in reg. 72(6)(a) inserted (24.11.2008) by The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/3051), regs. 1(2), **11(12)(d)** (with reg. 13)
- F470** Words in reg. 72(6)(b) substituted (19.4.2004 for specified purposes, 18.10.2004 in so far as not already in force) by The Jobseeker's Allowance (Amendment) Regulations 2004 (S.I. 2004/1008), regs. 1(2), **2(3)**
- F471** Words in reg. 72(8) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(d)**
- F472** Words in reg. 72(9)(b)(ii) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 27(e)**

### Good Cause for the purposes of section 19(5)(b)

73.—(1) This regulation shall have effect for the purposes of section 19 (circumstances in which a jobseeker's allowance is not payable) [<sup>F473</sup>and section 20A (denial or reduction of joint-claim jobseeker's allowance)].

(2) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(5)(b) [<sup>F474</sup>and section 20A(2)(b)], a person is to be regarded as having good cause for any act or omission for those purposes if, and to the extent that, the act or omission is attributable to any of the following circumstances—

- (a) the claimant in question was suffering from some disease or bodily or mental disablement on account of which—
  - (i) he was not able to attend the relevant training scheme or employment programme in question;
  - (ii) his attendance would have put at risk his health; or
  - (iii) his attendance would have put at risk the health of other persons;
- (b) the claimant's failure to participate in the training scheme or employment programme resulted from a religious or conscientious objection sincerely held;
- (c) the time it took, or would normally have taken, for the claimant to travel from his home to the training scheme or employment programme and back to his home by a route and means appropriate to his circumstances and to the scheme or programme exceeded, or would normally have exceeded, one hour in either direction or, where no appropriate training scheme or employment programme is available within one hour of his home, such greater time as is necessary in the particular circumstances of the nearest appropriate scheme or programme;
- (d) the claimant had caring responsibilities and—
  - (i) no close relative of the person he cared for and no other member of that person's household was available to care for him; and
  - (ii) in the circumstances of the case it was not practical for the claimant to make other arrangements for the care of that person;
- (e) the claimant was attending court as a party to any proceedings, or as a witness or as a juror;
- (f) the claimant was arranging or attending the funeral of a close relative or close friend;
- (g) the claimant was engaged in—
  - (i) the manning or launching of a lifeboat; or
  - (ii) the performance of duty as a part-time member of a fire brigade;
- (h) the claimant was required to deal with some domestic emergency; or
- (i) the claimant was engaged during an emergency in duties for the benefit of others.
- <sup>F475</sup>(j) the claimant gave up a place on a training scheme or an employment programme and if he had continued to participate in it he would have, or would have been likely to have, put his health and safety at risk.]

<sup>F476</sup>(2A) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(5)(b) [<sup>F474</sup>and section 20A(2)(b)], a person is to be regarded as having good cause for any act or omission for those purposes if—

- (a) the act or omission relates to an employment programme specified in regulation 75(1)(a)
  - (ii) [<sup>F477</sup>or (iv)] or the training scheme specified in regulation 75(1)(b)(ii), and
- (b) he had not, prior to that act or omission, been given or sent a notice in writing by an employment officer referring to the employment programme or training scheme in

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question (“the specified programme”) and advising him that if any of the circumstances mentioned in section 19(5)(b) [<sup>F478</sup>or section 20A(2)(b)] arise in his case in relation to the specified programme his jobseeker’s allowance could cease to be payable or could be payable at a lower rate.]

[<sup>F479</sup>(2B) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(5)(b) [<sup>F474</sup>and section 20A(2)(b)], a person to whom regulation 17A(2) applies, in respect of whom an employment officer has determined that he may undertake a qualifying course, and who is undertaking such a course as a full-time student, is to be regarded as having good cause for any act or omission—

- (a) for the purposes of section 19(5)(b) [<sup>F474</sup>and section 20A(2)(b)] where the act or omission was in relation to an employment programme and he was, or would have been, required to attend the employment programme at a time which would have prevented him from attending the qualifying course;
- (b) for the purposes of section 19(5)(b)(iii) and (iv) [<sup>F480</sup>and section 20A(2)(b)(iii) and (iv)] where—
  - (i) the act or omission was in relation to a qualifying course undertaken by him and occurred less than 4 weeks after the first day of the period of study;
  - (ii) the act or omission was in relation to a qualifying course undertaken by him and was due to his lack of ability; or
  - (iii) the act or omission was in relation to a qualifying course undertaken by him which was not suitable for him;]
- (3) For the purposes of paragraph (2)(i),
  - (a) a person is engaged in duties for the benefit of others while—
    - (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired;
    - (ii) protecting property of substantial value from imminent risk of serious damage or destruction; or
    - (iii) assisting in measures being taken to prevent a serious threat to the health of the people;
  - as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;
  - (b) events which may give rise to an emergency include—
    - (i) a fire, flood or an explosion;
    - (ii) a natural catastrophe;
    - (iii) a railway or other transport accident;
    - (iv) a cave or mountain accident;
    - (v) an accident at sea;
    - (vi) a person being reported missing and the organisation of a search for that person.

[<sup>F481</sup>(4) For the purposes of paragraph (2B)(b)(iii), a qualifying course is suitable for a person if it is suitable for him in vocationally relevant respects, namely his personal capacity, aptitude, his preference, the level of qualification aimed at, duration of the course and proportion of time, if any, which the person has spent on the training in relation to the length of the course.]



### Textual Amendments

- F473** Words in reg. 73(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 28(a)**
- F474** Words in reg. 73(2)(2A)(2B) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 28(b)**
- F475** Reg. 73(2)(j) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **6**
- F476** Reg. 73(2A) inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **7**
- F477** Words in reg. 73(2A)(a) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **5**
- F478** Words in reg. 73(2A)(b) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 28(c)**
- F479** Reg. 73(2B) inserted (1.6.1998) by [The Social Security Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/1274\)](#), regs. 1(1), **8(a)**
- F480** Words in reg. 73(2B)(b) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 28(d)**
- F481** Reg. 73(4) inserted (1.6.1998) by [The Social Security Amendment \(New Deal\) Regulations 1998 \(S.I. 1998/1274\)](#), regs. 1(1), **8(b)**

### Modifications etc. (not altering text)

- C7** Reg. 73 applied (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), regs. 1(1)(b), **9** (with reg. 19)

### [<sup>F482</sup> **Just cause for the purpose of sections 19(6)(b) and 20A(2)(e)**

**73A.**—(1) This regulation applies for the purposes of section 19 (circumstances in which a jobseeker's allowance is not payable) and section 20A (denial or reduction of joint-claim jobseeker's allowance).

(2) In determining whether a person has just cause for any act or omission for the purposes of section 19(6)(b) and section 20A(2)(e), the matters which are to be taken into account shall include the following—

- (a) any caring responsibilities for a child which made it unreasonable for the person to remain in his employment;
- (b) any child care expenses which were necessarily incurred by the person as a result of his being in the employment if those expenses represented an unreasonably high proportion of the remuneration which he derived from the employment.

(3) For the purposes of paragraph (2)(a), in considering whether the caring responsibilities made it unreasonable for the person to remain in his employment, regard shall be had, in particular, to the following matters—

- (a) child care would not be, or was not, reasonably available to him, or
- (b) if it would be, or it was, available, it would be, or was, unsuitable due to his particular needs or those of the child.

(4) For the purposes of paragraph (2)(b), in considering whether child care expenses represented an unreasonably high proportion of remuneration, the principle shall apply that the greater the level of remuneration the higher the proportion which it is reasonable should be represented by such expenses.]

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### Textual Amendments

**F482** Reg. 73A inserted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(13)** (with reg. 13)

### Person of prescribed description for the purpose of section 20(3)

**74.**—(1) Subject to paragraph (2), a person shall be of a prescribed description for the purposes of section 20(3) [<sup>F483</sup>and section 20B(3)] (exemption from non-payment of jobseeker's allowance) and shall not fall within section 19(6)(b) or (d) [<sup>F484</sup>or section 20A(2)(e) or (g)] if he has neither worked in employed earner's employment, nor has been a self-employed earner, nor been a full-time student nor been in relevant education, during the period of 13 weeks preceding the day of the commencement of the employment.

- (2) For the purposes of paragraph (1), a person shall not be regarded as having—
- (a) worked in employed earner's employment; or
  - (b) been a self-employed earner; or
  - (c) been a full-time student or been in relevant education;

by reason only of any engagement in an activity referred to in paragraph (3) or by his attendance for a period of up to 14 days at a work camp.

- (3) The activities referred to in this paragraph are—
- (a) the manning or launching of a lifeboat; or
  - (b) the performance of duty as a part-time member of a fire brigade.

(4) A trial period in section 20(3) [<sup>F485</sup>and section 20B(3)] means a period of 8 weeks beginning with the commencement of the fifth week of the employment in question and ending at the end of the twelfth week of that employment and for the purposes of this definition in determining the time at which the fifth week of the employment in question commences or at which the twelfth week of that employment ends, any week in which a person has not worked in the employment for at least 16 hours shall be disregarded.

### Textual Amendments

**F483** Words in reg. 74(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 29(a)(i)**

**F484** Words in reg. 74(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 29(a)(ii)**

**F485** Words in reg. 74(4) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 29(b)**

### <sup>F486</sup>Person in receipt of a training allowance

**74A.**—(1) An income-based jobseeker's allowance shall be payable to a claimant [<sup>F487</sup>other than a member of a joint-claim couple] even though section 19 prevents payment of a jobseeker's allowance to him where the claimant is in receipt of a training allowance and is not receiving training falling within paragraph (2) of regulation 170 but the jobseeker's allowance shall be payable only if and for so long as he satisfies the conditions of entitlement to an income-based jobseeker's allowance other than those which he is not required to meet by virtue of regulation 170.

(2) An income-based jobseeker's allowance which is payable to a claimant in accordance with this regulation shall be payable to him at the full rate applicable in his case.]

[<sup>F488</sup>(3) A joint-claim jobseeker's allowance shall be payable in respect of a joint-claim couple even though section 20A prevents payment of a joint-claim jobseeker's allowance to the couple where a member of that couple to whom that section applies is in receipt of a training allowance and is not receiving training falling within paragraph (2) of regulation 170 but the jobseeker's allowance shall be payable only if and for so long as that member satisfies the conditions of entitlement to a joint-claim jobseeker's allowance other than those which he is not required to meet by virtue of regulation 170.

(4) A joint-claim jobseeker's allowance which is payable to a couple in accordance with this regulation shall be payable to the couple at the full rate applicable to it.]

#### Textual Amendments

**F486** Reg. 74A inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), 7

**F487** Words in [reg. 74A\(1\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 30(a)**

**F488** Reg. 74A(3)(4) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 30(b)**

#### [<sup>F489</sup>Reduced allowance where one member of a joint-claim couple is subject to a sanction

**74B.**—(1) Where only one member of a joint-claim couple is subject to sanctions for the purposes of section 20A, the rate of jobseeker's allowance payable in respect of the couple for the period of those sanctions shall be calculated in accordance with this regulation.

(2) Where paragraph (1) applies, a reduced rate of jobseeker's allowance shall be payable to the member of the couple who is not subject to sanctions.

(3) That reduced rate shall be—

- (a) in any case in which the member of the couple who is not subject to sanctions satisfies the conditions set out in section 2, a rate equal to the amount calculated in accordance with section 4(1);
- (b) in any case where the couple are a couple in hardship for the purposes of Part IXA, a rate equal to the amount calculated in accordance with regulation 146G;
- (c) in any other case, a rate calculated in accordance with section 4(3A) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 which would have been the applicable amount had the member of the couple who is not subject to sanctions been a single claimant.]

#### Textual Amendments

**F489** Reg. 74B inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 31**

#### Interpretation

[<sup>F490</sup>**75.**—(1) For the purposes of section 19[<sup>F491</sup>, section 20A] and of this Part:

- (a) “an employment programme” means—

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- (i) any one of the following programmes of advice, guidance or job search assistance provided in pursuance of arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973, known as—
    - F492(aa) . . . . .
    - [F493(bb) Gateway to Work, being a programme of up to two weeks' duration, consisting of advice and assistance on job search activity and the development of job search skills;]
    - F494(bb) . . . . .
    - F495(cc) . . . . .
    - F496(dd) . . . . .
    - F497(ee) . . . . .
  - (ii) any one of the following programmes, provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973 and for which only persons who are aged 18 years or over and less than 26 years immediately prior to entry may be eligible, known as—
    - (aa) [F498the Self-Employed Employment Option of the New Deal, being a programme which lasts for any individual for up to 26 weeks and which includes for that individual assistance in pursuing self-employed earner's employment;]
    - (bb) the Voluntary Sector Option of the New Deal, being a programme which lasts for any individual for up to six months and which includes for that individual employed earner's employment or a work placement combined in either case with training, support and job search;
    - (cc) the Environment Task Force Option of the New Deal, being a programme which lasts for any individual for up to six months and which includes for that individual employed earner's employment or a work placement combined in either case with training, support and job search [F499and
  - (iii) [F500employment zone programme, being a programme established by the Secretary of State pursuant to section 60 of the Welfare Reform and Pensions Act 1999 for an employment zone designed to assist claimants for a jobseeker's allowance to obtain sustainable employment and subject to the Employment Zones Regulations 2000 or the Employment Zones Regulations 2003 [F501or the Social Security (Working Neighbourhoods) Regulations 2004].]
  - (iv) the Intensive Activity Period, that is to say, the programme known by that name and provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973, being a programme lasting for up to 52 weeks for any one individual aged 25 years or over and less than [F50260 years] on the first required entry date to any such programme, and consisting for that individual of any one or more of the following elements, namely employed earner's employment, assistance in pursuing self-employed earner's employment, education and training, work experience, assistance with job search, motivation and skills training.
- (b) "a training scheme" means—
- (i) a scheme for training for which persons aged less than 18 years are eligible and for which persons aged 18 years or over and less than 25 years may be eligible, [F503secured by the Learning and Skills Council for England or by the [F504Welsh

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Ministers] and, in Scotland, provided] directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name); <sup>F505</sup> ...

- (ii) the scheme, provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973 and for which only persons who are aged 18 years or over and less than 26 years immediately prior to entry may be eligible, known as the Full-Time Education and Training Option of the New Deal, being a scheme which lasts for any individual for up to one year and which includes for that individual some or all of the following, namely education, training, work experience and support in job search [<sup>F506</sup>skills; [<sup>F507</sup>and]
- (iii) for the purposes of section 19(5)(b)(iii) and (iv) and section 19(5)(c) [<sup>F508</sup>and section 20A(2)(b)(iii) and (iv) and section 20A(2)(c)], in relation to a person who has been treated as available for employment to any extent under regulation 17A(3), the qualifying course in respect of which he has been so treated.]

(2) In section 19, except subsection (2) [<sup>F509</sup>and in section 20A, except subsection (3)], and in this Part, except regulation 69 and the first occasion on which the word occurs in regulation 72(5A) (a), "week" means any period of 7 consecutive days.

(3) In section 19(2) [<sup>F510</sup>, section 20A(3)], regulation 69 and the first occasion on which the word occurs in regulation 72(5A)(a), "week" means benefit week.

(4) In section 19, except subsection (9) [<sup>F511</sup>in section 20A], and in this Part, "employment" means employed earner's employment other than such employment in which a person is employed whilst participating in an employment programme falling within paragraph (1)(a)(ii) [<sup>F512</sup>or (iv) <sup>F513</sup>...]; and "employed earner" shall be construed accordingly.

(5) In section 19(9), "employment" means employed earner's employment.]

<sup>F514</sup>(6) In this Part, "Jobseeker Mandatory Activity Pilot" has the meaning it bears in regulation 2(1) of the Jobseeker's Allowance (Jobseeker Mandatory Activity) Pilot Regulations 2007.]

#### Textual Amendments

- F490** Reg. 75 substituted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **8**
- F491** Words in reg. 75(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 32(a)**
- F492** Reg. 75(1)(a)(i)(aa) omitted (14.10.2002) by virtue of [The Social Security Amendment \(Employment Programme\) Regulations 2002 \(S.I. 2002/2314\)](#), regs. 1, **2(4)(a)**
- F493** Reg. 75(1)(a)(i)(bb) inserted (19.6.2000) by [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/1370\)](#), regs. 1, **2(4)**
- F494** Reg. 75(1)(a)(i)(bb) omitted (1.12.1998) by virtue of [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1998 \(S.I. 1998/1698\)](#), regs. 1(1), **3(c)**
- F495** Reg. 75(1)(a)(i)(cc) omitted (4.8.1998) by virtue of [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1998 \(S.I. 1998/1698\)](#), regs. 1(1), **3(a)**
- F496** Reg. 75(1)(a)(i)(dd) omitted (1.12.1998) by virtue of [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1998 \(S.I. 1998/1698\)](#), regs. 1(1), **3(c)**
- F497** Reg. 75(1)(a)(i)(ee) omitted (14.10.2002) by virtue of [The Social Security Amendment \(Employment Programme\) Regulations 2002 \(S.I. 2002/2314\)](#), regs. 1, **2(4)(a)**
- F498** Reg. 75(1)(a)(ii)(aa) substituted (14.10.2002) by [The Social Security Amendment \(Employment Programme\) Regulations 2002 \(S.I. 2002/2314\)](#), regs. 1, **2(4)(b)**

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- F499** Reg. 75(1)(a)(iii) and word inserted (3.4.2000) by The Employment Zones Regulations 2000 (S.I. 2000/721), regs. 1, **10(2)**
- F500** Reg. 75(1)(a)(iii) substituted (27.10.2003) by The Employment Zones Regulations 2003 (S.I. 2003/2438), regs. 1(1), **6**
- F501** Words in reg. 75(1)(a)(iii) added (26.4.2004) by The Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959), regs. 1, **23(2)**
- F502** Words in reg. 75(1)(a)(iv) substituted (1.6.2007) by The Jobseeker's Allowance (Extension of the Intensive Activity Period) Amendment Regulations 2007 (S.I. 2007/1316), regs. 1, **2(2)**
- F503** Words in reg. 75(1)(b)(i) substituted (26.3.2001) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 (S.I. 2001/652), regs. 1(1)(a), **5(c)**
- F504** Words in reg. 75(1)(b)(i) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(5)**
- F505** Word in reg. 75(1)(b)(i) deleted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **9(a)**
- F506** Words in reg. 75(1)(b)(ii) substituted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **9(b)**
- F507** Reg. 75(1)(b)(iii) inserted (1.6.1998) by The Social Security Amendment (New Deal) Regulations 1998 (S.I. 1998/1274), regs. 1(1), **9(c)**
- F508** Words in reg. 75(1)(b)(iii) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 32(b)**
- F509** Words in reg. 75(2) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 32(c)**
- F510** Words in reg. 75(3) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 32(d)**
- F511** Words in reg. 75(4) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 32(e)**
- F512** Words in reg. 75(4) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **6(b)**
- F513** Words in reg. 75(4) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(9)**
- F514** Reg. 75(6) inserted (2.4.2007) by The Jobseeker's Allowance (Jobseeker Mandatory Activity) Pilot Regulations 2007 (S.I. 2007/1082), regs. 1(1), **3(1)(c)** (with reg. 4)

**Modifications etc. (not altering text)**

- C8** Reg. 75(1)(b) applied (S.) (1.4.2003) by The Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 (S.S.I. 2003/176), arts. 1(1), **8(1)(b)(ii)**
- C9** Reg. 75(1)(b) applied (W.) (1.4.2003) by The Council Tax (Discount Disregards) (Amendment) (Wales) Order 2003 (S.I. 2003/673), arts. 1(1), **3(1)(b)(ii)**

## PART VI

### MEMBERSHIP OF THE FAMILY

#### Persons of a prescribed description

76.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act is a person [<sup>F515</sup>who falls within the definition of qualifying young person in section 142 of the Benefits Act (child and qualifying young person)], and in these Regulations, except in Part IV, such a person is referred to as a “young person”.

(2) Paragraph (1) shall not apply to a person who is—

- <sup>F516</sup>(a) .....
- (b) entitled to a jobseeker's allowance or would, but for section 3(1)(d) of the Act (provision against dual entitlement) be so entitled; or
- (c) entitled to income support or would, but for section 134(2) of the Benefits Act (exclusion from benefit) be <sup>F517</sup>so entitled; or
- (d) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies <sup>F518</sup>or]
- (e) entitled to an income-related employment and support allowance or would, but for paragraph 6(1)(d) of Schedule 1 to the Welfare Reform Act (conditions of entitlement to income-related employment and support allowance), be so entitled.]

<sup>F519</sup>(3) A person of a prescribed description for the purposes of the definition of "family" in section 35(1) of the Act includes a child or young person in respect of whom section 145A of the Benefits Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.]

**Textual Amendments**

**F515** Words in reg. 76(1) substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **3(6)(a)**

**F516** Reg. 76(2)(a) omitted (10.4.2006) by virtue of The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **3(6)(b)**

**F517** Reg. 76(2)(d) substituted (1.10.2001) by The Children (Leaving Care) Act 2000 (Commencement No. 2 and Consequential Provisions) Order 2001 (S.I. 2001/3070), art. 3(1), **Sch. 4 (b)**

**F518** Reg. 76(2)(e) and word added (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(12)(a)**

**F519** Reg. 76(3) added (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002 (S.I. 2002/2402), reg. 1(3), **Sch. 2 para. 2**

**Circumstances in which a person is to be treated as responsible or not responsible for another**

77.—(1) Subject to the following provisions of this regulation, a person is to be treated for the purposes of the Act as responsible for a child or young person for whom he is receiving child benefit <sup>F520</sup>and this includes a child or young person to whom paragraph (3) of regulation 76 applies.]

(2) In a case where a child ("the first child") is in receipt of child benefit in respect of another child ("the second child"), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.

(3) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

- (a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or
- (b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.

(4) Where regulation 78(7) (circumstances in which a person is to be treated as being or not being a member of the household) applies in respect of a child or young person, that child or young person shall be treated as the responsibility of the claimant for that part of the week for which he is under that regulation treated as being a member of the claimant's household.

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(5) Except where paragraph (4) applies, a child or young person shall be treated as the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

#### Textual Amendments

**F520** Words in [reg. 77\(1\)](#) added (for specified purposes and with effect in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Working Tax Credit and Child Tax Credit\) \(Amendment\) Regulations 2002 \(S.I. 2002/2402\)](#), [reg. 1\(3\)](#), [Sch. 2 para. 3](#)

#### Circumstances in which a person is to be treated as being or not being a member of the household

**78.**—(1) Subject to paragraphs (2) to (5), the claimant and any partner and, where the claimant or his partner is treated as responsible under regulation 77 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall be treated for the purposes of the Act as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

[<sup>F521</sup>(1A) Subject to paragraphs (2) and (3), the members of a joint-claim couple shall be treated for the purposes of the Act as members of the same household notwithstanding that they are temporarily living away from each other.]

(2) [<sup>F522</sup>Paragraphs (1) and (1A)] shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.

(3) [<sup>F523</sup>Paragraphs (1) and (1A)] shall not apply in respect of any member of a couple or of a polygamous marriage where—

- (a) one, both or all of them are patients detained in a hospital provided under section 4 of the National Health Service Act 1977 <sup>F524</sup> ([<sup>F525</sup>high security psychiatric services]) or [<sup>F526</sup>section 102 of the National Health Service (Scotland) Act 1978 (state hospitals)]; or

[<sup>F527</sup>(b) one, both or all of them are—

- (i) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (ii) on temporary release in accordance with the provisions of the Prison Act 1952 or rules made under section 39(6) of the Prisons (Scotland) Act 1989;]

- (c) [<sup>F528</sup>a claimant] is abroad and does not satisfy the conditions of regulation 50 (persons absent from Great Britain); or

- (d) one of them is permanently [<sup>F529</sup>residing in a care home, an Abbeyfield Home or an independent hospital].

(4) A child or young person shall not be treated as a member of the claimant's household where he is—

- (a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 <sup>F530</sup> or by a voluntary organisation under section 59(1)(a) of that Act; or



- (b) placed with the claimant or his partner prior to adoption; or
  - (c) in accordance with a relevant Scottish enactment, boarded out with the claimant or his partner, whether or not with a view to adoption; or
  - (d) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983 <sup>F531</sup> or the Adoption Agencies (Scotland) Regulations 1984 <sup>F532</sup>.
- (5) Subject to paragraphs (6) and (7), paragraph (1) shall not apply to a child or young person who is not living with the claimant and who—
- (a) in a case which does not fall within sub-paragraph (b), has been continuously absent from Great Britain for a period of more than four weeks commencing—
    - (i) where he went abroad before the date of the claim for a jobseeker's allowance, with that date;
    - (ii) in any other case, on the day which immediately follows the day on which he went abroad; or
  - (b) where [<sup>F533</sup>regulation 50(5)] or paragraph 11 or 13 of Schedule 5 (temporary absence abroad for the treatment of a child or young person) applies, has been continuously absent from Great Britain for a period of more than 8 weeks, that period of 8 weeks commencing—
    - (i) where he went abroad before the date of the claim for a jobseeker's allowance, on the date of that claim;
    - (ii) in any other case, on the day which immediately follows the day on which he went abroad; or
  - (c) has been an in-patient or in accommodation <sup>F534</sup>... for a continuous period of more than 12 weeks commencing—
    - (i) where he became an in-patient or, as the case may be, entered that accommodation before the date of the claim for a jobseeker's allowance, with that date; or
    - (ii) in any other case, with the date on which he became an in-patient or entered that accommodation, and, in either case, has not been in regular contact with either the claimant or any member of the claimant's household; or
  - (d) is being looked after by a local authority under a relevant enactment; or
  - (e) has been placed with a person other than the claimant prior to adoption; or
  - (f) is in the care of a local authority under a relevant Scottish enactment; or
  - (g) has been boarded out under a relevant Scottish enactment with a person other than the claimant prior to adoption; or
  - (h) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984; or
  - (i) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.
- (6) In the case of a person who was entitled to income support [<sup>F535</sup>or an income-related employment and support allowance] immediately before his entitlement to a jobseeker's allowance commenced, sub-paragraphs (a), (b) and (c) of paragraph (5) [<sup>F536</sup>shall] each have effect as if head (i) was omitted.
- (7) A child or young person to whom any of the circumstances mentioned in [<sup>F537</sup>sub-paragraphs (d), (f) or (i)] of paragraph (5) applies shall be treated as being a member of the claimant's household only for that part of any benefit week where that child or young person lives with the claimant.

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(8) Where a child or young person for the purposes of attending the educational establishment at which he is receiving relevant education is living with the claimant or his partner and neither one is treated as responsible for that child or young person that child or young person shall be treated as being a member of the household of the person treated as responsible for him and shall not be treated as a member of the claimant's household.

(9) In this regulation—

[<sup>F538</sup>(za) “accommodation” means accommodation provided by a local authority in a home owned or managed by that local authority—

- (i) under sections 21 to 24 of the National Assistance Act 1948 (provision of accommodation); or
- (ii) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968 (provision of residential or other establishment); or
- (iii) under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.);

where the accommodation is provided for a person whose stay in that accommodation has become other than temporary;]

- (a) “relevant enactment” means the Army Act 1955 <sup>F539</sup>, the Social Work (Scotland) Act 1968 <sup>F540</sup>, the Matrimonial Causes Act 1973 <sup>F541</sup>, the Adoption (Scotland) Act 1978 <sup>F542</sup>, the Family Law Act 1986 <sup>F543</sup> and the Children Act 1989 <sup>F544</sup>;
- (b) “relevant Scottish enactment” means the Army Act 1955, the Air Force Act 1955 <sup>F545</sup>, the Naval Discipline Act 1957 <sup>F546</sup>, the Adoption Act 1958 <sup>F547</sup>, the Matrimonial Proceedings Children Act 1958 <sup>F548</sup>, the Children Act 1958 <sup>F549</sup>, the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969 <sup>F550</sup>, the Children and Young Persons Act 1969 <sup>F551</sup>, the Matrimonial Causes Act 1973, the Guardianship Act 1973 <sup>F552</sup>, the Children Act 1975 <sup>F553</sup>, the Domestic Proceedings and Magistrates’ Courts Act 1978 <sup>F554</sup>, the Adoption (Scotland) Act 1978, the Child Care Act 1980 <sup>F555</sup>, and the Foster Children Act 1980 <sup>F556</sup>;
- (c) “voluntary organisation” has the meaning assigned to it in the Children Act 1989 or, in Scotland, the Social Work (Scotland) Act 1968.

#### Textual Amendments

- F521** Reg. 78(1A) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 33(a)**
- F522** Words in reg. 78(2) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 33(b)**
- F523** Words in reg. 78(3) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 33(c)(i)**
- F524** 1977 c.49; section 4 was amended by section 148, Schedule 4, paragraph 47 of the [Mental Health Act 1983 \(c.20\)](#).
- F525** Words in reg. 78(3)(a) substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **13(4)**
- F526** Words in reg. 78(3)(a) substituted (1.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(4), **3(2)**
- F527** Reg. 78(3)(b) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **18**
- F528** Words in reg. 78(3)(c) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 33(c)(ii)**

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- F529** Words in reg. 78(3)(d) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 3(a)**
- F530** 1989 c.41.
- F531** S.I. 1983/1964.
- F532** S.I. 1984/988.
- F533** Words in reg. 78(5)(b) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F534** Words in reg. 78(5)(c) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 3(b)**
- F535** Words in reg. 78(6) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(13)**
- F536** Word in reg. 78(6) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F537** Words in reg. 78(7) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F538** Reg. 78(9)(za) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 3(c)**
- F539** 1955 c.18. The provisions relating to reception orders were repealed as from 1st January 1992 by the Armed Forces Act 1991 (c.61) but with savings (articles 2 and 3(1) of S.I. 1991/2719).
- F540** 1968 c.49.
- F541** 1973 c.18.
- F542** 1978 c.28.
- F543** 1986 c.55.
- F544** 1989 c.41.
- F545** 1955 c.19.
- F546** 1957 c.53.
- F547** 1958 c.5.
- F548** 1958 c.40.
- F549** 1958 c.65.
- F550** 1969 c.46.
- F551** 1969 c.54.
- F552** 1973 c.29.
- F553** 1975 c.72.
- F554** 1978 c.22.
- F555** 1980 c.5.
- F556** 1980 c.6.

## PART VII

### AMOUNTS

#### Weekly amounts of contribution-based jobseeker's allowance

**79.**—(1) In the case of a contribution-based jobseeker's allowance, the age-related amount applicable to a claimant for the purposes of section 4(1)(a) shall be—

- (a) in the case of a person who has not attained the age of 18, [<sup>F557</sup>£47.95] per week;
- (b) in the case of a person who has attained the age of 18 but not the age of 25, [<sup>F558</sup>£47.95] per week;
- (c) in the case of a person who has attained the age of 25, [<sup>F559</sup>£60.50] per week.

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(2) Where the amount of any contribution-based jobseeker's allowance would, but for this paragraph, include a fraction of one penny, that fraction shall be treated as one penny.

**Textual Amendments**

- F557** Sum in reg. 79(1)(a) substituted (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **23(a)**
- F558** Sum in reg. 79(1)(b) substituted (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up Rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **23(b)**
- F559** Word in reg. 79(1)(c) substituted (1.4.2008 for specified purposes) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(i), **23(c)**

**Deductions in respect of earnings**

**80.**—(1) The deduction in respect of earnings which falls to be made in accordance with section 4(1)(b) from the amount which, apart from this regulation, would be payable by way of a contribution-based jobseeker's allowance for any [<sup>F560</sup>benefit week] is an amount equal to the weekly amount of the claimant's earnings calculated in accordance with Part VIII (income and capital).

(2) For the avoidance of doubt, in calculating the amount of earnings for the purposes of this regulation, only the claimant's earnings shall be taken into account.

**Textual Amendments**

- F560** Words in reg. 80(1) substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(8)**

**Payments by way of Pensions**

**81.**—(1) The deduction in respect of pension payments[<sup>F561</sup>, PPF payments or FAS payments] from the amount which apart from this regulation would be payable to a claimant by way of a contribution-based jobseeker's allowance for any week shall be a sum equal to the amount by which that payment exceeds or, as the case may be, the aggregate of those payments exceed £50 per [<sup>F562</sup>benefit week].

[<sup>F563</sup>(1A) Where pension payments[<sup>F561</sup>, PPF payments or FAS payments] first begin to be made to a person for a period starting other than on the first day of a benefit week, the deduction referred to in paragraph (1) shall have effect from the beginning of that benefit week.

(1B) Where pension payments[<sup>F561</sup>, PPF payments or FAS payments] are already in payment to a person and a change in the rate or payment takes effect in a week other than at the beginning of the benefit week, the deduction referred to in paragraph (1) shall have effect from the first day of that benefit week.]

(2) In determining the amount of any pension payments[<sup>F561</sup>, PPF payments or FAS payments] for the purposes of paragraph (1), there shall be disregarded—

- <sup>F564</sup>(a) . . . . .
- <sup>F564</sup>(b) . . . . .
- [<sup>F565</sup>(c) any payments from a personal pension scheme, an occupational pension scheme or a public service pension scheme which are payable to him and which arose in accordance with the

terms of such a scheme on the death of a person who was a member of the scheme in question]]<sup>F566</sup>, and

- (d) any PPF payments or FAS payments which are payable to him and which arose on the death of a person who had an entitlement to such payments.]

(3) Subject to the provisions of paragraph (2), where a pension payment<sup>F567</sup>, PPF payment or FAS payment], or an aggregate of such payments, as the case may be, is paid to a person for a period other than a week, such payments shall be treated as being made to that person by way of weekly pension payments<sup>F568</sup>, weekly PPF payments or weekly FAS payments] and the weekly amount shall be determined—

- (a) where payment is made for a year, by dividing the total by 52;
- (b) where payment is made for three months, by dividing the total by 13;
- (c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;
- (d) where payment is made for two or more months, otherwise than for a year or for three months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or
- (e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.

#### Textual Amendments

- F561** Words in reg. 81(1)(1A)(1B)(2) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **5(a)**
- F562** Words in reg. 81(1) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **19(2)**
- F563** Reg. 81(1A)(1B) inserted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **19(3)**
- F564** Reg. 81(2)(a)(b) omitted (7.10.1996) by virtue of The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **19(4)**
- F565** Reg. 81(2)(c) substituted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(9)**
- F566** Reg. 81(2)(d) and word inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **5(b)**
- F567** Words in reg. 81(3) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **5(c)(i)**
- F568** Words in reg. 81(3) inserted (5.5.2006) by The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006 (S.I. 2006/1069), regs. 1(1), **5(c)(ii)**

#### <sup>F569</sup>Income-based jobseeker's allowance

**82.**—(1) Regulations 83 to <sup>F570</sup>85] and 87 apply in the case of an income-based jobseeker's allowance but not a joint-claim jobseeker's allowance.

- (2) Regulations 86A to <sup>F571</sup>86C] only apply in the case of a joint-claim jobseeker's allowance.]

#### Textual Amendments

- F569** Reg. 82 substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 34**

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**F570** Word in reg. 82(1) substituted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), **Sch. Pt. 2 para. 3(a)**

**F571** Word in reg. 82(2) substituted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), **Sch. Pt. 2 para. 3(b)**

### Applicable amounts

**83.** <sup>F572</sup>Except in the case of a claimant to whom regulation 84, 85 ... or Part X (applicable amounts in other cases and urgent cases) applies, a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

- (a) an amount in respect of himself or if he is a member of a couple, an amount in respect of both of them, determined in accordance with sub-paragraph (1), (2) or (3), as the case may be, of paragraph 1 of Schedule 1;
- (b) [<sup>F573</sup>an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family, excluding a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant would exceed £3,000, but including a child whose capital falls to be treated as income in accordance with regulation 106 (1) (modification in respect of children and young persons);]
- <sup>F574</sup>(c) .....
- (d) [<sup>F575</sup>where he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 1 (family premium);]
- (e) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 1 (premiums); and
- (f) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

### Textual Amendments

**F572** Words in reg. 83 omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. II para. 4**

**F573** Reg. 83(b) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 2(a)**

**F574** Reg. 83(c) omitted (6.10.2003) by virtue of The Social Security (Removal of Residential Allowance and Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1121), reg. 1, **Sch. 2 para. 2**

**F575** Reg. 83(d) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 2(a)**

### Modifications etc. (not altering text)

**C10** Reg. 83(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by The Social Security Benefits Up-rating Order 2008 (S.I. 2008/632), arts. 1(2)(k)(ii), **24(2)(a)**

**Polygamous Marriages**

**84.**—(1) <sup>F576F576</sup>Except in the case of a claimant to whom regulation 83, [<sup>F577</sup>or 85] ... (applicable amounts in special cases...) or Part X or paragraph (2) applies, where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case—

- (a) the highest amount applicable to him and one of his partners determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 1 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in [<sup>F578</sup>sub-paragraphs (3)(e)] and (1)(e) of paragraph 1 of Schedule 1 in respect of each of his other partners;
- (c) [<sup>F579</sup>an amount determined in accordance with paragraph 2 of Schedule 1 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, would exceed £3,000, but including a child whose capital falls to be treated as income in accordance with regulation 106 (1) (modification in respect of children and young persons);]

<sup>F580</sup>(d) .....

- (e) [<sup>F581</sup>if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 1 (family premium);]
- (f) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums); and
- (g) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

(2) In the case of a partner who is aged less than 18 the amount which applies in respect of that partner shall be Nil unless that partner—

- (a) is treated as responsible for a child; or
- (b) is a person who, had he not been a member of a polygamous marriage, would have qualified for a jobseeker's allowance by virtue of section 3(1)(f)(ii) or section 3(1)(f)(iii) and the regulations made thereunder (jobseeker's allowance for persons aged 16 or 17).

**Textual Amendments**

- F576** Words in reg. 84(1) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 5**
- F577** Words in reg. 84(1) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 5**
- F578** Words in reg. 84(1)(b) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F579** Reg. 84(1)(c) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 3(a)**
- F580** Reg. 84(1)(d) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 3**
- F581** Reg. 84(1)(e) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 3(a)**

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**Modifications etc. (not altering text)**

**C11** Reg. 84(1)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **24(2)(a)**

**Special cases**

**85.**—(1) [<sup>F582</sup>In] the case of a person to whom any paragraph in column (1) of Schedule 5 applies (applicable amounts in special cases) the amount included in the claimant's weekly applicable amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule [<sup>F583</sup>but excluding an amount for a child or young person whose [<sup>F584</sup>capital, if calculated] in accordance with Part VIII in like manner as for the claimant, would exceed £3,000, but including an amount for a child or young person whose capital falls to be treated as income in accordance with regulation 106 (1) (modification in respect of children and young persons)].

(2) Except where the amount prescribed in Schedule 5 in respect of a person to whom paragraph (1) applies includes an amount applicable under regulation 83(e) or 84(1)(f) a person to whom paragraph (1) applies shall be treated as not falling within the conditions specified in paragraph 15 of Schedule 1 (severe disability premium).

<sup>F585</sup>(2A) .....

<sup>F586</sup>(3) .....

(4) [<sup>F587</sup>In this regulation] and Schedule 5—

[<sup>F588</sup>“partner of a person subject to immigration control” means a person—

- (i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act; or
- (ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000; and
- (iii) who is a member of a couple and [<sup>F589</sup>the member's] partner is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to [<sup>F590</sup>the partner] for the purposes of exclusion from entitlement to jobseeker's allowance;.]

[<sup>F591</sup>“person from abroad” has the meaning given in regulation 85A;]

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of [<sup>F592</sup>regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005];

“prisoner” means a person who—

- (a) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989,

other than a person [<sup>F593</sup>who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the [<sup>F594</sup>[<sup>F595</sup>Mental Health (Scotland) Act 1984][<sup>F595</sup>Mental Health (Care and Treatment) (Scotland) Act 2003]][<sup>F594</sup>Mental Health (Care and Treatment) (Scotland) Act 2003] or the Criminal Procedure (Scotland) Act 1995.]

<sup>F596</sup> ...



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F597(4A)	.....
F597(4B)	.....
F598(5)	.....
F598(6)	.....

### Textual Amendments

- F582** Words in [reg. 85\(1\)](#) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), [regs. 1\(1\), 8\(6\)](#)
- F583** Words in [reg. 85\(1\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\) \(8\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 4\(a\)](#)
- F584** Words in [reg. 85\(1\)](#) substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), [regs. 1\(c\), 2\(10\)](#)
- F585** [Reg. 85\(2A\)](#) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), [reg. 1, Sch. 2 para. 4](#)
- F586** [Reg. 85\(3\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(d\)](#) of the amending S.I.) by virtue of [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), [reg. 6\(2\)\(a\)](#)
- F587** Words in [reg. 85\(4\)](#) substituted (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), [regs. 1, 7\(2\)\(a\)\(i\)](#) (with [reg. 11\(2\)](#))
- F588** Words in [reg. 85\(4\)](#) inserted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(2\), 4\(3\)\(c\)](#)
- F589** Words in [reg. 85\(4\)](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1, Sch. 3 para. 26\(5\)\(a\)](#) (with [art. 3](#))
- F590** Words in [reg. 85\(4\)](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1, Sch. 3 para. 26\(5\)\(b\)](#) (with [art. 3](#))
- F591** Words in [reg. 85\(4\)](#) substituted (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), [regs. 1, 7\(2\)\(a\)\(ii\)](#) (with [reg. 11\(2\)](#))
- F592** Words in [reg. 85\(4\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(d\)](#) of the amending S.I.) by [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), [reg. 6\(2\)\(b\)](#)
- F593** Words in [reg. 85\(4\)](#) substituted (coming into force in accordance with [reg. 1\(2\)\(3\)\(4\)\(5\)\(6\)](#) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), [regs. 1, 8\(1\)\(2\)\(d\)](#)
- F594** Words in [reg. 85\(4\)](#) substituted (S.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Subordinate Legislation\) Order 2005 \(S.I. 2005/445\)](#), [arts. 1, 2, sch. para. 23\(2\)\(a\)](#)
- F595** Words in [reg. 85\(4\)](#) substituted (E.W.N.I.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), [art. 1\(1\), Sch. 2 para. 17\(3\)\(a\)](#)
- F596** Words in [reg. 85\(4\)](#) omitted (24.10.2005) by virtue of [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), [reg. 1, Sch. 2 para. 4\(b\)](#)
- F597** [Reg. 85\(4A\)\(4B\)](#) omitted (30.4.2006) by virtue of [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), [regs. 1, 7\(2\)\(b\)](#) (with [reg. 11\(2\)](#))
- F598** [Reg. 85\(5\)\(6\)](#) omitted (24.10.2005) by virtue of [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), [reg. 1, Sch. 2 para. 4\(c\)](#)

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#### **Modifications etc. (not altering text)**

**C12** Reg. 85(1) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), [24\(2\)\(a\)](#)

#### **[<sup>F599</sup>Special cases: supplemental – persons from abroad**

**85A.**—(1) “Person from abroad” means, subject to the following provisions of this regulation, a claimant who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) No claimant shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3).

(3) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

- (a) regulation 13 of the Immigration (European Economic Area) Regulations 2006; or
- (b) Article 6 of Council Directive No. [2004/38/EC](#).

(4) A claimant is not a person from abroad if he is—

- (a) a worker for the purposes of Council Directive No. [2004/38/EC](#);
- (b) a self-employed person for the purposes of that Directive;
- (c) a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
- (d) a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
- (e) a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;

[<sup>F600</sup>(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—

- (i) regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004 (application of the 2006 Regulations in relation to a national of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia or the Slovak Republic who is an “accession State worker requiring registration”), or
- (ii) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”);]

(g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

[<sup>F601</sup>(h) a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;

(hh) a person who has humanitarian protection granted under those rules;]

(i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as

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a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom; [<sup>F602</sup>or]

- (j) a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption][<sup>F603</sup>; or
- (k) a person in Great Britain who left Lebanon on or after 12th July 2006 because of the armed conflict there.]

**Textual Amendments**

- F599** Reg. 85A inserted (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **7(3)** (with reg. 11(2))
- F600** Reg. 85A(4)(f) substituted (1.1.2007) by [The Social Security \(Bulgaria and Romania\) Amendment Regulations 2006 \(S.I. 2006/3341\)](#), regs. 1, **3(2)**
- F601** Reg. 85A(4)(h)(hh) substituted for reg. 85A(4)(h) (9.10.2006) by [The Social Security \(Persons from Abroad\) Amendment \(No. 2\) Regulations 2006 \(S.I. 2006/2528\)](#), regs. 1, **3(2)**
- F602** Word in reg. 85A(4)(i) omitted (temp. until 31/1/2007) (25.7.2006) by virtue of [The Social Security \(Lebanon\) Amendment Regulations 2006 \(S.I. 2006/1981\)](#), regs. 1(1), **3(2)**
- F603** Reg. 85A(4)(k) and word inserted (temp. until 31/1/2007) (25.7.2006) by [The Social Security \(Lebanon\) Amendment Regulations 2006 \(S.I. 2006/1981\)](#), regs. 1(1), **3(3)**

**Modifications etc. (not altering text)**

- C13** Reg. 85A(4)(a)-(e) applied (with modifications) (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **10(f)** (with reg. 11(2))

**Applicable amounts for persons in residential care and nursing homes**

<sup>F604</sup>**86.** . . . . .

**Textual Amendments**

- F604** Reg. 86 omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 7**

<sup>F605</sup>**Applicable amounts for joint-claim couples**

**86A.** Except in the case of a joint-claim couple where regulation 86B (polygamous marriages) [<sup>F606</sup>or 86C] (special cases) <sup>F607</sup>... or Part X (urgent cases) applies, the applicable amount of a joint-claim couple who are jointly claiming a jobseeker's allowance shall be the aggregate of such of the following amounts as may apply in their case—

- (a) an amount in respect of the joint-claim couple determined in accordance with subparagraph (3) of paragraph 1 of Schedule 1;
- <sup>F608</sup>(b) . . . . .
- (c) the amount of any premiums which may be applicable to either or both members of the joint-claim couple, determined in accordance with Parts IVA and IVB of Schedule 1 (premiums); and
- (d) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to the joint-claim couple in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

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#### Textual Amendments

- F605** Regs. 86A-86D inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 35**
- F606** Words in reg. 86B substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 8**
- F607** Words in reg. 86B omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 8**
- F608** Reg. 86A(b) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 5**

#### Modifications etc. (not altering text)

- C14** Regs. 86A-86D applied (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), regs. 1(1)(b), **10(2)** (with reg. 19)

#### Applicable amounts for joint-claim couples: polygamous marriages

**86B.** Except in the case of a joint-claim couple where regulation 86A [<sup>F606</sup> or 86C] (special cases) <sup>F607</sup>... or Part X (urgent cases) applies, the applicable amount of a joint-claim couple who are jointly claiming a jobseeker's allowance where either or both members of that couple are members of a polygamous marriage, shall be the aggregate of such of the following amounts as may apply in their case—

- (a) the highest amount applicable to a member of the joint-claim couple and one other member of that marriage determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 1 as if those members were a couple;
- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3)(e) and (1)(e) of paragraph 1 of Schedule 1 in respect of each of the other members of the polygamous marriage who are members of that household;
- <sup>F609</sup>(c) .....
- (d) the amount of any premiums which may be applicable to a member of the joint-claim couple determined in accordance with Parts IVA and IVB of Schedule 1 (premiums); and
- (e) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to the joint-claim couple in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

#### Textual Amendments

- F605** Regs. 86A-86D inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 35**
- F606** Words in reg. 86B substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 8**
- F607** Words in reg. 86B omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 8**
- F609** Reg. 86B(c) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 6**

#### Modifications etc. (not altering text)

- C14** Regs. 86A-86D applied (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), regs. 1(1)(b), **10(2)** (with reg. 19)

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**Joint-claim couples: special cases**

**86C.**—(1) [<sup>F610</sup>Where] a member of a joint-claim couple is a person to whom any paragraph in column (1) of Schedule 5A applies (applicable amounts in special cases for joint-claim couples), the amount included in the joint-claim couple’s weekly applicable amount shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule.

(2) Except where the amount prescribed in Schedule 5A in respect of a joint-claim couple includes an amount applicable under regulation 86A(c) or 86B(d), a person to whom paragraph (1) applies shall be treated as not falling within the conditions specified in paragraph 201 of Schedule 1 (severe disability premium).

<sup>F611</sup>(2A) .....

<sup>F612</sup>(3) .....

(4) Expressions used in this regulation and in Schedule 5A shall have the same meaning as those expressions have for the purposes of regulation 85 and Schedule 5 save that for the purposes of this regulation and of Schedule 5A, the definition of “person from abroad” in regulation 85(4) shall have effect as if after the words “a claimant” there were inserted the words “,other than a member of a joint-claim couple who is not the nominated member for the purposes of section 3B,”.]

**Textual Amendments**  
**F605** Regs. 86A-86D inserted (19.3.2001) by [The Jobseeker’s Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 35**  
**F610** Word in reg. 86C(1) substituted (1.4.2004) by [The Social Security \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/565\)](#), regs. 1(2)(a), **6(2)(a)**  
**F611** Reg. 86C(2A) omitted (1.4.2004) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/565\)](#), regs. 1(2)(a), **6(2)(b)**  
**F612** Reg. 86C(3) omitted (for specified purposes and with effect in accordance with reg. 1(d) of the amending S.I.) by virtue of [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), **reg. 6(3)**

**Applicable amount for a joint-claim couple where a number is in residential care or a nursing home**

<sup>F613</sup>**86D.** .....

**Textual Amendments**  
**F613** Reg. 86D omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 10**

**Transitional supplement to income-based jobseeker’s allowance**

**87.**—(1) In the case of a person who, before 7th October 1996 was entitled to a special transitional addition or transitional addition in accordance with the Income Support (Transitional) Regulations 1987<sup>F614</sup>, the amount of any income-based jobseeker’s allowance payable to him shall be increased by an amount equal to those additions, but the increase shall continue to be payable only for so long as the claimant continues to satisfy the requirements imposed in those Regulations for payment of the addition.

(2) A claimant’s weekly applicable amount shall include an amount (the “protected sum”) equal to any protected sum which would have been applicable in his case under regulation 17(1)(g) or

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18(1)(h) of, and Schedules 3A and 3B to, the Income Support Regulations <sup>F615</sup> had he been entitled to income support and not a jobseeker's allowance.

(3) In the case of any person who had he been entitled to income support and not a jobseeker's allowance, would in any week have had a higher applicable amount, in accordance with regulation 17(2) to (6A) of the Income Support Regulations<sup>F616</sup>, than the amount applicable to him in accordance with regulation 82 or, as the case may be, 83 then that amount shall be substituted for the applicable amount determined under that regulation.

(4) Paragraph (5) applies to a person who, had he been entitled to income support and not a jobseeker's allowance, would have been a person to whom any of the following transitional or savings provisions would have applied—

- (a) the Income Support (General) Amendment No.3 Regulations 1993 <sup>F617</sup> ("the 1993 Regulations"), regulation 4;
- (b) the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 ("the 1995 Regulations")<sup>F618</sup>, regulation 28.

(5) Where this paragraph applies, the amount of housing costs applicable in the particular case shall be determined as if, in Schedule 2—

- (a) in a case to which regulation 4(1) of the 1993 Regulations would have applied, paragraph 10(4) to (9) was omitted;
- (b) in a case to which regulation 4(4) of the 1993 Regulations would have applied, in [<sup>F619</sup>paragraph 10(4)] for the reference to £100,000 there was substituted a reference to £150,000; and
- (c) in a case to which the 1995 Regulations apply, in [<sup>F620</sup>paragraph 10(4)] for the reference to £100,000 there was substituted a reference to £125,000.

(6) In determining for the purposes of this regulation whether, if the claimant were entitled to income support—

- (a) an amount would be applicable;
- (b) an amount would be payable; or
- (c) if an amount was payable, the rate at which it would be payable,

any requirement that the person be entitled to income support, or to income support for any period of time, shall be treated as if the reference to income support included also a reference to an income-based jobseeker's allowance.

(7) [<sup>F621</sup>For the purposes of applying paragraph (1), regulation 2A of the Income Support (Transitional) Regulations, and for the purposes of paragraph (6), regulation 3A of the Income Support Regulations shall have effect in accordance with the following sub-paragraphs—]

- (a) as if in paragraph (1)(a), after the words "permitted period", there was included the words "subject to paragraph 2A"; and
- (b) with the addition after paragraph (1) of the following paragraphs—
  - "(2A) Subject to paragraph (2B) where the claimant or his partner has ceased to be engaged in remunerative work, the permitted period shall be 8 weeks if—
  - (a) a jobseeker's allowance [<sup>F622</sup>is not payable] to the claimant in the circumstances mentioned in section 19(6)(a) or (b) of the Jobseekers Act 1995 (employment left voluntarily or lost through misconduct); or
  - (b) the claimant or his partner has ceased to be engaged in that work within 4 weeks of beginning it; or

(c) at any time during the period of 13 weeks immediately preceding the beginning of that work, the person who has ceased to be engaged in it—

- (i) was engaged in remunerative work; or
- (ii) was in relevant education; or
- (iii) was a student.

(2B) [<sup>F623</sup>Paragraph (2A)(b) or (2A)(c)] shall not apply in the case of a person who, by virtue of regulation 74 of the Jobseeker's Allowance Regulations 1996, is a person to whom section 19(6)(b) of the Jobseekers Act 1995 does not apply.

(2C) In this regulation, "remunerative work" means remunerative work for the purposes of the Jobseekers Act 1995."

[<sup>F624</sup>87A. Where the amount of a jobseeker's allowance is less than 10 pence a week that allowance shall not be payable.]

#### Textual Amendments

**F614** S.I. 1987/1969; the relevant amending instruments are S.I. 1988/521 and 1989/1626.

**F615** The relevant amending instruments are S.I. 1988/1445 and 1989/534.

**F616** The relevant amending instrument is S.I. 1988/910.

**F617** S.I. 1993/1679.

**F618** S.I. 1995/516.

**F619** Words in reg. 87(5)(b) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

**F620** Words in reg. 87(5)(c) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

**F621** Words in reg. 87(7) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **20(a)**

**F622** Words in reg. 87(2A)(a) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **20(b)**

**F623** Words in reg. 87(7) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

**F624** Reg. 87A inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **21**

## PART VIII

### INCOME AND CAPITAL

#### Chapter I

##### General

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

**88.**—(1) Subject to [<sup>F625</sup>paragraphs (2) and][<sup>F625</sup>paragraph] (3) [<sup>F626</sup>and [<sup>F625</sup>regulations][<sup>F625</sup>regulation] 88ZA (calculation of income and capital of a joint-claim couple) and][<sup>F627</sup>106 (modifications in respect of children and young persons)], the income and capital of a claimant's partner [<sup>F627</sup>and the income of a child or young person] which by virtue of section 13(2)

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is to be treated as the income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner [<sup>F627</sup>or that child or young person].

[<sup>F628</sup>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 shall not be treated as the income or capital of the claimant.]

(3) 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 [<sup>F629</sup>paragraph 1(3)(b), (c), (g) or (h)] of Schedule 1 (applicable amounts), the income of the claimant's partner shall not 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)(a) of that Schedule exceeds the amount specified in paragraph 1(3)(c) 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)(e) of that Schedule exceeds the amount which applies in that case which is specified in [<sup>F630</sup>paragraph 1(3)(g) or (h)] of that Schedule.

(4) Subject to paragraph (5), where a claimant is married polygamously to two or more members of his household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member [<sup>F631</sup>and the income of any child or young person who is one of that member's family]; and
- (b) the income and capital of that member [<sup>F632</sup>or, as the case may be, the income of that child or young person] shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant [<sup>F632</sup>or, as the case may be, as for any child or young person who is a member of his family].

(5) Where a member of a polygamous marriage is a partner aged less than 18 and the amount which applies in respect of him under regulation 84(2) (polygamous marriages) is nil, the claimant shall not be treated as possessing the income of that partner to the extent that an amount in respect of him would have been included in the applicable amount if he had fallen within the circumstances set out in regulation 84(2)(a) or (b).

### Textual Amendments

- F625** Words in [reg. 88\(1\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 6(a)(i)**
- F626** Words in [reg. 88\(1\)](#) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [reg. 1\(1\)](#), **Sch. 2 para. 36**
- F627** Words in [reg. 88\(1\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 6(a)(ii)**
- F628** [Reg. 88\(2\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 6(b)**
- F629** Words in [reg. 88\(3\)](#) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), [reg. 1\(1\)](#), **Sch. Pt. 2**
- F630** Words in [reg. 88\(3\)\(b\)](#) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), [reg. 1\(1\)](#), **Sch. Pt. 2**



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**F631** Words in [reg. 88\(4\)\(a\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 6\(c\)](#)

**F632** Words in [reg. 88\(4\)\(b\)](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 6\(d\)](#)

### [<sup>F633</sup> Calculation of income and capital of a joint-claim couple

**88ZA.**—(1) Subject to paragraphs (2) and (4), the income and capital of a joint-claim couple shall be calculated by—

- (a) determining the income and capital of each member of that couple in accordance with this Part; and
  - (b) aggregating the amount determined in respect of each member in accordance with subparagraph (a) above.
- (2) Where—
- (a) a member of a joint-claim couple is aged less than 18;
  - (b) the other member is aged over 18; and
  - (c) the applicable amount of the couple falls to be determined under paragraph 1(3)(g) or (h) of Schedule 1 (applicable amounts),

the income of the joint-claim couple shall not be aggregated to the extent that the amount specified in paragraph 1(3)(e) of that Schedule exceeds the amount which applies in that case which is specified in paragraph 1(3)(g) or (h) of that Schedule.

(3) Where a member of a joint-claim couple is married polygamously to two or more members of his household, the joint-claim couple shall be treated as possessing income and capital belonging to each such member and the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for each member of the joint-claim couple.

(4) Regulations 99(2) and 101(2) in so far as they relate to paragraphs 5, 7, 8 and 11 of Schedule 6 (earnings to be disregarded) shall not apply to a member of a joint-claim couple but there shall instead be disregarded from the net earnings of a member of a joint-claim couple any sum, where applicable, specified in—

- (a) paragraphs 1 to 4 and 13 to 16 of Schedule 6; and
- (b) paragraphs 1 to 6 of Schedule 6A.]

#### Textual Amendments

**F633** [Reg. 88ZA](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [Sch. 2 para. 37](#)

### [<sup>F634</sup> Income of participants in the self-employment route <sup>F635</sup> ...

**88A.** Chapters II, III, IV, V, VII and VIII of this Part and regulations 131 to 136, 138 and 139 shall not apply to any income which is to be calculated in accordance with Chapter IVA of this Part (participants in the self-employment route<sup>F636</sup> ...).]

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**Textual Amendments**

- F634** Reg. 88A added (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), **3(3)**
- F635** Words in reg. 88A Title omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(a)**
- F636** Words in reg. 88A omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(a)**

**[<sup>F637</sup> child maintenance or] Liable relative payments**

**89.** Regulations 94 to [<sup>F638</sup>106][<sup>F638</sup>105], 108 to 115 and Chapter IX of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof ([<sup>F639</sup> child maintenance and liable relative payments] ).

**Textual Amendments**

- F637** Words in [reg. 89 heading](#) heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), **reg. 3(2)(a)**
- F638** Word in [reg. 89](#) substituted (for specified purposes and with effect in accordance with reg. 1(6) (7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 7**
- F639** Words in [reg. 89](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), **reg. 3(3)**

**Child support**

<sup>F640</sup>**90.** . . . . .

**Textual Amendments**

- F640** [Reg. 90](#) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), **reg. 3(4)(a)**

**Calculation of income and capital of full-time students**

**91.** The provisions of Chapters II to VI of this Part (income and capital) shall have effect in relation to full-time students and their partners subject to the modifications set out in Chapter IX thereof (full-time students).

**Rounding of fractions**

**92.** Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant's advantage, be treated as a penny, otherwise it shall be disregarded.

## Chapter II

### Income

#### Calculation of income

**93.**—(1) For the purposes of [<sup>F641</sup>sections 3(1) (the income-based conditions) and 3A(1) (the conditions for claims by joint-claim couples)] (the income-based conditions) the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI, the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 116 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes capital treated as income under regulation 104 and income which a claimant is treated as possessing under regulation 105 (notional income).

#### Textual Amendments

**F641** Words in [reg. 93\(1\)](#) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 38](#)

#### Calculation of earnings derived from employed earner's employment and income other than earnings

**94.**—(1) Earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account over a period determined in accordance with the following paragraphs and at a weekly amount determined in accordance with regulation 97 (calculation of weekly amount of income).

(2) Subject to the following provisions of this regulation, the period over which a payment is to be taken into account shall be—

- [<sup>F642</sup>(a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;
- (aa) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;]
- (b) in any other case, a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the net earnings, or in the case of income which does not consist of earnings, the amount of that income less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings), by the amount of jobseeker's allowance which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 6 [<sup>F643</sup>and Schedule 6A] (sums to be disregarded in the calculation of earnings) or, as the case may be, any paragraph of Schedule 7 other than paragraph 1 of that Schedule, as is appropriate in the claimant's case, and that period shall begin on the date on which the payment is treated as paid under regulation 96.

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[<sup>F644</sup>(2A) The period over which a Career Development Loan, which is paid pursuant to section 2 of the Employment and Training Act 1973, shall be taken into account shall be the period of education and training intended to be supported by that loan.

(2B) Where grant income as defined in Chapter IX of this Part has been paid to a person who ceases to be a full-time student before the end of the period in respect of which that income is payable and, as a consequence, the whole or part of that income falls to be repaid by that person, that income shall be taken into account over the period beginning on the date on which that income is treated as paid under regulation 96 and ending—

(a) on the date on which repayment is made in full; or

[ where the grant is paid in instalments, on the day before the next instalment would have  
<sup>F645</sup>(aa) been paid had the claimant remained a student; or]

(b) on the last date of the academic term or vacation during which that person ceased to be a full-time student,

whichever shall first occur.]

(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

(a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;

(b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 96 (date on which income is treated as paid).

(4) In a case to which paragraph (3) applies, earnings under regulation 98 (earnings of employed earners) shall be taken into account in the following order of priority—

(a) earnings normally derived from the employment;

(b) any compensation payment;

(c) any holiday pay.

(5) Where earnings to which regulation 98(1)(b) or (c) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.

(6) Subject to paragraph (7), the period over which a compensation payment is to be taken into account shall be the period beginning on the date on which the payment is treated as paid under regulation 96 (date on which income is treated as paid) and ending—

(a) subject to sub-paragraph (b), where the person who made the payment represents that it, or part of it, was paid in lieu of notice of termination of employment or on account of the early termination of a contract of employment for a term certain, on the expiry date;

(b) in a case where the person who made the payment represents that it, or part of it, was paid in lieu of consultation under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>F646</sup>, on the later of—

(i) the date on which the consultation period under that section would have ended;

(ii) in a case where sub-paragraph (a) also applies, the expiry date; or

(iii) the standard date;

(c) in any other case, on the standard date.

(7) The maximum length of time over which a compensation payment may be taken into account under paragraph (6) is 52 weeks from the date on which the payment is treated as paid under regulation 96.

(8) In this regulation—

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- (a) "compensation payment" means any payment to which paragraph (3) of regulation 98 (earnings of employed earners) applies;
- (b) "the expiry date" means in relation to the termination of a person's employment—
  - (i) the date on which any period of notice applicable to the person was due to expire, or would have expired had it not been waived; and for this purpose "period of notice" means the period of notice of termination of employment to which a person is entitled by statute or by contract, whichever is the longer, or, if he is not entitled to such notice, the period of notice which is customary in the employment in question; or
  - (ii) subject to paragraph (9), where the person who made the payment represents that the period in respect of which that payment is made is longer than the period of notice referred to in head (i) above, the date on which that longer period is due to expire; or
  - (iii) where the person had a contract of employment for a term certain, the date on which it was due to expire;
- (c) "the standard date" means the earlier of—
  - (i) the expiry date; and
  - (ii) the last day of the period determined by dividing the amount of the compensation payment by the maximum weekly amount which, on the date on which the payment is treated as paid under regulation 96, is specified in [<sup>F647</sup>section 227(1) of the Employment Rights Act 1996], and treating the result (less any fraction of a whole number) as a number of weeks.

(9) For the purposes of paragraph (8), if it appears to [<sup>F648</sup>the Secretary of State] in a case to which sub-paragraph (b)(ii) of that paragraph applies that, having regard to the amount of the compensation payment and the level of remuneration normally received by the claimant when he was engaged in the employment in respect of which the compensation payment was made, it is unreasonable to take the payment into account until the date specified in that sub-paragraph, the expiry date shall be the date specified in paragraph (8)(b)(i).

(10) For the purposes of this regulation the claimant's earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V respectively of this Part.

#### Textual Amendments

- F642** Reg. 94(2)(a)(aa) substituted for reg. 94(2)(a) (14.4.2008) by The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(10)**
- F643** Words in reg. 94(2)(b) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 39**
- F644** Reg. 94(2A)(2B) inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), reg. 1(1)(2), **5(2)**
- F645** Reg. 94(2B)(aa) inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1, **12**
- F646** 1992 c.52. Section 188 was amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (S.I. 1995/2587).
- F647** Words in reg. 94(8)(c)(ii) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(7)**
- F648** Words in reg. 94(9) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**

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## Calculation of earnings of self-employed earners

**95.**—(1) Except where paragraph (2) applies, where a claimant's income consists of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of one year; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of [<sup>F649</sup>any items to which paragraph (2A) applies] those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of jobseeker's allowance which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 6 [<sup>F650</sup>and Schedule 6A] (earnings to be disregarded) as is appropriate in the claimant's case.

[<sup>F651</sup>(2A) This paragraph applies to—

- (a) royalties;
- (b) sums paid periodically for or in respect of any copyright;
- (c) payments in respect of any book registered under the Public Lending Right Scheme 1982.]

(3) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with Chapter IV of this Part.

### Textual Amendments

**F649** Words in [reg. 95\(2\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [reg. 4\(11\)\(a\)](#)

**F650** Words in [reg. 95\(2\)](#) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 40](#)

**F651** [Reg. 95\(2A\)](#) inserted (for specified purposes and with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), [reg. 4\(11\)\(b\)](#)

## Date on which income is treated as paid

**96.**—(1) Except where paragraph [<sup>F652</sup>(2) to (4) apply], a payment of income to which regulation 94 (calculation of earnings derived from employed earner's employment and income other than earnings) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

(2) Income support, maternity allowance, short-term or long-term incapacity benefit, severe disablement allowance [<sup>F653</sup>, jobseeker's allowance or employment and support allowance] shall be treated as paid on the day of the benefit week in respect of which it is payable.

[<sup>F654</sup>(3) [<sup>F655</sup>Subject to paragraph (4), working tax credit] shall be treated as paid—

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- (a) where the award of that tax credit begins on the first day of a benefit week, on that day, or
- (b) on the first day of the benefit week that follows the date the award begins, <sup>F656</sup>...

<sup>F656</sup>(c) .....

until the last day of the last benefit week that coincides with or immediately follows the last day for which the award of that tax credit is made.]

[<sup>F657</sup>(4) Where working tax credit is paid by virtue of regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.]

**Textual Amendments**

**F652** Words in reg. 96(1) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(4)(a)**

**F653** Words in reg. 96(2) substituted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(14)**

**F654** Reg. 96(3) substituted (8.8.2003) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) (No. 3) Regulations 2003 (S.I. 2003/1731), regs. 1(1), **4**

**F655** Words in reg. 96(3) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(4)(b)(i)**

**F656** Reg. 96(3)(c) and word omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(4)(b)(ii)**

**F657** Reg. 96(4) added (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(4)(c)**

**Calculation of weekly amount of income**

97.—(1) For the purposes of regulation 94 (calculation of earnings derived from employed earner’s employment and income other than earnings) [<sup>F658</sup>and regulation 96(3) (date on which income is treated as paid)], subject to paragraphs (2) to [<sup>F659</sup>(7)], where the period in respect of which a payment [<sup>F658</sup>of income or tax credit] is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
  - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
  - [<sup>F660</sup>(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;
  - (iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;]
  - (iv) in any other case by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

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(2) Where a payment for a period not exceeding a week is treated under regulation 96(1)(a) (date on which income is treated as paid) as paid before the first benefit week and a part is to be taken into account for some days only in that week ("the relevant days"), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week ("the relevant days"), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) in the case of a payment of—

- (a) maternity allowance, short-term or long-term incapacity benefit or severe disablement allowance, the amount to be taken into account for the relevant days shall be the amount of benefit payable in respect of those days;
- (b) jobseeker's allowance<sup>F661</sup>, income support or employment and support allowance], the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven.

(5) Except in the case of a payment which it has not been practicable to treat under regulation 96(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 96(1)(b) (date on which income is treated as paid) is treated as paid first.

(6) Where the amount of the claimant's income fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, the foregoing paragraphs may be modified so that the weekly amount of his income is determined by reference to his average weekly income—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of five weeks or such other period as may, in the particular case, enable the claimant's average weekly income to be determined more accurately.

<sup>F662</sup>(7) Where income is taken into account under paragraph (2B) of regulation 94 over the period specified in that paragraph, the amount of that income to be taken into account in respect of any week in that period shall be an amount equal to the amount of that income which would have been taken into account under regulation 131 had the person to whom that income was paid not ceased to be a full-time student.]

#### Textual Amendments

**F658** Words in reg. 97(1) inserted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), 4(5)(a)

**F659** Word in reg. 97(1) substituted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), 2(11)

**F660** Reg. 97(1)(b)(iii)(iia) substituted for reg. 97(1)(b)(iii) (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), 4(5)(b)



**F661** Words in reg. 97(4)(b) substituted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(15)**

**F662** Reg. 97(7) inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), reg. 1(1)(2), **6(2)**

### Chapter III

#### Employed Earners

#### Earnings of employed earners

**98.**—(1) Subject to paragraphs (2) and (3), "earnings" means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes —

- (a) any bonus or commission;
  - (b) any compensation payment;
  - (c) any holiday pay except any payable more than four weeks after the termination or interruption of employment but this exception shall not apply to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes);
  - (d) any payment by way of a retainer;
  - (e) any payment made by the claimant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant's employer in respect of—
    - (i) travelling expenses incurred by the claimant between his home and place of employment;
    - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant's absence from home;
  - <sup>F663</sup>(f) any payment or award of compensation made under section <sup>F664</sup>112(4), 113, 117(3) (a), 128, 131 and 132 of the Employment Rights Act 1996 (the remedies: orders and compensation, the orders, enforcement of order and compensation, interim relief)];
  - (ff) any payment or remuneration made under section <sup>F665</sup>28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals)];
  - (g) any award of compensation made under section 156, <sup>F666</sup>...161 to 166, 189 or 192 of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>F667</sup> (compensation for unfair dismissal or redundancy on grounds of involvement in trade union activities, and protective awards).
  - <sup>F668</sup>(h) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with <sup>F669</sup>Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001].]
- (2) "Earnings" shall not include—
- (a) <sup>F670</sup>subject to paragraph (2A),] any payment in kind;
  - (b) any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;

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- (c) any remuneration paid by or on behalf of an employer to the claimant in respect of a period throughout which the claimant is on maternity leave<sup>[F671]</sup>, paternity leave, adoption leave] or is absent from work because he is ill;
  - (d) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (e) any occupational pension;
  - (f) any redundancy payment within the meaning of <sup>[F672]</sup>section 135(1) of the Employment Rights Act 1996].
  - <sup>[F673]</sup>(g) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme]
- <sup>[F674]</sup>(2A) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(h).]
- (3) In this regulation “compensation payment” means any payment made in respect of the termination of employment other than—
- (a) any remuneration or emolument (whether in money or in kind) which accrued in the period before the termination;
  - (b) any holiday pay;
  - (c) any payment specified in paragraphs (1)(f)<sup>[F675]</sup>, (ff),] or (g) or (2);
  - (d) any refund of contributions to which that person was entitled under an occupational pension scheme.

#### Textual Amendments

- F663** Reg. 98(1)(f)(ff) substituted for reg. 98(1)(f) (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **22(1)**
- F664** Words in reg. 98(1)(f) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(8)(a)(i)**
- F665** Words in reg. 98(1)(ff) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(8)(a)(ii)**
- F666** Word in reg. 98(1)(g) omitted (1.10.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(8)(a)(iii)**
- F667** 1992 c.52.
- F668** Reg. 98(1)(h) added (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security Amendment \(Non-Cash Vouchers\) Regulations 1999 \(S.I. 1999/1509\)](#), regs. 1(1), **2(6)(a)**
- F669** Words in reg. 98(1)(h) substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **13(5)**
- F670** Words in reg. 98(2)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security Amendment \(Non-Cash Vouchers\) Regulations 1999 \(S.I. 1999/1509\)](#), regs. 1(1), **2(6)(b)**
- F671** Words in reg. 98(2)(c) inserted (8.12.2002) by [The Social Security \(Paternity and Adoption\) Amendment Regulations 2002 \(S.I. 2002/2689\)](#), regs. 1(1)(b), **3(5)**
- F672** Words in reg. 98(2)(f) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(8)(b)**
- F673** Reg. 98(2)(g) inserted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(12)**
- F674** Reg. 98(2A) added (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security Amendment \(Non-Cash Vouchers\) Regulations 1999 \(S.I. 1999/1509\)](#), regs. 1(1), **2(6)(c)**
- F675** Word in reg. 98(3)(c) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **22(2)**

### Calculation of net earnings of employed earners

**99.**—(1) For the purposes of regulation 94 (calculation of earnings of employed earners) the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) Subject to paragraph (3), there shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 and 19 of Schedule 6.

(3) For the purposes of calculating the amount to be deducted in respect of earnings under regulation 80 (contribution-based jobseeker's allowance: deductions in respect of earnings) the disregards specified in paragraphs 5 to 8 and 11 of Schedule 6 shall not apply.

(4) For the purposes of paragraph (1) net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions payable under the Benefits Act; and
- (b) one-half of any sum paid by the claimant in respect of a pay period by way of a contribution towards an occupational or personal pension scheme.

### Chapter IV

#### Self-Employed Earners

### Earnings of self-employed earners

**100.**—(1) Subject to paragraph (2), "earnings", in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance paid under any scheme referred to in regulation 19(1)(r) (circumstances in which a person is to be treated as actively seeking employment: schemes for assisting persons to become self-employed earners) to the claimant for the purpose of assisting him in carrying on his business.

(2) "Earnings" shall not include—

- (a) where a claimant is involved in providing board and lodging accommodation for which a charge is payable, any payment by way of such a charge;
- (b) any payment to which paragraph 27 or 28 of Schedule 7 refers (payments in respect of a person accommodated with the claimant under an arrangement made by a local authority or voluntary organisation, and payments made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant's care).

[<sup>F676</sup>(c) any sports award.]

#### Textual Amendments

**F676** Reg. 100(2)(c) added (23.8.1999) by [The Social Security Amendment \(Sports Awards\) Regulations 1999 \(S.I. 1999/2165\)](#), regs. 1(1), **7(3)**

### Calculation of net profit of self-employed earners

**101.**—(1) For the purposes of regulation 95 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

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- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
  - (b) in the case of a self-employed earner whose employment is carried on in partnership, or is that of a share fisherman within the meaning of regulation 156, his share of the net profit derived from that employment less—
    - (i) an amount in respect of income tax and of social security contributions payable under the Benefits Act calculated in accordance with regulation 102 (deduction of tax and contributions for self-employed earners); and
    - (ii) one half of any premium paid in the period that is relevant under regulation 95 in respect of a personal pension scheme.
- (2) Subject to paragraph (3), there shall be disregarded from a claimant's net profit any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 6.
- (3) For the purposes of calculating the amount to be deducted in respect of earnings under regulation 80 (contribution-based jobseeker's allowance: deductions in respect of earnings) the disregards in paragraphs 5 to 8 and 11 of Schedule 6 shall not apply.
- (4) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (10) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 95 (calculation of earnings of self-employed earners) less—
- (a) subject to paragraphs (6) to (8), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
  - (b) an amount in respect of—
    - (i) income tax; and
    - (ii) social security contributions payable under the Benefits Act, calculated in accordance with regulation 102 (deductions of tax and contributions for self-employed earners); and
  - (c) one-half of any premium paid in the period that is relevant under regulation 95 in respect of a personal pension scheme.
- (5) For the purposes of paragraph (1)(b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 95 less, subject to paragraphs (6) to (8), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.
- (6) Subject to paragraph (7), no deduction shall be made under paragraph (4)(a) or (5) in respect of—
- (a) any capital expenditure;
  - (b) the depreciation of any capital asset;
  - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
  - (d) any loss incurred before the beginning of the period determined under regulation 95;
  - (e) the repayment of capital on any loan taken out for the purposes of the employment;
  - (f) any expenses incurred in providing business entertainment.
- (7) A deduction shall be made under paragraph (4)(a) or (5) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; and
  - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(8) [<sup>F677</sup>The Secretary of State] shall refuse to make a deduction under paragraph (4)(a) or (5) in respect of any expenses where he is not satisfied that the expense has been defrayed or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(9) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (4)(a) or (5) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—
  - (i) the excess of any VAT paid over VAT received in the period determined under regulation 95;
  - (ii) any income expended in the repair of an existing asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(10) Where a claimant is engaged in employment as a child-minder the net profit of the employment shall be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the Benefits Act, calculated in accordance with regulation 102 (deductions of tax and contributions for self-employed earners); and
- (b) one half of any premium paid in the period that is relevant under regulation 95 in respect of a personal pension scheme.

(11) Notwithstanding regulation 95 and the foregoing paragraphs, [<sup>F678</sup>the Secretary of State] may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 95 such as may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.

(12) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is engaged in one or more other employments as a self-employed or employed earner, any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

#### Textual Amendments

**F677** Words in reg. 101(8) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

**F678** Words in reg. 101(11) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

#### Deduction of tax and contributions for self-employed earners

**102.**—(1) The amount to be deducted in respect of income tax under regulation 101(1)(b)(i), (4)(b)(i) or (10)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the [<sup>F679</sup>starting rate] or, as the case may be, the [<sup>F679</sup>starting rate] and the basic rate of tax less only the [<sup>F680</sup>personal allowance] to which the claimant is entitled under [<sup>F681</sup>section 257(1)] of the Income and Corporation Taxes Act 1988 [<sup>F682</sup>(<sup>F680</sup>personal allowance)] as is appropriate to his circumstances; but,

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if the period determined under regulation 95 is less than a year, the earnings to which the [<sup>F679</sup>starting rate] of tax is to be applied and the amount of the [<sup>F680</sup>personal allowance] deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 101(1)(b)(i), (4)(b)(ii) or (10)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Benefits Act at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the period determined under regulation 95 is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but if the period determined under regulation 95 is less than a year, those limits shall be reduced pro rata.

(3) In this regulation "chargeable income" means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (4)(a) or, as the case may be, (5), of regulation 101;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

#### Textual Amendments

- F679** Words in reg. 102(1) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(9)**
- F680** Words in reg. 102(1) substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **3(3)(a)**
- F681** Words in reg. 102(1) substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **3(3)(b)**
- F682** 1988 c.1; sections 257 to 257F were substituted for section 257 by section 33 of the [Finance Act 1988 \(c.39\)](#); section 259 was amended by sections 30 and 35 of the Finance Act 1988, section 20 of the [Finance \(No.2\) Act 1992 \(c.48\)](#), and section 77 and Schedule 8, paragraph 6 of the [Finance Act 1994 \(c.9\)](#).

### <sup>F683</sup> Chapter IVA

#### *Participants in the Self-Employment Route* <sup>F684</sup> ...

#### Textual Amendments

- F683** Pt. 8 Ch. 4A added (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), **3(4)**
- F684** Words in Pt. 8 Ch. 4A Title omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(c)**

#### Interpretation

**102A.** In this Chapter—

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F685  
...

“special account” means, where a person was carrying on a commercial activity in respect of which assistance was received under the self-employment route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

#### Textual Amendments

**F685** Words in reg. 102A omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), [reg. 5\(2\)\(b\)](#)

#### Modifications etc. (not altering text)

**C15** Reg. 102A modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), [regs. 1\(1\)](#), [18\(1\)](#) (with [regs. 1\(2\)](#), 11, 19)

**C16** Reg. 102A modified (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), [regs. 1\(1\)\(b\)](#), [18\(1\)\(a\)](#)

### Treatment of gross receipts of participants in the self-employment route <sup>F686</sup>...

**102B.** The gross receipts of a commercial activity carried on by a person in respect of which assistance is received under the self-employment route, shall be taken into account in accordance with the following provisions of this Chapter.

#### Textual Amendments

**F686** Words in reg. 102B Title omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), [regs. 1\(1\)](#), [5\(2\)\(c\)](#)

### Calculation of income of participants in the self-employment route <sup>F687</sup>...

**102C.**—(1) The income of a person who has received assistance under the self-employment route shall be calculated by taking into account the whole of the monies in the special account at the end of the last day upon which such assistance was received and deducting from those monies—

- (a) an amount in respect of income tax calculated in accordance with regulation 102D (deduction in respect of tax for participants in the self-employment route <sup>F688</sup>...; and
- (b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) shall be apportioned equally over a period which starts on the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with the day upon which assistance was first received under the self-employment route and ending on the last day upon which such assistance was received.

(3) Income calculated pursuant to paragraph (1) shall be treated as paid—

- (a) in the case where it is due to be paid before the first benefit week in respect of which the participant or his partner [<sup>F689</sup>or, in the case of a joint-claim couple, the participant and the other member of the couple of which the participant is a member,] first claims a jobseeker's allowance following the last day upon which assistance was received under the self-employment route, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid.

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(4) This paragraph refers, where applicable in each benefit week in respect of which income calculated pursuant to paragraph (1) is taken into account pursuant to paragraphs (2) and (3), to the sums which would have been disregarded under paragraphs 5 to 8, 11 and 12 of Schedule 6 [F690 or paragraphs 1, 2, 5 and 6 of Schedule 6A] had the income been earnings.

#### Textual Amendments

- F687** Words in reg. 102C Title omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), regs. 1(1), **5(2)(c)**
- F688** Words in reg. 102C(1)(a) omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(c)**
- F689** Words in reg. 102C(3)(a) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 41(a)**
- F690** Words in reg. 102C(4) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 41(b)**

#### Deduction in respect of tax for participants in the self-employment route<sup>F691</sup> ...

**102D.**—(1) The amount to be deducted in respect of income tax under regulation 102C(1)(a) (calculation of income of participants in the self-employment route<sup>F692</sup> ...) in respect of the period determined under regulation 102C(2) shall be calculated as if—

- (a) the chargeable income is the only income chargeable to tax;
- (b) the [F693 personal allowance] which are applicable to the person receiving assistance under the self-employment route by virtue of [F694 section 257(1)] of the Income and Corporation Taxes Act 1988 ([F693 personal allowance]) are allowable against that income; and
- (c) the rate at which the chargeable income less the [F693 personal allowance] is assessable to income tax is the [F695 starting rate] of tax or, as the case may be, the [F695 starting rate] and the basic rate of tax.

(2) For the purpose of paragraph (1), the [F696 starting rate] of tax to be applied and the amount of the [F693 personal allowance] deductible shall, where the period determined under regulation 102C(2) is less than a year, be calculated on a pro rata basis.

(3) In this regulation, “chargeable income” means the monies in the special account at the end of the last day upon which assistance was received under the self-employment route.]

#### Textual Amendments

- F691** Words in reg. 102D Title omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(c)**
- F692** Words in reg. 102D(1) omitted (27.11.2000) by virtue of [The Social Security Amendment \(Employment Zones\) \(No. 2\) Regulations 2000 \(S.I. 2000/2910\)](#), **reg. 5(2)(c)**
- F693** Words in reg. 102D substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **3(3)(a)**
- F694** Words in reg. 102D substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **3(3)(b)**
- F695** Words in reg. 102D(1)(c) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(10)**
- F696** Words in reg. 102D(2) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(10)**



Chapter V  
Other Income

Calculation of income other than earnings

103.—(1) For the purposes of regulation 94 (calculation of income other than earnings) the income of a claimant which does not consist of earnings to be taken into account shall, subject to the following provisions of this regulation, be his gross income and any capital treated as income under [F697]regulations 104 and 106 (capital treated as income and modifications in respect of children and young persons)[[F697]regulation 104 (capital treated as income)].

(2) There shall be disregarded from the calculation of a claimant’s gross income under paragraph (1) any sum, where applicable, specified in Schedule 7.

(3) Where the payment of any benefit under the Act or under the Benefits Act is subject to any deduction by way of recovery, the amount to be taken into account under paragraph (1) shall be the gross amount to which the beneficiary is entitled.

[F698](4) .....

[F699](5) [F700]Paragraphs (5ZA) and (5AZA) apply] where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(5ZA) [F701]Where a relevant payment is made quarterly, the] amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (5) applies, shall be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under regulation 136(5);

B = the number of benefit weeks from the benefit week immediately following that which includes the first day of that academic year to the benefit week immediately before that which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 136(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a jobseeker’s allowance immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to a jobseeker’s allowance;

D = the number of benefit weeks in the assessment period.

[F702](5AZA) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (5) applies, shall be calculated by applying the formula in paragraph (5ZA) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 136(5).]

(5ZB) [F703]In this regulation]—

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“academic year” and “student loan” shall have the same meanings as for the purposes of Chapter IX of this Part;

[<sup>F704</sup>“assessment period” means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,
 whichever of those dates is earlier;]

[<sup>F705</sup>“quarter” in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;]

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 131(5A) or both.]

[<sup>F706</sup>(5A) In the case of income to which regulation 94(2B) applies (calculation of income of former full-time students), the amount of income to be taken into account for the purposes of paragraph (1) shall be the amount of that income calculated in accordance with regulation 97(7) and on the basis that none of that income has been repaid.]

[<sup>F707</sup>(5B) Where the claimant—

- (a) is a member of a couple;
- (b) his partner is receiving a contributory employment and support allowance; and
- (c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations,

the amount of that benefit to be taken into account is the amount as if it had not been reduced.]

(6) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)

- [<sup>F708</sup>(a) any payment to which regulation 98(2)(a) to (e) or 100(2) (payments not earnings) applies; or
- (b) in the case of a claimant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the claimant and his [<sup>F709</sup>dependants][<sup>F709</sup>partner] (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.]

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### Textual Amendments

- F697** Words in [reg. 103\(1\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), [Sch. 2 para. 8\(a\)](#)
- F698** [Reg. 103\(4\)](#) omitted (4.4.2005) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2005](#) (S.I. 2005/574), [regs. 1\(1\), 6\(3\)](#)
- F699** [Reg. 103\(5\)\(5ZA\)\(5ZB\)](#) substituted for [reg. 103\(5\)](#) (1.8.2001) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001](#) (S.I. 2001/2319), [regs. 1\(1\)\(a\), 5\(2\)](#)
- F700** Words in [reg. 103\(5\)](#) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [regs. 1\(3\)\(a\)\(b\), 4\(2\)\(a\)](#)
- F701** Words in [reg. 103\(5ZA\)](#) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [reg. 4\(2\)\(b\)](#)
- F702** Words in [reg. 103\(5AZA\)](#) inserted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [reg. 4\(2\)\(c\)](#),
- F703** Words in [reg. 103\(5ZB\)](#) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [reg. 4\(2\)\(c\)\(d\)\(i\)](#),
- F704** Words in [reg. 103\(5ZB\)](#) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [reg. 4\(2\)\(c\)\(d\)\(ii\)](#),
- F705** Words in [reg. 103\(5ZB\)](#) inserted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008](#) (S.I. 2008/1599), [reg. 4\(2\)\(c\)\(d\)\(iii\)](#),
- F706** [Reg. 103\(5A\)](#) inserted (for specified purposes and with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997](#) (S.I. 1997/65), [reg. 1\(1\)\(2\), 7\(2\)](#)
- F707** [Reg. 103\(5B\)](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008](#) (S.I. 2008/1554), [regs. 1\(2\)\(b\), 3\(16\)](#)
- F708** [Reg. 103\(6\)\(a\)\(b\)](#) substituted for words (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000](#) (S.I. 2000/636), [regs. 1\(2\), 4\(4\)](#)
- F709** Word in [reg. 103\(6\)\(b\)](#) substituted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), [Sch. 2 para. 8\(b\)](#)

### Capital treated as income

**104.**—(1) Any capital payable by instalments which are outstanding on the first day in respect of which an income-based jobseeker's allowance is payable, or, in the case of a <sup>[F710]</sup>suppression], the date of that <sup>[F710]</sup>suppression], shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI of this Part exceeds <sup>F711</sup>... <sup>[F712]</sup>£16,000] be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) <sup>[F713]</sup>In the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment under <sup>[F714]</sup>section 17, 23B, 23C or 24A of the Children Act 1989<sup>[F715]</sup> or, as the case may be, <sup>[F716]</sup>section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995<sup>[F717]</sup> (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) shall be treated as income.]

(4) Any earnings to the extent that they are not a payment of income shall be treated as income.

<sup>[F718]</sup>(5) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 shall be treated as income.]

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[<sup>F719</sup>(6) Where an agreement or court order provides that payments shall be made to the claimant in consequence of any personal injury to the claimant and that such payments are to be made, wholly or partly, by way of periodical payments, any such periodical payments received by the claimant (but not a payment which is treated as capital by virtue of this Part), shall be treated as income.]

**Textual Amendments**

- F710** Words in reg. 104(1) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 5**
- F711** Words in reg. 104(1) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(2)**
- F712** Words in reg. 104(1) inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **3(2)**
- F713** [Reg. 104\(3\)](#) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 9**
- F714** Words in reg. 104(3) substituted (1.10.2001) by [The Children \(Leaving Care\) Act 2000 \(Commencement No. 2 and Consequential Provisions\) Order 2001 \(S.I. 2001/3070\)](#), art. 3(1), **Sch. 4 (c)(i)**
- F715** 1989 c.41.
- F716** Words in reg. 104(3) substituted (12.5.2004) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2004 \(S.I. 2004/1141\)](#), regs. 1(1), **5**
- F717** 1968 c.49.
- F718** [Reg. 104\(5\)](#) added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **3(3)(f)**
- F719** [Reg. 104\(6\)](#) added (28.10.2002) by [The Social Security Amendment \(Personal Injury Payments\) Regulations 2002 \(S.I. 2002/2442\)](#), regs. 1(1), **2(d)**

**Notional income**

**105.—(1)** A claimant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to, or increasing the amount of, income support.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;

[<sup>F720</sup>(c) [<sup>F721</sup>child benefit to which paragraph (2A) refers;]]

- (d) [<sup>F722</sup>working tax credit or child tax credit];
- (e) a jobseeker's allowance;

[<sup>F723</sup>(f) .....

(g) a personal pension scheme [<sup>F724</sup>[<sup>F725</sup>, occupational pension scheme or a payment made by the Board of the Pension Protection Fund]] where the claimant is aged under 60; [<sup>F726</sup>or ]

[<sup>F727</sup>(h) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a);

(ha) any sum to which paragraph 43(a) of Schedule 8 refers; or]

(i) rehabilitation allowance made under section 2 of the Employment and Training Act 1973, income which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

[<sup>F728</sup>(2A) [<sup>F729</sup>This paragraph refers to child benefit payable in accordance with regulation 2(1)(a)(ii) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 (weekly rate for only, elder or eldest child of a lone parent) but only to the extent that it exceeds the amount specified in regulation 2(1)(a)(i) of those Regulations.]]

[<sup>F730</sup>(2B) A claimant who has attained the age of 60 shall be treated as possessing—

(a) the amount of any income from an occupational pension scheme [<sup>F731</sup>a personal pension scheme or the Board of the Pension Protection Fund] —

(i) for which no claim has been made, and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer, but only from the date on which it could be expected to be acquired were an application for it to be made.]

[<sup>F732</sup>(3) This paragraph applies where a person aged not less than 60—

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

(3A) Where paragraph (3) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.]

(4) The amount of any income foregone in a case [<sup>F733</sup>where paragraph (3)(c)(i) or (ii)] applies shall be the maximum amount of income which may be withdrawn from the fund and shall be determined by [<sup>F734</sup>the Secretary of State] who shall take account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations 1987<sup>F735</sup>.

(5) The amount of any income foregone in a case [<sup>F736</sup>where paragraph (3)(c)(iii)] applies shall be the income that the claimant could have received without purchasing an annuity had the fund held under the relevant [<sup>F737</sup>occupational or personal pension scheme been held under a scheme] where income withdrawal was available and shall be determined in the manner specified in paragraph (4).

[<sup>F738</sup>(5A) In paragraph (3), “money purchase benefits” has the meaning it has in the Pension Schemes Act 1993.]

(6) Subject to paragraph (7), any income which is due to be paid to the claimant but has not been paid to him, shall be treated as possessed by the claimant.

(7) Paragraph (6) shall not apply to—

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- (a) any amount to which paragraph (8) or (9) applies;
  - (b) a payment to which section 74(2) or (3) of the Administration Act applies (abatement of prescribed payments from public funds which are not made before the prescribed date, and abatement from prescribed benefits where maintenance not paid); and
  - (c) a payment from a discretionary trust, or a trust derived from a payment made in consequence of a personal injury.
- [<sup>F739</sup>(d) any earnings which are due to an employed earner on the termination of his employment by reason of redundancy but which have not been paid to him.]
- (8) This paragraph applies to an amount which is due to be paid to the claimant under an occupational pension scheme but which is not paid because the trustees or managers of the scheme have suspended or ceased payment due to an insufficiency of resources.
- (9) This paragraph applies to any amount by which a payment made to the claimant from an occupational pension scheme falls short of the payment to which he was due under the scheme where the shortfall arises because the trustees or managers of the scheme have insufficient resources available to them to meet in full the scheme's liabilities.
- (10) [<sup>F740</sup>Any payment of income, other than a payment of income specified in paragraph (10A) —
- (a) to a third party in respect of a single claimant or in respect of a single claimant or [<sup>F741</sup>in respect of a member of the family][<sup>F741</sup>his partner] shall be treated—
    - (i) in a case where that payment is derived from a payment of any benefit under the [<sup>F742</sup>benefit Acts, a payment from the Armed Forces and Reserve Forces Compensation Scheme, a war disablement pension, war widow's pension or war widower's pension or a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown], as possessed by that single claimant, if it would normally be paid to him, or as possessed [<sup>F743</sup>by that member of the family, if it would normally be paid to that member][<sup>F743</sup>by his partner, if it would normally be paid to his partner];
    - [<sup>F744</sup>(ia) in a case where that payment is a payment of an occupational pension [<sup>F745</sup>, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund], as possessed by that single claimant or, as the case may be, by [<sup>F746</sup>that member][<sup>F746</sup>the claimant's partner];
    - (ii) in any other case, as possessed by that single claimant [<sup>F747</sup>or by that member of the family][<sup>F747</sup>or his partner] to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f)[<sup>F748</sup>, 84(1)(g), 86A(d) or 86B(e)], of that single claimant or, as the case may be, [<sup>F747</sup>of any member of the family][<sup>F747</sup>of his partner], or is used for any council tax or water charges for which that claimant or [<sup>F747</sup>member is liable][<sup>F747</sup>partner is liable];
  - (b) [<sup>F749</sup>to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case may be, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner;]

but, except where sub-paragraph (a)(i) applies and in the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), this paragraph shall not apply to any payment in kind [<sup>F750</sup>to the third party].

- [<sup>F751</sup>(10A) Paragraph (10) shall not apply in respect of a payment of income made—
- (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living [<sup>F752</sup>Fund (2006)];
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal); or
  - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii);
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii); or
    - [<sup>F754</sup>... in the Intensive Activity Period specified in regulation 75(1)(a)(iv); or]
    - <sup>F753</sup>(*ia*)
    - (iii) in a qualifying course within the meaning specified in regulation 17A(7).]
- [<sup>F755</sup>(d) under an occupational pension scheme [<sup>F756</sup>, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund] where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980 F6;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and [<sup>F757</sup>any member of his family][<sup>F757</sup>his partner (if any)] does not possess, or is not treated as possessing, any other income apart from that payment;]
- (11) Where the claimant [<sup>F758</sup>resides in a care home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital], any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant [<sup>F759</sup>or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family][<sup>F759</sup>or his partner in that home [<sup>F760</sup>or hospital] shall be treated as possessed by the claimant or his partner].
- [<sup>F761</sup>(11A) Where the amount of a subsistence allowance paid to a claimant in a benefit week is less than the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, he shall be treated as possessing the amount which is equal to the amount of income-based jobseeker's allowance which he would have received in that week, less 50p.]
- (12) Where a claimant's earnings are not ascertainable at the time of the determination of the claim or of any [<sup>F762</sup>review or supersession][<sup>F763</sup>the Secretary of State] shall treat the claimant as possessing such earnings as is reasonable in the circumstances of the case having regard to the number of hours worked and the earnings paid for comparable employment in the area.
- (13) [<sup>F764</sup>Subject to paragraph (13A),] where—
- (a) a claimant performs a service for another person; and
  - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

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[<sup>F765</sup>the Secretary of State] shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies him that the means of that person are insufficient for him to pay or to pay more for the service; <sup>F766</sup> ...

[<sup>F767</sup>(13A) Paragraph (13) shall not apply—

- (a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the Secretary of State is satisfied in any of those cases that it is reasonable for him to provide those services free of charge;
- (b) in a case where the service is performed in connection with—
  - (i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q)[<sup>F768</sup>, other than where the service is performed in connection with the claimant's participation <sup>F769</sup>... in the Intensive Activity Period specified in regulation 75(1)(a)(iv)]; or
  - (ii) the claimant's or the claimant's partner's participation in an employment or training programme as defined in regulation 19(3) for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme][<sup>F770</sup>; or
- (c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.]

(14) Where a claimant is treated as possessing any income under any of paragraphs (1) to (11) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(15) Where a claimant is treated as possessing any earnings under paragraphs (12) or (13) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess, except that paragraph (4) of regulation 99 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account the earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the [<sup>F771</sup>starting rate] or, as the case may be, the [<sup>F771</sup>starting rate] and the basic rate of tax in the year of assessment less only the [<sup>F772</sup>personal allowance] to which the claimant is entitled under [<sup>F773</sup>section 257(1)] of the Income and Corporation Taxes Act 1988 <sup>F774</sup> ([<sup>F772</sup>personal allowance]) as is appropriate to his circumstances; but, if the period over which those earnings are to be taken into account is less than a year, the earnings to which the [<sup>F771</sup>starting rate] of tax is to be applied and the amount of the [<sup>F772</sup>personal allowance] deductible under this paragraph shall be calculated on a pro rata basis;
- (b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Benefits Act, calculated by applying to those earnings the initial and main primary percentages in accordance with section 8(1)(a) and (b) of that Act; and
- (c) one-half of any sum payable by the claimant in respect of a pay period by way of a contribution towards an occupational or personal pension scheme.

(16) In this regulation—

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;



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“pension fund holder” means with respect to a personal pension scheme [<sup>F775</sup>or an occupational pension scheme] the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

“resources” has the same meaning as in section 181 of the Pension Schemes Act 1993<sup>F776</sup>.

[<sup>F777</sup>“work placement” means practical work experience which is not undertaken in expectation of payment.]

### Textual Amendments

- F720** Reg. 105(2)(c) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996](#) (S.I. 1996/1803), regs. 1(b), **42(a)**
- F721** Reg. 105(2)(c) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), **Sch. 2 para. 10(a)**
- F722** Words in reg. 105(2)(d) substituted (for specified purposes and with effect in accordance with reg. 1(9) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), **Sch. 2 para. 10(b)**
- F723** Reg. 105(2)(f) omitted (4.4.2005) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2005](#) (S.I. 2005/574), regs. 1(1), **6(4)**
- F724** Words in reg. 105(2)(g) inserted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005](#) (S.I. 2005/2465), regs. 1(5)(b), **3(3)(a)**
- F725** Words in reg. 105(2)(g) substituted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006](#) (S.I. 2006/588), regs. 1(9), **3(3)(a)**
- F726** Word added in reg. 105(2)(g) (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997](#) (S.I. 1997/2197), regs. 1(2), **6**
- F727** Reg. 105(2)(h)(ha) substituted for reg. 105(2)(h) (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007](#) (S.I. 2007/719), regs. 1(2), **3(4)**
- F728** Reg. 105(2A) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996](#) (S.I. 1996/1803), regs. 1(b), **42(b)**
- F729** Reg. 105(2A) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003](#) (S.I. 2003/455), **Sch. 2 para. 10(a)**
- F730** Reg. 105(2B) inserted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005](#) (S.I. 2005/2465), regs. 1(5)(b), **3(3)(b)**
- F731** Words in reg. 105(2B)(a) substituted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006](#) (S.I. 2006/588), regs. 1(9), **3(3)(b)**
- F732** Reg. 105(3)(3A) substituted for reg. 105(3) (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **3(4)(a)**
- F733** Words in reg. 105(4) substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **3(4)(b)**
- F734** Words in reg. 105(4) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**
- F735** S.I. 1987/1968; paragraph (5) was added by S.I.1995/2303.
- F736** Words in reg. 105(5) substituted (16.7.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **3(4)(c)**
- F737** Words in reg. 105(5) substituted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005](#) (S.I. 2005/2465), regs. 1(5)(b), **3(3)(d)**

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- F738** Reg. 105(5A) inserted (6.4.2006) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(5)(b), **3(3)(e)**
- F739** Reg. 105(7)(d) added (7.1.2000) by The Income Support (General) and Jobseeker's Allowance Amendment (No. 2) Regulations 1999 (S.I. 1999/3324), regs. 1, **3**
- F740** Words in reg. 105(10) substituted (24.9.1998) by The Social Security Amendment (New Deal) (No. 2) Regulations 1998 (S.I. 1998/2117), regs. 1(1), **2(1)(a)**
- F741** Words in reg. 105(10)(a) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(c)(i)**
- F742** Words in reg. 105(10)(a)(i) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **3(6)**
- F743** Words in reg. 105(10)(a)(i) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(c)(ii)**
- F744** Reg. 105(10)(a)(ia) inserted (15.11.1999) by The Social Security Amendment (Notional Income and Capital) Regulations 1999 (S.I. 1999/2640), regs. 1(1), **2(1)(b)**
- F745** Words in reg. 105(10)(a)(ia) substituted (6.4.2006) by The Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(2), **3(3)(c)**
- F746** Words in reg. 105(10)(a)(ia) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(c)(iii)**
- F747** Words in reg. 105(10)(a)(ii) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(c)(iv)**
- F748** Words in reg. 105(10)(a)(ii) substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 42**
- F749** Reg. 105(10)(b) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(d)**
- F750** Words in reg. 105(10) inserted (3.10.2005) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(2), **3(3)(f)**
- F751** Reg. 105(10A) inserted (24.9.1998) by The Social Security Amendment (New Deal) (No. 2) Regulations 1998 (S.I. 1998/2117), regs. 1(1), **2(1)(b)**
- F752** Words in reg. 105(10A)(a) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(6)(a)**
- F753** Reg. 105(10A)(c)(iia) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **7(a)**
- F754** Words in reg. 105(10A)(c)(iia) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(12)(a)**
- F755** Reg. 105(10A)(d) added (15.11.1999) by The Social Security Amendment (Notional Income and Capital) Regulations 1999 (S.I. 1999/2640), regs. 1(1), **2(3)(d)**
- F756** Words in reg. 105(10A)(d) substituted (6.4.2006) by The Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(2), **3(3)(d)**
- F757** Words in reg. 105(10A)(d)(iii) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(e)**
- F758** Words in reg. 105(11) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 5**
- F759** Words in reg. 105(11) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 10(f)**
- F760** Words in reg. 105(11) inserted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(6)(b)**

- F761** Reg. 105(11A) inserted (3.4.2000) by The Social Security Amendment (Employment Zones) Regulations 2000 (S.I. 2000/724), regs. 1(1), **3(1)(b)**
- F762** Words in reg. 105(12) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 6**
- F763** Words in reg. 105(12) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**
- F764** Words in reg. 105(13) inserted (3.4.2000) by The Social Security (Approved Work) Regulations 2000 (S.I. 2000/678), regs. 1, **2(1)(a)(i)**
- F765** Words in reg. 105(13) substituted (18.10.1999) by The Social Security Act 1998 (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**
- F766** Words in reg. 105(13) omitted (3.4.2000) by virtue of The Social Security (Approved Work) Regulations 2000 (S.I. 2000/678), regs. 1, **2(1)(a)(ii)**
- F767** Reg. 105(13A) inserted (3.4.2000) by The Social Security (Approved Work) Regulations 2000 (S.I. 2000/678), regs. 1, **2(1)(b)**
- F768** Words in reg. 105(13A)(b)(i) added (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **7(b)**
- F769** Words in reg. 105(13A)(b)(i) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(12)(a)**
- F770** Reg. 105(13A)(c) and word added (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(11)(a)**
- F771** Words in reg. 105(15)(a) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(11)(b)**
- F772** Words in reg. 105(15) substituted (16.7.2007) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2007 (S.I. 2007/1749), regs. 1, **3(3)(a)**
- F773** Words in reg. 105(15) substituted (16.7.2007) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2007 (S.I. 2007/1749), regs. 1, **3(3)(b)**
- F774** 1988 c.1; sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c.39); section 259 was amended by sections 30 and 35 of the Finance Act 1988, section 20 of the Finance (No.2) Act 1992 (c.48), and section 77 and Schedule 8, paragraph 6 of the Finance Act 1994 (c.9).
- F775** Words in reg. 105(16) inserted (16.7.2007) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2007 (S.I. 2007/1749), regs. 1, **3(4)(d)**
- F776** 1993 c.48.
- F777** Words in reg. 105(16) inserted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **8(11)(c)**

## Modifications in respect of children and young persons

**106.**—<sup>F778</sup>(1) Any capital of a child or young person payable by instalments which are outstanding on the first day in respect of which an income-based jobseeker's allowance is payable or, in the case of a <sup>F779</sup>suppression], the date of that <sup>F779</sup>suppression], shall, if the aggregate of the instalments outstanding and the amount of that child or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant would exceed £3,000, be treated as income.

(2) In the case of a child or young person who is residing at an educational establishment at which he is receiving relevant education—

- (a) any payment made to the educational establishment, in respect of that child's or young person's maintenance, by or on behalf of a person who is not a member of the family or

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by a member of the family out of funds contributed for that purpose by a person who is not a member of the family, shall be treated as income of that child or young person but it shall only be taken into account over periods during which that child or young person is present at that educational establishment; and

- (b) if a payment has been so made, for any period in a benefit week in term-time during which that child or young person returns home, he shall be treated as possessing an amount of income in that week calculated by multiplying the amount of [<sup>F780</sup>personal allowance, any disabled child premium and any enhanced disability premium] applicable in respect of that child or young person by the number equal to the number of days in that week in which he was present at his educational establishment and dividing the product by seven; but this sub-paragraph shall not apply where the educational establishment is provided under section 8 of the Education Act 1944 <sup>F781</sup> (duty of local authority to secure primary and secondary schools) by a local education authority or where the payment is made under section 49 or 50 of the Education (Scotland) Act 1980 <sup>F782</sup> (power of education authority to assist persons).

(3) Where a child or young person—

- (a) is resident at an educational establishment and he is wholly or partly maintained at that establishment by a local education authority under section 8 of the Education Act 1944; or
- (b) is maintained at an educational establishment under section 49 or 50 of the Education (Scotland) Act 1980, he shall for each day he is present at that establishment be treated as possessing an amount of income equal to the sum obtained by dividing the amount of [<sup>F780</sup>personal allowance, any disabled child premium and any enhanced disability premium] applicable in respect of him by seven.

(4) Where the income of a child or young person who is a member of the claimant's family calculated in accordance with Chapters I to V of this Part exceeds the amount of the [<sup>F780</sup>personal allowance, any disabled child premium and any enhanced disability premium] applicable in respect of that child or young person, the excess shall not be treated as the income of the claimant.

(5) Where the capital of a child or young person if calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except as provided in paragraph (1), would exceed £3,000, any income of that child or young person shall not be treated as the income of the claimant.

(6) In calculating the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 14 to 16), any sum specified in paragraphs 17 and 18 of Schedule 6 (earnings to be disregarded).

(7) Any income of a child or young person which is to be disregarded under Schedule 7 (income other than earnings to be disregarded) shall be disregarded in such manner as to produce the result most favourable to the claimant.

(8) Where a child or young person is treated as possessing any income under paragraphs (2) or (3) the foregoing provisions of this Part shall apply for the purposes of calculating that income as if a payment had actually been made and as if it were actual income which he does possess.

(9) For the purposes of this regulation, a child or young person shall not be treated as present at his educational establishment on any day if on that day he spends the night with the claimant or a member of his household.]

#### Textual Amendments

**F778** Reg. 106 omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 11**

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- F779** Words in reg. 106(1) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 5**
- F780** Words in reg. 106 substituted (9.4.2001) by [The Social Security Amendment \(Enhanced Disability Premium\) Regulations 2000 \(S.I. 2000/2629\)](#), regs. 1(c), **5(a)**
- F781** 1944 c.31; section 8 was amended by the [Education Act 1980 \(c.20\)](#), **section 38(6)** and Schedule 7; the [Further and Higher Education Act 1992 \(c.13\)](#), **sections 12(1)** and 93 and Schedule 8; and the [Education Act 1993 \(c.35\)](#), **section 307** and Schedules 19 and 21.
- F782** 1980 c.44; section 50 was amended by the [Education \(Scotland\) Act 1981 \(c.58\)](#), **section 2**.

## Chapter VI

### Capital

#### Capital limit

[<sup>F783</sup>**107.** For the purposes of section 13(1) and (2A) (no entitlement to an income-based jobseeker's allowance if capital exceeds a prescribed amount), the prescribed amount is £16,000.]

#### Textual Amendments

- F783** [Reg. 107](#) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(4)**

#### Calculation of capital

**108.**—(1) Subject to paragraph (2), the capital of a claimant to be taken into account shall be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 110.

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 8.

#### Disregard of capital of child or young person

**109.** [<sup>F784</sup>The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.]

#### Textual Amendments

- F784** [Reg. 109](#) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 11**

#### Income treated as capital

**110.**—(1) Any bounty derived from employment to which paragraph 9 of Schedule 6 applies and paid at intervals of at least one year shall be treated as capital.

(2) Except in the case of an amount to which section 15(2)(c)(i) (refund of tax in trade dispute cases) applies, any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

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(3) Any holiday pay which is not earnings under regulation 98(1)(c) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 4 to 8, 11<sup>F785</sup>, 17, 42 or 43] of Schedule 8, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

(5) Subject to paragraph (6), in the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) Paragraph (5) shall not apply to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes).

(7) Any payment under section 30 of the Prison Act 1952<sup>F786</sup> (payments for discharged prisoners) or allowance under section 17 of the Prisons (Scotland) Act 1989<sup>F787</sup> (allowances to prisoners on discharge) shall be treated as capital.

(8) [<sup>F788</sup>Any payment made by a local authority which represents arrears of payments under paragraph 15 of Schedule 1 to the Children Act 1989<sup>F789</sup> (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order) or under section 50 of the Children Act 1975<sup>F790</sup> (contributions to a custodian towards the cost of accommodation and maintenance of a child) [<sup>F791</sup>or any payment, made by an authority, as defined in Article 2 of the Children Order, which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance),] shall be treated as capital.]

(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.

(10) This paragraph applies to a payment—

- (a) which is made to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes);
- (b) [<sup>F792</sup>to which regulation 106(2) (modifications in respect of children and young persons) applies; or]
- (c) which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living [<sup>F793</sup>Fund (2006)].

[<sup>F794</sup>(11) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital.]

#### Textual Amendments

**F785** Words in [reg. 110\(4\)](#) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [reg. 13\(6\)](#)

**F786** [1952 c.52](#); section 30 was substituted by section 66(3) of the [Criminal Justice Act 1967 \(c.80\)](#).

**F787** [1989 c.45](#).

**F788** [Reg. 110\(8\)](#) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 12](#)

**F789** [1989 c.41](#).

**F790** [1975 c.72](#).

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- F791** Words in reg. 110(8) inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1, **14(2)**
- F792** Reg. 110(10)(b) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 12**
- F793** Words in reg. 110(10)(c) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **4(7)(a)**
- F794** Reg. 110(11) added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **3(2)(d)**

### [<sup>F795</sup> **Calculation of capital in the United Kingdom**

**111.** Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any incumbrance secured on it.]

#### **Textual Amendments**

- F795** Reg. 111 substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **8(12)**

### **Calculation of capital outside the United Kingdom**

**112.** Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case in which there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any incumbrance secured on it.

### **Notional capital**

**113.—(1)** A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to or increasing the amount of income support, except—

- (a) where that capital is derived from a payment made in consequence of a personal injury and is placed on trust for the benefit of the claimant; or
- (b) to the extent that the capital he is treated as possessing is reduced in accordance with regulation 114 (diminishing notional capital rule); [<sup>F796</sup>or]
- [<sup>F797</sup>(c) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a); or
- (d) any sum to which paragraph 43(a) of Schedule 8 refers.]

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- (2) Except in the case of—
- (a) a discretionary trust;
  - (b) a trust derived from a payment made in consequence of a personal injury;
  - (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 8; or
  - (d) a personal pension scheme; [<sup>F798</sup>or]
  - [<sup>F799</sup>(da) an occupational pension scheme [<sup>F800</sup> or a payment made by the Board of the Pension Protection Fund] where the claimant is aged under 60; or]
  - [<sup>F801</sup>(e) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a); or
  - (f) any sum to which paragraph 43(a) of Schedule 8 refers,]

any capital which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(3) [<sup>F802</sup>Any payment of capital, other than a payment of capital specified in paragraph (3A)] made—

- (a) to a third party in respect of a single claimant or [<sup>F803</sup>in respect of a member of the family][<sup>F803</sup>his partner] shall be treated—
  - [<sup>F804</sup>(ia) in a case where that payment is a payment of an occupational pension [<sup>F805</sup>, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund], as possessed by that single claimant or, as the case may be, by [<sup>F806</sup>that member][<sup>F806</sup>the claimant's partner];]
  - (i) in a case where that payment is derived from a payment of any benefit under the [<sup>F807</sup>benefit Acts, a payment from the Armed Forces and Reserve Forces Compensation Scheme, a war disablement pension, war widow's pension or war widower's pension or a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown], as possessed by that single claimant, if it would normally be paid to him, or as possessed [<sup>F808</sup>by that member of the family, if it would normally be paid to that member][<sup>F808</sup>by his partner, if it would normally be paid to his partner];
  - (ii) in any other case, as possessed by that single claimant [<sup>F809</sup>or by that member of the family][<sup>F809</sup>or his partner] to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit [<sup>F810</sup>is payable] or any housing costs to the extent that they are met under regulation 83(f)[<sup>F811</sup>, 84(1)(g), 86A(d) or 86B(e)]<sup>F812</sup> ..., of that single claimant or, as the case may be, [<sup>F809</sup>of any member of the family][<sup>F809</sup>of his partner], or is used for any council tax or water charges for which that claimant or [<sup>F809</sup>member is liable][<sup>F809</sup>partner is liable];
- (b) [<sup>F813</sup>to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case may be, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner.]

[<sup>F814</sup>(3A) Paragraph (3) shall not apply in respect of a payment of capital made—



- (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust<sup>F815</sup>, the Independent Living <sup>F816</sup>Fund (2006)<sup>F817</sup>, the Skipton Fund or the London Bombings Relief Charitable Fund]; or
  - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii);
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii); or
    - <sup>F818</sup> [ <sup>F819</sup> ... in the Intensive Activity Period specified in regulation 75(1)(a)(iv); or]
    - (iii) in a qualifying course within the meaning specified in regulation 17A(7).]
  - <sup>F820</sup>(c) under an occupational pension scheme<sup>F821</sup>, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund] where—
    - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
    - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
    - (iii) the person referred to in (i) and <sup>F822</sup>any member of his family<sup>F822</sup>his partner (if any)] does not possess, or is not treated as possessing, any other income apart from that payment.]
- (4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or a partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—
- (a) the value of his holding in that company shall, notwithstanding regulation 108 (calculation of capital), be disregarded; and
  - (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.
- (6) Where a claimant is treated as possessing any capital under any of paragraphs (1) to (4) the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of that capital as if it were actual capital which he does possess.
- (7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.
- (8) In paragraph (3) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

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## Textual Amendments

- F796** Reg. 113(1)(c) added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **6**
- F797** Reg. 113(1)(c)(d) substituted for reg. 113(1)(c) (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **3(5)(a)**
- F798** Reg. 113(2)(e) and word added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **6**
- F799** Reg. 113(2)(da) inserted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(5)(b), **3(5)**
- F800** Words in reg. 113(2)(da) inserted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(9), **3(4)(a)**
- F801** Reg. 113(2)(e)(f) substituted for reg. 113(2)(e) (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **3(5)(b)**
- F802** Words in reg. 113(3) substituted (24.9.1998) by [The Social Security Amendment \(New Deal\) \(No.2\) Regulations 1998 \(S.I. 1998/2117\)](#), regs. 1(1), **3(1)(a)**
- F803** Words in reg. 113(3)(a) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(a)(i)**
- F804** Reg. 113(3)(a)(ia) inserted (15.11.1999) by [The Social Security Amendment \(Notional Income and Capital\) Regulations 1999 \(S.I. 1999/2640\)](#), regs. 1(1), **2(1)(b)**
- F805** Words in reg. 113(3)(a)(ia) substituted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(2), **3(4)(b)**
- F806** Words in reg. 113(3)(a)(ia) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(a)(iii)**
- F807** Words in reg. 113(3)(a)(i) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **3(6)**
- F808** Words in reg. 113(3)(a)(i) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(a)(ii)**
- F809** Words in reg. 113(3)(a)(ii) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(a)(iv)**
- F810** Words in reg. 113(3)(a)(ii) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), **Sch. Pt. 2 para. 11(a)(i)**
- F811** Words in reg. 113(3)(a)(ii) substituted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 44**
- F812** Words in reg. 113(3)(a)(ii) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), **Sch. Pt. 2 para. 11(a)(ii)**
- F813** Reg. 113(3)(b) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(b)**
- F814** Reg. 113(3A) inserted (24.9.1998) by [The Social Security Amendment \(New Deal\) \(No.2\) Regulations 1998 \(S.I. 1998/2117\)](#), regs. 1(1), **3(1)(b)**
- F815** Words in reg. 113(3A)(a) substituted (4.10.2004) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2004 \(S.I. 2004/2308\)](#), regs. 1(1), **3(1)(2)(d)**
- F816** Words in reg. 113(3A)(a) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **4(7)(b)**

- F817** Words in reg. 113(3A)(a) substituted (12.12.2005) by [The Income-related Benefits \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/3391\)](#), regs. 1, **5(3)**
- F818** Reg. 113(3A)(b)(iia) inserted (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **8**
- F819** Words in reg. 113(3A)(b)(iia) omitted (14.4.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/698\)](#), regs. 1(1), **4(12)(b)**
- F820** Reg. 113(3A)(c) added (15.11.1999) by [The Social Security Amendment \(Notional Income and Capital\) Regulations 1999 \(S.I. 1999/2640\)](#), regs. 1(1), **2(3)(d)**
- F821** Words in reg. 113(3A)(c) substituted (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(2), **3(4)(c)**
- F822** Words in reg. 113(3A)(c)(iii) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 13(c)**

**Modifications etc. (not altering text)**

- C17** Reg. 113(3A) modified (temp. from 28.11.2000 until 27.11.2001) by [The Social Security \(New Deal Pilot\) Regulations 2000 \(S.I. 2000/3134\)](#), regs. 1(1)(b), **15(1)**

**Diminishing notional capital rule**

**114.**—(1) Where a claimant is treated as possessing capital under regulation 113(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
  - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph (2);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week, and
  - (ii) that relevant week is a week in which the condition in paragraph (3) is satisfied, shall be reduced by an amount determined under paragraph (3).

(2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that—

- (a) he is in receipt of a jobseeker's allowance; and
- (b) but for regulation 113(1), he would have received an additional amount of jobseeker's allowance in that benefit week or, as the case may be, that part week;

and in such a case, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to an income-based jobseeker's allowance in the relevant week but for regulation 113(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of jobseeker's allowance to which the claimant would have been entitled in the relevant week but for regulation 113(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of jobseeker's allowance to which he would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;

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- (b) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of housing benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose "benefit week" has the same meaning as in regulation 2(1) of [<sup>F823</sup>the Housing Benefit Regulations 2006] (interpretation).
- (c) the amount of council tax benefit (if any) equal to the difference between his maximum council tax benefit and the amount (if any) of council tax benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose "benefit week" has the same meaning as in regulation 2(1) of the Council Tax Benefit (General) Regulations 1992 <sup>F824</sup> (interpretation).
- (4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for a jobseeker's allowance and the conditions in paragraph (5) are satisfied, and in such a case—
- (a) sub-paragraphs (a), (b) and (c) of paragraph (3) shall apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
- (b) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- (5) The conditions referred to in paragraph (4) are that—
- (a) a further claim is made 26 or more weeks after—
- (i) the date on which the claimant made a claim for a jobseeker's allowance in respect of which he was first treated as possessing the capital in question under regulation 113(1); or
- (ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for a jobseeker's allowance which resulted in the weekly amount being re-determined; or
- (iii) the date on which he last ceased to be in receipt of a jobseeker's allowance; whichever last occurred; and
- (b) the claimant would have been entitled to a jobseeker's allowance but for regulation 113(1).
- (6) The amount as re-determined pursuant to paragraph (4) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.
- (7) For the purposes of this regulation—
- (a) "part-week" has the same meaning as in regulation 150(3);
- (b) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 113(1)—
- (i) was first taken into account for the purposes of determining his entitlement to a jobseeker's allowance or income support; or
- (ii) was taken into account on a subsequent occasion for the purposes of determining or re-determining his entitlement to a jobseeker's allowance or income support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a jobseeker's allowance or income support;
- and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) of this sub-paragraph, the later or latest such benefit week or part-week;

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- (c) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

**Textual Amendments**

**F823** Words in reg. 114(3)(b) substituted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 8(3)** (with regs. 2, 3, Sch. 3, Sch. 4)

**F824** [S.I. 1992/1814](#).

**Capital jointly held**

115. Except where a claimant possesses capital which is disregarded under regulation 113(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset, they shall be treated as if each of them were entitled in possession [<sup>F825</sup>to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess].

**Textual Amendments**

**F825** Words in reg. 115 substituted (12.10.1998) by [The Social Security Amendment \(Capital\) Regulations 1998 \(S.I. 1998/2250\)](#), regs. 1, **2(1)(2)(f)**

**Calculation of tariff income from capital**

116.—(1) [<sup>F826</sup>Except in a case to which paragraph <sup>F827</sup>...(1B) applies,] where the claimant's capital calculated in accordance with this Part exceeds [<sup>F828</sup>£6,000] it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of [<sup>F828</sup>£6,000] but not exceeding [<sup>F829</sup>£16,000].

<sup>F830</sup>(1ZA) .....

[<sup>F831</sup>(1A) In the case of a claimant to whom paragraph (1B) applies and whose capital calculated in accordance with Chapter VI of Part VIII exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) This paragraph applies where the claimant lives permanently in—

[<sup>F832</sup>(a) a care home or an independent hospital;]

[<sup>F832</sup>(b) an Abbeyfield Home;]

(c) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps) where the claimant requires personal care [<sup>F833</sup>by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home].

<sup>F834</sup>(d) .....

(1C) For the purpose of paragraph (1B), a claimant shall be treated as living permanently in such home[<sup>F835</sup>, hospital] or accommodation where he is absent—

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- [<sup>F836</sup>(a) from a home[<sup>F835</sup>, hospital] or accommodation referred to in sub-paragraph (a) [<sup>F837</sup>or (b)] of paragraph (1B) for a period not exceeding 13 weeks;]
- (b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), but intends, with the agreement of the manager of the accommodation, to return to the accommodation in due course.]
- (2) Notwithstanding [<sup>F838</sup>paragraphs (1)<sup>F839</sup> ... and (1A)], where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.
- (3) For the purposes of [<sup>F838</sup>paragraphs (1)<sup>F839</sup> ... and (1A)], capital includes any income treated as capital under regulations 110 and 124 (income treated as capital and liable relative payments treated as capital).
- <sup>F840</sup>(4) .....

### Textual Amendments

- F826** Words in reg. 116(1) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **12(a)**
- F827** Words in reg. 116(1) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(6)(a)(i)**
- F828** Words in reg. 116(1) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(6)(a)(ii)**
- F829** Word in reg. 116(1) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(6)(a)(iii)**
- F830** Reg. 116(1ZA) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(6)(b)**
- F831** Reg. 116(1A)-(1C) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **12(b)**
- F832** Reg. 116(1B)(a)(b) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 6(a)(i)**
- F833** Words in reg. 116(1B)(c) substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **7(5)(6)(b)**
- F834** Reg. 116(1B)(d) omitted (24.10.2005) by virtue of [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 6(a)(ii)**
- F835** Word in reg. 116(1C) inserted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 6(b)(i)**
- F836** Reg. 116(1C)(a) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 12**
- F837** Words in reg. 116(1C)(a) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 6(b)(ii)**
- F838** Words in reg. 116(2)(3) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **12(c)**
- F839** Word in reg. 116(2)(3) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(b), **3(6)(c)**
- F840** Reg. 116(4) omitted (24.10.2005) by virtue of [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 6(c)**

## Chapter VII

### [<sup>F841</sup>child maintenance and liable relative payments]

#### Textual Amendments

**F841** Pt. VIII Ch. 7 heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Child Maintenance Amendments) Regulations 2008 (S.I. 2008/2111), reg. 3(5)

#### Interpretation

117. In this Chapter, unless the context otherwise requires—

[<sup>F842</sup>“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;]

“claimant” includes a young claimant;

[<sup>F842</sup>“claimant’s family” shall be construed in accordance with section 35(1) of the Jobseekers Act 1995 (interpretation);]

[<sup>F842</sup>“housing costs” means those costs which may be met under regulation 83(f) or 84(1)(g) (housing costs);]

“liable relative” means—

- (a) a spouse[<sup>F843</sup>, former spouse, civil partner or former civil partner] of a claimant or of a member of the claimant’s family;
- (b) a parent of a young claimant or of a child or young person who is a member of a claimant’s family;
- (c) a person who has not been adjudged to be the father of a young claimant or of a child or young person who is a member of a claimant’s family, where that person is contributing to the maintenance of that young claimant, child or young person and by reason of that contribution he may reasonably be treated as the father of that young claimant, child or young person;
- (d) a person liable to maintain another person by virtue of section 78(6)(c) of the Administration Act where the latter is the claimant or a member of the claimant’s family,

and, in this definition, a reference to a child’s, young person’s or young claimant’s parent includes any person in relation to whom the child, young person or young claimant was treated as a child or a member of the family;

[<sup>F842</sup>“ordinary clothing and footwear” means clothing and footwear for normal daily use but does not include school uniforms;]

“payment” means a periodical payment or any other payment made by or derived from a liable relative<sup>F844</sup> ...; but it does not include any payment—

- (a) arising as a consequence of a disposition of property made in contemplation of, or as a consequence of—

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- (i) an agreement to separate; or
- (ii) any proceedings for judicial separation, divorce or nullity of marriage [<sup>F845</sup>or];
- (iii) [<sup>F846</sup>any proceedings for separation, dissolution or nullity in relation to a civil partnership;]
- (b) made after the death of the liable relative;
- (c) made by way of a gift but not in aggregate or otherwise exceeding £250 in the period of 52 weeks beginning with the date on which the payment, or if there is more than one such payment the first payment, is made; and in the case of a claimant who continues to be in receipt of an income-based jobseeker's allowance at the end of the period of 52 weeks, this provision shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks;
- (d) [<sup>F847</sup>to which regulation 106(2) applies (payments in respect of children and young persons who reside at an educational establishment);]
- (e) [<sup>F848</sup>made to a third party, or in respect of a third party, unless the payment is—
  - (i) in relation to the claimant or the claimant's family; and
  - (ii) the payment is in respect of food, ordinary clothing or footwear, fuel, rent, housing costs, council tax or water charges;]
- (f) in kind;
- (g) to or in respect of a child or young person who is to be treated as not being a member of the claimant's household under regulation 78;
- (h) which is not a periodical payment, to the extent that any amount of that payment—
  - (i) has already been taken into account under this Part by virtue of a previous claim or determination; or
  - (ii) has been recovered under section 74(1) of the Administration Act (prevention of duplication of payments) or is currently being recovered; or
  - (iii) at the time the determination is made, has been used by the claimant except where he has deprived himself of that amount for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance;

"periodical payment" means—

- (a) a payment which is made or is due to be made at regular intervals<sup>F849</sup>...;
- (b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;
- (c) any payment<sup>F850</sup>, after the appropriate disregard under paragraph 70 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) has been applied to it, that does not exceed] the amount of jobseeker's allowance payable had that payment not been made;
- (d) any payment representing a commutation of payments to which sub-paragraph (a) or (b) of this definition applies whether made in arrears or in advance,

but does not include a payment due to be made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, which was not so made;

"young claimant" means a person aged 16 or over but under [<sup>F851</sup>20] who makes a claim for a jobseeker's allowance.



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### Textual Amendments

- F842** Words in [reg. 117](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(6\)\(a\)](#)
- F843** Words in [reg. 117](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 26\(6\)\(a\)](#) (with [art. 3](#))
- F844** Words in [reg. 117](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(6\)\(b\)\(i\)](#)
- F845** Word in [reg. 117](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 26\(6\)\(b\)\(i\)](#) (with [art. 3](#))
- F846** Words in [reg. 117](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 26\(6\)\(b\)\(ii\)](#) (with [art. 3](#))
- F847** Words in [reg. 117](#) omitted (for specified purposes and with effect in accordance with [reg. 1\(6\)\(7\)\(8\)](#) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 14](#)
- F848** Words in [reg. 117](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(6\)\(b\)\(ii\)](#)
- F849** Words in [reg. 117](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(6\)\(c\)\(i\)](#)
- F850** Words in [reg. 117](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(6\)\(c\)\(ii\)](#)
- F851** Word in [reg. 117](#) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), [regs. 1\(2\)\(a\)](#), [3\(7\)](#)

### Treatment of [<sup>F852</sup>child maintenance or] liable relative payments

**118.** Subject to regulation 119 and [<sup>F853</sup>paragraph 70 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings)] a payment shall—

- (a) to the extent that it is not a payment of income, be treated as income;
- (b) be taken into account in accordance with the following provisions of this Chapter.

### Textual Amendments

- F852** Words in [reg. 118 heading](#) heading inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(2\)\(b\)](#)
- F853** Words in [reg. 118](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(7\)](#)

### Disregard of payments treated as not relevant income

**119.** Where the Secretary of State treats any payment as not being relevant income for the purposes of section 74A of the Administration Act <sup>F854</sup> (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant's income.

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### Textual Amendments

**F854** 1992 c.5; section 74A was inserted by the [Child Support Act 1995 \(c.34\)](#).

### Period over which periodical payments are to be taken into account

**120.**—(1) The period over which a periodical payment is to be taken into account shall be—

- (a) in a case where the payment is made at regular intervals, a period equal to the length of that interval;
- (b) in a case where the payment is due to be made at regular intervals but is not so made, such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the amount of that payment by the weekly amount of that periodical payment as calculated in accordance with regulation 122(4);
- (c) in any other case, a period equal to a week.

(2) The period under paragraph (1) shall begin on the date on which the payment is treated as paid under regulation 123.

### Period over which payments other than periodical payments are to be taken into account

<sup>F855</sup>**121.**—(1) The period over which a payment other than a periodical payment (a “non-periodical payment”) is to be taken account shall be determined as follows.

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) The amount is the aggregate of £2 and—

- (a) the amount of jobseeker’s allowance that would be payable had no payment been made, and
- (b) where applicable, the maximum amount of disregard that would apply to the payment under paragraph 70 of Schedule 7.

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 122) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall, subject to paragraphs (6) and (7), be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{A}{B - C}$$

(6) If the liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{D}{B - E}$$

(8) The period under paragraph (2) or (4) shall begin on the date on which the payment is treated as paid under regulation 123 (date on which a liable relative payment is treated as paid) and the period under paragraph (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

- A = the amount of the non-periodical payment;
- B = the aggregate of £2 and the amount of jobseeker's allowance that would be payable had the periodical payment not been made and, where applicable, the maximum disregard under paragraph 70 of Schedule 7;
- C = the weekly amount of the periodical payment;
- D = the balance (if any) of the non-periodical payment;
- E = the weekly amount of any subsequent periodical payment.]

**Textual Amendments**

**F855** Reg. 121 substituted (27.10.2008) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), regs. 1(3), **3(8)**

**Calculation of the weekly amount of a [<sup>F856</sup>child maintenance or] liable relative payment**

**122.**—(1) Where a periodical payment is made or is due to be made at intervals of one week, the weekly amount shall be the amount of that payment.

(2) Where a periodical payment is made or is due to be made at intervals greater than one week and those intervals are monthly, the weekly amount shall be determined by multiplying the amount of the payment by 12 and dividing the product by 52.

(3) Where a periodical payment is made or is due to be made at intervals and those intervals are neither weekly or monthly, the weekly amount shall be determined by dividing that payment by the number equal to the number of weeks (including any part of a week) in that interval.

(4) Where a payment is made and that payment represents a commutation of periodical payments whether in arrears or in advance, the weekly amount shall be the weekly amount of the individual periodical payments so commuted as calculated under paragraphs (1) to (3) as appropriate.

(5) The weekly amount of a payment to which regulation 121 applies (period over which payments other than periodical payments are to be taken into account) shall be equal to the amount of the divisor used in calculating the period over which the payment or, as the case may be, the balance is to be taken into account.

**Textual Amendments**

**F856** Words in [reg. 122 heading](#) heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(2\)\(c\)](#)

**Date on which a [<sup>F857</sup>child maintenance or] liable relative payment is to be treated as paid**

**123.**—(1) A periodical payment is to be treated as paid—

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- (a) in the case of a payment which is due to be made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
  - (b) in any other case, on the first day of the benefit week in which it is due to be paid unless, having regard to the manner in which jobseeker's allowance is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (2) Subject to paragraph (3), any other payment shall be treated as paid—
- (a) in the case of a payment which is made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, on the day in the week in which it is paid which corresponds to the first day of the benefit week;
  - (b) in any other case, on the first day of the benefit week in which it is paid unless, having regard to the manner in which jobseeker's allowance is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (3) Any other payment paid on a date which falls within the period in respect of which a previous payment is taken into account, not being a periodical payment, is to be treated as paid on the first day following the end of that period.

**Textual Amendments**  
**F857** Words in [reg. 123 heading](#) heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(2\)\(d\)](#)

**Liab relative payments to be treated as capital**

**F858** **124.** . . . . .

**Textual Amendments**  
**F858** [Reg. 124](#) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(4\)\(b\)](#)

*Chapter VIII*  
*Child Support*

**F859** ...  
**F859** . . . . .

**Textual Amendments**  
**F859** [Pt. VIII Ch. 8](#) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [reg. 3\(4\)\(c\)](#)

**F859** . . . . .

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**Textual Amendments**

**F859** Pt. VIII Ch. 8 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Social Security (Child Maintenance Amendments) Regulations 2008 (S.I. 2008/2111), **reg. 3(4)(c)**

**F859** . . . . .

**Textual Amendments**

**F859** Pt. VIII Ch. 8 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Social Security (Child Maintenance Amendments) Regulations 2008 (S.I. 2008/2111), **reg. 3(4)(c)**

**F859** . . . . .

**Textual Amendments**

**F859** Pt. VIII Ch. 8 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Social Security (Child Maintenance Amendments) Regulations 2008 (S.I. 2008/2111), **reg. 3(4)(c)**

**F859** . . . . .

**Textual Amendments**

**F859** Pt. VIII Ch. 8 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Social Security (Child Maintenance Amendments) Regulations 2008 (S.I. 2008/2111), **reg. 3(4)(c)**

*Chapter IX*

*[<sup>F860</sup>Students]*

**Textual Amendments**

**F860** Ch. IX, Pt. VIII Title substituted (for specified purposes and with effect in accordance with reg. 1(bi) (bii) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922), **regs. 1, 3(3)**

**Interpretation**

**130.** In this Chapter, unless the context otherwise requires—

[<sup>F861</sup>“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;]

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[<sup>F862</sup>“access funds” means—

- (a) grants made under section 7 of the Further and Higher Education Act 1992 and described as “learner support funds” or grants made under section 68 of that Act [<sup>F863</sup>for the purpose of providing funds on a discretionary basis to be paid to students];
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980; <sup>F864</sup> ...
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993, or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, made for the purpose of assisting students in financial difficulties] <sup>F865</sup> ...;
- (d) [<sup>F866</sup> discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Learning and Skills Council for England under sections 5, 6 and 9 of the Learning and Skills Act 2000 [<sup>F867</sup>or];]
- (e) [<sup>F867</sup>Financial Contingency Funds made available by the [<sup>F868</sup>Welsh Ministers];]

“contribution” means any contribution in respect of the income [<sup>F869</sup>of a student or] of any other person which the Secretary of State [<sup>F870</sup>, the Scottish Ministers] or an education authority takes into account in ascertaining the amount of the student’s grant [<sup>F871</sup>or student loan], or any sums, which in determining the amount of a student’s allowance or bursary in Scotland in terms of the Students’ Allowances (Scotland) Regulations 1991 <sup>F872</sup> or the Education Authority (Bursaries) (Scotland) Regulations 1995 <sup>F873</sup>, the [<sup>F874</sup>Scottish Ministers] or education authority takes into account being sums which the [<sup>F874</sup>Scottish Ministers] or the education authority consider that the holder of the allowance or bursary, the holder’s parents and the holder’s spouse [<sup>F875</sup>or civil partner] can reasonably be expected to contribute towards the holder’s expenses;

“covenant income” means the income payable to a student under a deed of covenant by a person whose income is, or is likely to be, taken into account in assessing the student’s grant or award;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944 <sup>F876</sup>, a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 <sup>F877</sup>, an education and library board established under article 3 of the Education and Libraries (Northern Ireland) Order 1986 <sup>F878</sup>, any body which is a research council for the purposes of the Science and Technology Act 1965 <sup>F879</sup> or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

[<sup>F880</sup>“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds [<sup>F881</sup>or any payment to which paragraph 12 of Schedule 7 or paragraph 52 of Schedule 8 applies];]

“grant income” means—

- (a) any income by way of a grant;
- (b) in the case of a student other than one to whom sub-paragraph (c) refers, any contribution that has been taken into account whether or not it has been paid;
- (c) in the case of a student who satisfies the additional conditions for a disability premium in paragraph 14 of Schedule 1 (applicable amounts), any contribution which has been taken into account and which has been paid,

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and any such contribution which is paid by way of a covenant shall be treated as part of the student's grant income;

F882 ...

[<sup>F883</sup>“periods of experience” means periods of work experience which form part of a sandwich course;]

“standard maintenance grant” means—

- (a) except where paragraph (b) or (c) applies, in the case of a student attending [<sup>F884</sup>or undertaking] a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (“the 1995 regulations”) for such a student;
- (b) except where paragraph (c) applies, in the case of a student residing at his parents' home, the amount specified in paragraph 3(2) thereof;
- (c) [<sup>F885</sup>in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as the “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority<sup>F886</sup> ...;]
- (d) in any other case, the amount specified in paragraph 2(2) of the 1995 regulations other than in sub-paragraph (a) or (b) thereof;

F887 ...

[<sup>F888</sup>“student loan” means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 [<sup>F889</sup>and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 1999];]

F890 ...

### Textual Amendments

- F861** Words in [reg. 130](#) inserted (1.8.2001) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001 \(S.I. 2001/2319\)](#), regs. 1(1)(a), **2(1)(a)(2)(d)**
- F862** Words in [reg. 130](#) inserted (for specified purposes and with effect in accordance with [reg. 1\(bi\)\(bii\)](#) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, **3(4)**
- F863** Words in [reg. 130](#) substituted (1.8.2001) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001 \(S.I. 2001/2319\)](#), regs. 1(1)(a), **2(1)(b)(i)(2)(d)**
- F864** Word in [reg. 130](#) omitted (1.8.2001) by virtue of [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001 \(S.I. 2001/2319\)](#), regs. 1(1)(a), **2(1)(b)(ii)(2)(d)**
- F865** Word in [reg. 130](#) omitted (1.8.2002) by virtue of [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(a), **2(3)(b)(i)**
- F866** Words in [reg. 130](#) inserted (1.8.2001) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001 \(S.I. 2001/2319\)](#), regs. 1(1)(a), **2(1)(b)(ii)(2)(d)**
- F867** Words in [reg. 130](#) added (1.8.2002) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(a), **2(3)(b)(i)**
- F868** Words in [reg. 130](#) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **3(7)**

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- F869** Words in reg. 130 inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1, **4(1)(2)(f)**
- F870** Words in reg. 130 inserted (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(1)(c)(i)(2)(d)**
- F871** Words in reg. 130 inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by The Social Security Amendment (Students) Regulations 1999 (S.I. 1999/1935), regs. 1(1)(b), **2(2)(a)**
- F872** S.I. 1991/1522.
- F873** S.I. 1995/1739.
- F874** Words in reg. 130 substituted (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(1)(c)(ii)(2)(d)**
- F875** Words in reg. 130 inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(7)** (with art. 3)
- F876** 1944 c.31, as amended by S.I. 1974/595 and 1977/293.
- F877** 1973 c.65.
- F878** S.I. 1986/594 (N.I. 3).
- F879** 1965 c.4.
- F880** Words in reg. 130 substituted (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922), regs. 1, **3(4)**
- F881** Words in reg. 130 added (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security (Students and Income-related Benefits) Amendment Regulations 2004 (S.I. 2004/1708), regs. 1(1)(b), **6(2)**
- F882** Words in reg. 130 omitted (31.7.2000) by virtue of The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs.1(1), **6(4)(a)**
- F883** Words in reg. 130 substituted (1.8.2002) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(a), **2(3)(b)(ii)**
- F884** Words in reg. 130 inserted (31.7.2000) by The Social Security Amendment (Students) Regulations 2000 (S.I. 2000/1981), regs. 1(1), **6(4)(b)**
- F885** Words in reg. 130 substituted (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(1)(d)(2)(d)**
- F886** Words in reg. 130 omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(8)**
- F887** Words in reg. 130 omitted (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by virtue of The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922), regs. 1, **3(5)**
- F888** Words in reg. 130 substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by The Social Security Amendment (Students) Regulations 1999 (S.I. 1999/1935), regs. 1(1)(b), **2(2)(b)**
- F889** Words in reg. 130 added (1.8.2001) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(1)(e)(2)(d)**
- F890** Words in reg. 130 omitted (1.8.2001) by virtue of The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(a), **2(1)(f)(2)(d)**

### Calculation of grant income

**131.**—(1) The amount of a student's grant income to be taken into account shall, subject to paragraphs [<sup>F891</sup>(2) and (3)], be the whole of his grant income.

(2) There shall be disregarded from the amount of a student's grant income any payment—

(a) intended to meet tuition fees or examination fees;



- (b) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides while attending his course but only to the extent that his rent is not met by housing benefit;
- (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
- (f) intended to meet the cost of books and equipment <sup>F892</sup> ... <sup>F893</sup> ...
- (g) intended to meet travel expenses incurred as a result of his attendance on the course.

<sup>F894</sup>(h) intended for the maintenance <sup>F895</sup> ... of a child dependent.]

<sup>F896</sup>(i) intended for the child care costs of a child dependant.]

<sup>F897</sup>(3) Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income—

- (a) the sum of <sup>F898</sup>£295] per academic year in respect of travel costs; and
- (b) <sup>F899</sup>the sum of <sup>F900</sup>£380][<sup>F901</sup>per academic year] towards the costs of books and equipment,]

whether or not any such costs are incurred.]

<sup>F902</sup>(3A) .....

<sup>F903</sup>(3A) .....

(4) <sup>F904</sup>Subject to paragraph (5A), a student's grant income except for any amount intended for the maintenance of <sup>F905</sup>adult] dependants under Part III of Schedule 2 to the Education (Mandatory Awards) Regulations 1999<sup>F906</sup>, or intended for an older student under Part IV of that Schedule,]] shall be apportioned—

- (a) subject to paragraph (6), in a case where it is attributable to the period of study, equally between the weeks <sup>F907</sup>in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study];
- (b) in any other case, equally between the weeks in the period <sup>F908</sup>beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable].

(5) <sup>F909</sup>Any grant paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and] any amount intended for the maintenance of <sup>F910</sup>dependants][<sup>F910</sup>an adult dependant][<sup>F911</sup>or for an older student] under the provisions referred to in paragraph (4) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.

<sup>F912</sup>(5A) <sup>F913</sup>In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so,] any amount intended for the maintenance of <sup>F914</sup>dependants][<sup>F914</sup>an adult dependant] under provisions other than those referred to in paragraphs (4) and (5), shall be apportioned over the same period as the student's loan is apportioned or<sup>F915</sup>, as the case may be, would have been apportioned].]

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(6) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between [<sup>F916</sup>the weeks in the period beginning with the benefit week, the first day of which immediately follows the last day of the period of experience and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study].

### Textual Amendments

- F891** Words in reg. 131(1) substituted (for specified purposes and with effect in accordance with reg. 1(bi) (bii) of the amending S.I.) by *The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922)*, regs. 1, **3(6)(a)**
- F892** Words in reg. 131(2)(f) omitted (7.10.1996) by virtue of *The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516)*, reg. 1(1), **Sch. Pt. 2**
- F893** Words in reg. 131(2)(f) omitted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by virtue of *The Social Security Amendment (Students) Regulations 1999 (S.I. 1999/1935)*, regs. 1(1)(b), **2(3)(a)**
- F894** Reg. 131(2)(h) added (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by *The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455)*, **Sch. 2 para. 16(a)**
- F895** Words in reg. 131(2)(h) deleted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by *The Social Security (Students and Income-related Benefits) Amendment Regulations 2004 (S.I. 2004/1708)*, regs. 1(1)(b), **3(4)(a)**
- F896** Reg. 131(2)(i) added (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by *The Social Security (Students and Income-related Benefits) Amendment Regulations 2004 (S.I. 2004/1708)*, regs. 1(1)(b), **3(4)(b)**
- F897** Reg. 131(3) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by *The Social Security Amendment (Students) Regulations 1999 (S.I. 1999/1935)*, regs. 1(1)(b), **2(3)(b)**
- F898** Word in reg. 131(3)(a) substituted (1.9.2008 for specified purposes) by *The Social Security (Students and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/1599)*, regs. 1(3)(a)(b), **4(3)(a)**
- F899** Reg. 131(3)(b) substituted (with effect in accordance with reg. 1(b)(c) of the amending S.I.) by *The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319)*, regs. 1(1)(b)(c), **3(2)(3)(d)**
- F900** Word in reg. 131(3)(b) substituted (1.9.2008 for specified purposes) by *The Social Security (Students and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/1599)*, regs. 1(3)(a)(b), **4(3)(b)**
- F901** Words in reg. 131(3)(b) substituted (for specified purposes and with effect in accordance with reg. 1(3)(a) of the amending S.I.) by *The Social Security (Students and Income-related Benefits) Amendment Regulations 2007 (S.I. 2007/1632)*, reg. 1(3)(b), **reg. 3(2)(b)**
- F902** Reg. 131(3A) omitted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of *The Social Security (Students and Income-related Benefits) Amendment Regulations 2005 (S.I. 2005/1807)*, **reg. 2(7)** (with reg. 2(9))
- F903** Reg. 131(3A) omitted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of *The Social Security (Students and Income-related Benefits) Amendment Regulations 2006 (S.I. 2006/1752)*, regs. 1(2), **5(3)**
- F904** Words in reg. 131(4) substituted (for specified purposes and with effect in accordance with reg. 1(bi) (bii) of the amending S.I.) by *The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922)*, regs. 1, **3(6)(d)**
- F905** Word in reg. 131(4) inserted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by *The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455)*, **Sch. 2 para. 16(e)**
- F906** Words in reg. 131(4) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of *The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455)*, **Sch. 2 para. 16(e)**

- F907** Words in reg. 131(4)(a) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(b), **4(3)(a)(4)(d)**
- F908** Words in reg. 131(4)(b) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(b), **4(3)(b)(4)(d)**
- F909** Words in reg. 131(5) inserted (with effect in accordance with reg. 1(b)(c) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2001 (S.I. 2001/2319), regs. 1(1)(b)(c), **6(d)**
- F910** Words in reg. 131(5) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 16(d)**
- F911** Words in reg. 131(5) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 16(d)**
- F912** Reg. 131(5A) inserted (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 (S.I. 2000/1922), regs. 1, **3(6)(e)**
- F913** Words in reg. 131(5A) inserted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(b), **4(5)(a)(6)(d)**
- F914** Words in reg. 131(5A) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 16(e)**
- F915** Words in reg. 131(5A) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(b), **4(5)(b)(6)(d)**
- F916** Words in reg. 131(6) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by The Social Security Amendment (Students and Income-related Benefits) Regulations 2002 (S.I. 2002/1589), regs. 1(1)(b), **4(7)(8)(d)**

### Calculation of covenant income where a contribution is assessed

**132.**—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or, if there are 53 benefit weeks (including part-weeks) in the year, 53; and
- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount, if any, by which the amount excluded under regulation 131(2)(g) falls short of the amount for the time being specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (travel expenditure).

### Covenant income where no grant income or no contribution is assessed

**133.**—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

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- (a) any sums intended for any expenditure specified in regulation 131(2)(a) to (e), necessary as a result of his attendance on the course, shall be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under regulation 131(2)(f) and (g) and (3) had the student been in receipt of the standard maintenance grant;
  - (c) the balance, if any, shall be divided by 52 or, if there are 53 benefit weeks (including part-weeks) in the year, 53 and treated as weekly income of which £5 shall be disregarded.
- (2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenant income shall be calculated in accordance with paragraph (1), except that—
- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 131(2)(a) to (e); and
  - (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under regulation 131(2)(f) and (g) and (3).

#### Relationship with amounts to be disregarded under Schedule 7

**134.** No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 7 (charitable and voluntary payments)<sup>F917</sup>....

##### Textual Amendments

**F917** Words in [reg. 134](#) omitted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [reg. 13\(7\)](#)

#### Other amounts to be disregarded

**135.—(1)** For the purposes of ascertaining income other than grant income, covenant income, and loans treated as income in accordance with regulation 136, any amounts intended for any expenditure specified in regulation 131(2) (calculation of grant income) necessary as a result of the student's attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 131(2) and (3), 132(3) [<sup>F918</sup>, 133(1)(a) or (b) and 136(5) (calculation of grant income, covenant income and treatment of student loans). ]

(2) Where a claim is made in respect of any period in the normal summer vacation and any income is payable under a deed of covenant which commences or takes effect after the first day of that vacation, that income shall be disregarded.

##### Textual Amendments

**F918** Words in reg. 135(1) substituted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Social Security Amendment \(Students\) Regulations 1999 \(S.I. 1999/1935\)](#), [regs. 1\(1\)\(b\), 2\(4\)](#)

## Treatment of student loans

[<sup>F919</sup>136.—(1) A student loan shall be treated as income<sup>F920</sup>....

<sup>F921</sup>(1A) .....]

[<sup>F922</sup>(2) In calculating the weekly amount of the loan to be taken into account as income—

(a) [<sup>F923</sup>in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with—

(i) except in a case where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of the single academic year;

(ii) where the student is required to start attending the course in August or where the course is of less than an academic year's duration, the benefit week, the first day of which coincides with, or immediately follows, the first day of the course,

and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course;]

(aa) [<sup>F924</sup>in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the benefit week<sup>F925</sup>, the first day of which coincides with, or immediately follows, the first day of that academic year and ending with the benefit week, the last day of which coincides with, or immediately precedes,] the last day of that academic year but excluding any benefit weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this sub-paragraph, "quarter" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2001;]

(b) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with<sup>F926</sup>...—

(i) [<sup>F927</sup>except in a case where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year;]

(ii) [<sup>F927</sup>where the final academic year starts on 1st September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term;]

and ending with [<sup>F928</sup>the benefit week, the last day of which coincides with, or immediately precedes,] the last day of the course;

(c) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of—

(i) the first day of the first benefit week in September; or

(ii) [<sup>F929</sup>the benefit week, the first day of which coincides with, or immediately follows, the first day of the autumn term,]

and ending with [<sup>F930</sup>the benefit week, the last day of which coincides with, or immediately precedes, the last day of June],

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.]

[<sup>F931</sup>(3) A student shall be treated as possessing a student loan in respect of an academic year where—

(a) a student loan has been made to him in respect of that year; or

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- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.
- (4) Where a student is treated as possessing a student loan under paragraph (3), the amount of the student loan to be taken into account as income shall be, subject to paragraph (5)—
- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so and either—
- (i) in the case of a student other than one to whom head (ii) refers, any contribution whether or not it has been paid to him; or
- (ii) in the case of a student who satisfies the additional conditions for a disability premium specified in paragraph 14 of Schedule 1 (applicable amounts), any contribution which has actually been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
- (ii) no deduction in that loan was made by virtue of the application of a means test.
- (5) There shall be deducted from the amount of income taken into account under paragraph (4)—
- (a) the sum of [<sup>F932</sup>£295][<sup>F933</sup>per academic year] in respect of travel costs; and
- (b) the sum of [<sup>F934</sup>£380][<sup>F935</sup>per academic year] towards the costs of books and equipment, whether or not any such costs are incurred.]

### Textual Amendments

- F919** Reg. 136(1)(1A) substituted for reg. 136(1) (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, **3(7)(a)**
- F920** Words in reg. 136(1) omitted (17.11.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **4(9)(a)**
- F921** Reg. 136(1A) omitted (17.11.2008) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **4(9)(b)**
- F922** Reg. 136(2) substituted (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, **3(7)(b)**
- F923** Reg. 136(2)(a) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(2)(6)(d)**
- F924** Reg. 136(2)(aa) inserted (with effect in accordance with reg. 1(b)(c) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2001 \(S.I. 2001/2319\)](#), regs. 1(1)(b)(c), **4**
- F925** Words in reg. 136(2)(aa) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(3)(6)(d)**
- F926** Words in reg. 136(2)(b) omitted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by virtue of [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(4)(a)(6)(d)**
- F927** Reg. 136(2)(b)(i)(ii) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(4)(b)(6)(d)**

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- F928** Words in reg. 136(2)(b) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(4)(c)(6)(d)**
- F929** Reg. 136(2)(c)(ii) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(5)(a)(6)(d)**
- F930** Words in reg. 136(2)(c) substituted (coming into force in accordance with reg. 1(1)(b)(i) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2002 \(S.I. 2002/1589\)](#), regs. 1(1)(b), **5(5)(b)(6)(d)**
- F931** Reg. 136(3)-(5) substituted for reg. 136(3) (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Social Security Amendment \(Students\) Regulations 1999 \(S.I. 1999/1935\)](#), regs. 1(1)(b), **2(5)(b)**
- F932** Word in reg. 136(5)(a) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), regs. 1(3)(a)(b), **4(4)(a)**
- F933** Words in reg. 136(5)(a) substituted (for specified purposes and with effect in accordance with reg. 1(3)(a) of the amending S.I.) by [The Social Security \(Students and Income-related Benefits\) Amendment Regulations 2007 \(S.I. 2007/1632\)](#), reg. 1(3)(b), **reg. 3(3)(a)**
- F934** Word in reg. 136(5)(b) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), regs. 1(3)(a)(b), **4(4)(b)**
- F935** Words in reg. 136(5)(b) substituted (for specified purposes and with effect in accordance with reg. 1(3)(a) of the amending S.I.) by [The Social Security \(Students and Income-related Benefits\) Amendment Regulations 2007 \(S.I. 2007/1632\)](#), reg. 1(3)(b), **reg. 3(3)(b)**

### [<sup>F936</sup>Treatment of payments from access funds

**136A.**—(1) This regulation applies to payments from access funds that are not payments to which regulation 138(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which paragraph (3) of this regulation applies, shall be disregarded as income.

(3) Subject to paragraph (4) of this regulation and paragraph 38 of Schedule 7, any payments from access funds which are intended and used for food, ordinary clothing or footwear<sup>F937</sup> ..., household fuel, rent for which housing benefit is payable [<sup>F938</sup>or any housing costs] to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs)<sup>F939</sup> ..., of a single claimant or, as the case may be, of [<sup>F940</sup>any other member of his family][<sup>F940</sup>his partner] and any payments from access funds which are used for any council tax or water charges for which that claimant or [<sup>F941</sup>member is liable][<sup>F941</sup>partner is liable] shall be disregarded as income to the extent of £20 per week.

[<sup>F942</sup>(3A) In paragraph (3) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.]

(4) Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student;

that payment shall be disregarded as income.]

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### Textual Amendments

- F936** Reg. 136A inserted (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, **3(8)**
- F937** Words in reg. 136A(3) omitted (2.4.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **3(6)(a)**
- F938** Words in reg. 136A(3) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 13(a)**
- F939** Words in reg. 136A(3) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 13(b)**
- F940** Words in reg. 136A(3) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 17(a)**
- F941** Words in reg. 136A(3) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 17(b)**
- F942** Reg. 136A(3A) inserted (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **3(6)(b)**

### [<sup>F943</sup>Treatment of fee loans

**136B.** A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.]

### Textual Amendments

- F943** Reg. 136B inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Students and Income-related Benefits\) Amendment Regulations 2006 \(S.I. 2006/1752\)](#), regs. 1(2), **5(4)**

### Disregard of contribution

**137.** Where the claimant or his partner is a student and, for the purposes of assessing a contribution to the student's grant [<sup>F944</sup>or student loan], the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

### Textual Amendments

- F944** Words in reg. 137 inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Social Security Amendment \(Students\) Regulations 1999 \(S.I. 1999/1935\)](#), regs. 1(1)(b), **2(6)**

### [<sup>F945</sup>Further disregard of student's income

**137A.** Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant [<sup>F946</sup>or student loan], the amount taken into account shall be disregarded in assessing that student's income.]



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### Textual Amendments

- F945** Reg. 137A inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1, [4\(3\)\(4\)\(f\)](#)
- F946** Words in reg. 137A inserted (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by [The Social Security Amendment \(Students\) Regulations 1999 \(S.I. 1999/1935\)](#), regs. 1(1)(b), 2(7)

### Income treated as capital

**138.**—<sup>F947</sup>(1) Any amount by way of a refund of tax deducted from a student's income shall be treated as capital.

<sup>F948</sup>(2) An amount paid from access funds as a single lump sum shall be treated as capital.

(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear<sup>F949</sup> ..., household fuel, rent for which housing benefit is payable [<sup>F950</sup>or any housing costs] to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs)<sup>F951</sup> ..., of a single claimant or, as the case may be, of [<sup>F952</sup>any other member of his family][<sup>F952</sup>his partner], or which is used for an item other than any council tax or water charges for which that claimant or [<sup>F953</sup>member is liable][<sup>F953</sup>partner is liable] shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.]

<sup>F954</sup>(4) In paragraph (3) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.]

### Textual Amendments

- F947** Reg. 138 renumbered as reg. 138(1) (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, [3\(9\)](#)
- F948** Reg. 138(2)(3) added (for specified purposes and with effect in accordance with reg. 1(bi)(bii) of the amending S.I.) by [The Social Security Amendment \(Students and Income-related Benefits\) Regulations 2000 \(S.I. 2000/1922\)](#), regs. 1, [3\(9\)](#)
- F949** Words in reg. 138(3) omitted (2.4.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), [3\(7\)\(a\)](#)
- F950** Words in reg. 138(3) substituted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, [Sch. Pt. II para. 14\(a\)](#)
- F951** Words in reg. 138(3) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, [Sch. Pt. II para. 14\(b\)](#)
- F952** Words in reg. 138(3) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 17\(a\)](#)
- F953** Words in reg. 138(3) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), [Sch. 2 para. 17\(b\)](#)
- F954** Reg. 138(4) inserted (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), [3\(7\)\(b\)](#)

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## Disregard of changes occurring during summer vacation

**139.** In calculating a student's income [<sup>F955</sup>the Secretary of State] shall disregard any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study, from the date on which the change occurred up to the end of that vacation.

### Textual Amendments

**F955** Words in reg. 139 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

## PART IX HARDSHIP

### Meaning of "person in hardship"

**140.—(1)** In this Part of these Regulations, a "person in hardship" means for the purposes of regulation 141 a claimant, other than a claimant to whom paragraph (3) or (4) applies [<sup>F956</sup>or a member of a joint-claim couple and regulation 3E does not apply], who—

- (a) is a single woman—
  - (i) who is pregnant; and
  - (ii) in respect of whom [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid to her, she will suffer hardship; or
- (b) is a single person who is responsible for a [<sup>F958</sup>child or young person], and [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid to the single person, the [<sup>F958</sup>child or young person] will suffer hardship; or
- (c) is a member of [<sup>F959</sup>a couple], where—
  - <sup>F960</sup>(i) at least one member of the couple is a woman who is pregnant; and]
  - (ii) [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid, the woman will suffer hardship; or
- (d) is a member of a polygamous marriage and—
  - (i) one member of the marriage is pregnant; and
  - (ii) [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid, that woman will suffer hardship; or
- (e) is a member of [<sup>F961</sup>a couple] or of a polygamous marriage where—
  - (i) one or both members of the couple, or one or more members of the polygamous marriage, are responsible for a child or young person; and
  - (ii) [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid, the child or young person will suffer hardship; or
- (f) has an award of a jobseeker's allowance which includes or would, if a claim for a jobseeker's allowance from him were to succeed have included, in his applicable amount a disability premium and—

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- (i) where the person has an award, a jobseeker's allowance is not payable either because it is suspended or because section 19 (circumstances in which a jobseeker's allowance is not payable) applies in his case; and
  - (ii) [<sup>F957</sup>the Secretary of State] is satisfied that, unless a jobseeker's allowance is paid, the person who would satisfy the conditions of entitlement to that premium would suffer hardship; or
- (g) suffers, or whose partner suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and [<sup>F957</sup>the Secretary of State] is satisfied that—
- (i) the suffering has already lasted, or is likely to last, for not less than 26 weeks; and
  - (ii) unless a jobseeker's allowance is paid to the claimant the probability is that the health of the person suffering would, within 2 weeks of [<sup>F957</sup>the Secretary of State] making his decision, decline further than that of a normally healthy adult and that person would suffer hardship; or
- (h) does, or whose partner does, or in the case of a claimant who is married to more than one person under a law which permits polygamy, at least one of those persons do, devote a considerable portion of each week to caring for another person who—
- (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under [<sup>F962</sup>section 72(4)] of the Benefits Act; or
  - (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for, 26 weeks from the date of claiming, [<sup>F963</sup>whichever is the earlier; or,
  - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made,]
- and [<sup>F957</sup>the Secretary of State] is satisfied, after taking account of the factors set out in [<sup>F964</sup>paragraph (5)] in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a jobseeker's allowance is paid to the claimant; or
- (i) is a person or is the partner of a person to whom section 16 applies by virtue of a direction issued by the Secretary of State, except where the person to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
  - (j) is a person—
    - (i) to whom section 3(1)(f)(iii) (persons under the age of 18) applies, or is the partner of such a person; and
    - (ii) in respect of whom [<sup>F957</sup>the Secretary of State] is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship.
- [<sup>F965</sup>(k) is a person
- (i) who, pursuant to the Children Act 1989, was being looked after by a local authority;
  - (ii) with whom the local authority had a duty, pursuant to that Act, to take reasonable steps to keep in touch; or
  - (iii) who, pursuant to that Act, qualified for advice and assistance from a local authority,

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but in respect of whom (i), (ii) or, as the case may be, (iii) above had not applied for a period of three years or less as at the date on which he complies with the requirements of regulation 143; and

(iv) as at the date on which he complies with the requirements of regulation 143, is under the age of 21.]

(2) Except in a case to which paragraph (3) [<sup>F966</sup>or (4A)]<sup>F967</sup> ... applies [<sup>F968</sup>or where the person in hardship is a member of a joint-claim couple and regulation 3E does not apply] a "person in hardship" means for the purposes of regulation 142, a claimant where [<sup>F957</sup>the Secretary of State] is satisfied that he or his partner will suffer hardship unless a jobseeker's allowance is paid to him.

(3) In paragraphs (1) and (2) a "person in hardship" does not include a claimant who is entitled, or whose partner is entitled, to income support [<sup>F969</sup>or an income-related employment and support allowance] or [<sup>F970</sup>a claimant or a partner of a claimant] who falls within a category of persons prescribed for the purpose of section 124(1)(e) of the Benefits Act.

(4) Paragraph (1)(h) shall not apply in a case where the person being cared for resides in a [<sup>F971</sup>care home, an Abbeyfield Home or an independent hospital].

[<sup>F972</sup>(4A) In paragraph (2), a "person in hardship" does not include a claimant to whom section 19(5)(b) or (c) applies by virtue of any act or omission relating to [<sup>F973</sup>one of the New Deal options or to the Intensive Activity Period specified in regulation 75(1)(a) (iv)].]

(5) Factors which, for the purposes of paragraphs (1) and (2), [<sup>F957</sup>the Secretary of State] is to take into account in determining whether a person will suffer hardship are—

- (a) the presence in the claimant's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1 [<sup>F974</sup>or [<sup>F975</sup>for a disabled child premium specified in paragraph 16 of that Schedule]]<sup>F975</sup>an element of child tax credit in respect of a child or young person who is disabled or severely disabled within the meaning of regulation 8 of the Child Tax Credit Regulations 2002];]
- (b) the resources which, without a jobseeker's allowance, are likely to be available to the claimant's family, the amount by which these resources fall short of the amount applicable in his case in accordance with regulation 145 (applicable amount in hardship cases), the amount of any resources which may be available to members of the claimant's family from any person in the claimant's household who is not a member of his family, and the length of time for which those factors are likely to persist;
- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the claimant or to a member of the claimant's family, or will be available at considerably reduced levels and the length of time those factors are likely to persist.

#### Textual Amendments

**F956** Words in reg. 140(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 45(a)**

**F957** Words in reg. 140 substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**

**F958** Words in reg. 140(1)(b) substituted (24.11.2008) by [The Social Security \(Lone Parents and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/3051\)](#), regs. 1(2), **11(14)** (with reg. 13)

**F959** Words in reg. 140(1)(c) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 26(8)(a)(i)** (with art. 3)

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- F960** Reg. 140(1)(c)(i) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(8)(a)(ii)** (with art. 3)
- F961** Words in reg. 140(1)(e) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 26(8)(b)** (with art. 3)
- F962** Words in reg. 140(1)(h)(i) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F963** Words in reg. 140(1)(h)(ii) substituted and reg. 140(1)(h)(iii) inserted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **13(1)**
- F964** Words in reg. 140(1)(h)(ii) substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F965** Words in reg. 140(1) added (6.3.2000) by The Jobseeker's Allowance (Amendment) Regulations 2000 (S.I. 2000/239), regs. 1, **2(4)**
- F966** Words in reg. 140(2) inserted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **11(a)**
- F967** Words in reg. 140(2) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F968** Words in reg. 140(2) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 45(b)**
- F969** Words in reg. 140(3) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(17)**
- F970** Words in reg. 140(3) inserted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **25**
- F971** Words in reg. 140(4) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 2 para. 7**
- F972** Reg. 140(4A) inserted (5.1.1998) by The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863), regs. 1(1), **11(b)**
- F973** Words in reg. 140(4A) substituted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **9(1)**
- F974** Words in reg. 140(5)(a) inserted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **13(2)**
- F975** Words in reg. 140(5)(a) substituted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 2 para. 18**

### **[<sup>F976</sup>Period when a person is not a person in hardship**

**140A.**—[<sup>F977</sup>(1) A claimant who is not a person in hardship by virtue of regulation 140(4A) shall not be a person in hardship throughout the period beginning on the day on which a New Deal decision has effect by virtue of regulation 69 or, as the case may be, by virtue of regulation 7(8) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and ending—

- (a) on the last day on which he is required to participate in a New Deal option [<sup>F978</sup>or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)]; or
- (b) on the day which is 14 days after the day on which the New Deal decision had effect,

whichever is the later.]

(2) Where a claimant who is not a person in hardship by virtue of regulation 140(4A) was a person in hardship for the purposes of regulation 142 immediately before the commencement of the period referred to in paragraph (1), that claimant shall, subject to paragraph (3), again become a person in hardship for the purposes of regulation 142 on the day following the expiration of that period.

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(3) A claimant to whom paragraph (2) applies shall not again become a person in hardship for the purposes of regulation 142 if—

- (a) the day following the day the period referred to in paragraph (1) expires is a day within a period in respect of which a subsequent New Deal decision applies by virtue of paragraph (1); or
- (b) on the day following the expiry of the period referred to in paragraph (1), he is not a person in hardship for the purposes of regulation 142.]

[<sup>F979</sup>(4) In this regulation, “New Deal decision” means a decision that section 19(5)(b) or (c) applies by virtue of an act or omission relating to one of the New Deal options [<sup>F980</sup>or to the Intensive Activity Period specified in regulation 75(1)(a)(iv)].]

#### Textual Amendments

**F976** Reg. 140A inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **12**

**F977** Reg. 140A(1) substituted (6.3.2000) by [The Jobseeker's Allowance \(Amendment\) Regulations 2000 \(S.I. 2000/239\)](#), reg. 1, **2(5)(a)**

**F978** Words in reg. 140A(1)(a) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(1)**

**F979** Reg. 140A(4) added (6.3.2000) by [The Jobseeker's Allowance \(Amendment\) Regulations 2000 \(S.I. 2000/239\)](#), reg. 1, **2(5)(b)**

**F980** Words in reg. 140A(4) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(2)**

#### Circumstances in which an income-based jobseeker's allowance is payable to a person in hardship

**141.**—(1) This regulation applies to persons in hardship within the meaning of regulation 140(1), and is subject to the provisions of regulations 143 and 144.

(2) Subject to paragraph (3) a person in hardship [<sup>F981</sup>, other than a person to whom regulation 46(1) (waiting days) applies, shall be treated as entitled to an income-based jobseeker's allowance for the period beginning with the [<sup>F982</sup>8th] day of the jobseeking period or,] if later, from the day he first becomes a person in hardship and ending on the day before the claim is determined where [<sup>F983</sup>the sole reason for the delay] in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement specified in section 1(2)(a) to (c) [<sup>F984</sup>provided he satisfies the conditions of entitlement specified in paragraph (d)(ii) of subsection (2) of section 1.]

(3) A person in hardship to whom paragraph (2) applies may be treated as entitled to an income-based jobseeker's allowance for a period after the date <sup>F985</sup>... referred to in that paragraph [<sup>F986</sup>which is applicable in his case] but before the date the statement mentioned in regulation 143(1) is furnished where [<sup>F987</sup>the Secretary of State] is satisfied that the claimant suffered hardship because of a lack of resources during that period.

(4) A person in hardship, except where the person has been treated as not available for employment in accordance with regulations under section 6(4) of the Act shall, subject to the conditions specified in regulation 143 (conditions for hardship payments), be entitled to an income-based jobseeker's allowance without satisfying the requirements of section 1(2)(a) to (c) of the Act provided he satisfies the other conditions of entitlement to that benefit.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with [<sup>F988</sup>regulation 16 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999] on the ground

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that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income based jobseeker's allowance.

(6) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 19 (circumstances in which a jobseeker's allowance is not payable) prevents payment of a jobseeker's allowance to him but the allowance shall be payable only if and for so long as he satisfies the conditions of entitlement to an income-based jobseeker's allowance.

**Textual Amendments**

- F981** Words in reg. 141(2) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **26(2)**
- F982** Word in reg. 141(2) substituted (5.4.1999) by [The Jobseeker's Allowance \(Amendment\) Regulations 1998 \(S.I. 1998/71\)](#), regs. 1(1), **3** (with reg. 4)
- F983** Words in reg. 141(2) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(9)**
- F984** Words in reg. 141(2) added (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(9)**
- F985** Words in reg. 141(3) omitted (7.10.1996) by virtue of [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **26(3)**
- F986** Words in reg. 141(3) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **26(3)**
- F987** Words in reg. 141(3) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**
- F988** Words in reg. 141(5) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 8**

**Further circumstances in which an income-based jobseeker's allowance is payable to a person in hardship**

**142.**—(1) This regulation applies to a person in hardship who falls within paragraph (2) but not paragraph (1) of regulation 140 and is subject to the provisions of regulations 143 and 144.

(2) A person in hardship shall be treated as entitled to an income-based jobseeker's allowance for a period commencing on whichever is the later of—

- <sup>F989</sup>(a) in a case where regulation 46(1) applies, the 15th day of the jobseeking period; or]
- <sup>F990</sup>(b) .....
- (c) the day the claimant complies with the requirements of regulation 143,

and ending on the day before the claim is determined where [<sup>F991</sup>the sole reason for the delay] in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement specified in section 1(2)(a) to (c) [<sup>F992</sup>provided he satisfies the conditions of entitlement specified in paragraph (d)(ii) of subsection (2) of section 1.]

(3) An income-based jobseeker's allowance shall be payable subject to paragraph (4) to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with regulations made by virtue of [<sup>F993</sup>section 21 of the Social Security Act 1998] (suspension of benefit) on the ground that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c) but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income-based jobseeker's allowance.

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(4) An income-based jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 19 (circumstances in which a jobseeker's allowance is not payable) prevents payment of a jobseeker's allowance to him, but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which section 19 applies; and
- (b) shall be payable thereafter only where the conditions of entitlement to an income-based jobseeker's allowance are satisfied.

#### Textual Amendments

- F989** Reg. 142(2)(a)(b) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **27**
- F990** Reg. 142(2)(b) omitted (28.10.1996) by virtue of [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(10)(b)**
- F991** Words in reg. 142(2) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(10)(c)**
- F992** Words in reg. 142(2) added (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(10)(c)**
- F993** Words in reg. 142(3) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 9**

#### Conditions for hardship payments

**143.**—(1) A jobseeker's allowance shall not be payable in accordance with regulation 141 or, as the case may be, 142, except where the claimant has—

- (a) furnished on a form approved for the purpose by the Secretary of State or in such other form as he may in any particular case approve a statement of the circumstances he relies upon to establish entitlement under regulation 141 or as the case may be regulation 142; and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by the claimant to such office as the Secretary of State may specify.

#### Provision of information

**144.** For the purposes of [<sup>F994</sup>section 20(5) of and] paragraph 10(3) of Schedule 1 to the Act, a claimant shall provide to the Secretary of State information as to the circumstances of the person alleged to be in hardship.

#### Textual Amendments

- F994** Words in reg. 144 inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **14**



**Applicable amount in hardship cases**

145.—(1) [F995]The weekly applicable amount of a person to whom an income-based jobseeker's allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to 40% or, in a case where the claimant or any other member of his family is either pregnant or is seriously ill, 20% of the following amount—]

- (a) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in paragraph 1(1)(a), (b) or (c), as the case may be, of Schedule 1 (applicable amounts);
- (b) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for an income-based jobseeker's allowance under section 3(1)(f)(iii) or is not subject to a direction under section 16, the amount specified in paragraph 1(1)(d) of Schedule 1;
- (c) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (b) [F996]applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1.

F997(2) .....

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

**Textual Amendments**

**F995** Words in reg. 145(1) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **15(1)**

**F996** Word in reg. 145(1)(c) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **28**

**F997** Reg. 145(2) omitted (7.10.1996) by virtue of [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **15(2)**

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**Modifications etc. (not altering text)**

**C18** [Reg. 145\(1\)](#) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), [Sch. 19](#)

**Payments made on account of suspended benefit**

146.—(1) This regulation applies to a person to whom—

- (a) payments of a jobseeker's allowance have been suspended in accordance with regulations made under [F998]section 21 of the Social Security Act 1998];
- (b) an income-based jobseeker's allowance is paid under regulation 141 or 142.

(2) In the case of a person to whom—

- (a) this regulation applies; and
- (b) payments in respect of the benefit suspended fall to be made,

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any benefit paid or payable by virtue of regulation 141(5) or 142(3) shall be treated as having been paid on account of the suspended benefit and only the balance of the suspended benefit (if any) shall be payable.

#### Textual Amendments

**F998** Words in reg. 146(1)(a) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 9](#)

## [<sup>F999</sup>PART IXA

### HARDSHIP FOR JOINT-CLAIM COUPLES

#### Textual Amendments

**F999** Pt. 9A inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), regs. 1(1), [2\(3\)](#)

#### Meaning of “couple in hardship”

**146A.**—(1) In this Part of these Regulations, a “couple in hardship” means for the purposes of regulation 146C, a joint-claim couple who are claiming a jobseeker’s allowance jointly, other than a couple which includes a member to whom paragraph (3) or (4) applies, where—

- (a) [<sup>F1000</sup>at least one member of the joint-claim couple is a woman who is pregnant] and the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship; or
- (b) one or both members of the couple are members of a polygamous marriage, one member of the marriage is pregnant and the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship; or
- (c) the award of a joint-claim jobseeker’s allowance includes, or would, if a claim for a jobseeker’s allowance from the couple were to succeed, have included in their applicable amount a disability premium and—
  - (i) where the couple have an award, a joint-claim jobseeker’s allowance is not payable either because it is suspended or because section 20A (denial or reduction of joint-claim jobseeker’s allowance) applies in the couple’s case; and
  - (ii) the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, the member of the couple who would have caused the disability premium to be applicable to the couple would suffer hardship; or
- (d) either member of the couple suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Secretary of State is satisfied that—
  - (i) the suffering has already lasted or is likely to last, for not less than 26 weeks; and
  - (ii) unless a joint-claim jobseeker’s allowance is paid, the probability is that the health of the person suffering would, within two weeks of the Secretary of State making his decision, decline further than that of a normally healthy adult and the member of the couple who suffers from that condition would suffer hardship; or

- (e) either member of the couple, or where a member of that couple is married to more than one person under a law which permits polygamy, one member of that marriage, devotes a considerable portion of each week to caring for another person who—
  - (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act; or
  - (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier; or
  - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made, and the Secretary of State is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a joint-claim jobseeker's allowance is paid; or
- (f) section 16 applies to either member of the couple by virtue of a direction issued by the Secretary of State, except where the member of the joint-claim couple to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
- (g) section 3A(1)(e)(ii) (member of joint-claim couple under the age of 18) applies to either member of the couple and the Secretary of State is satisfied that unless a joint-claim jobseeker's allowance is paid, the couple will suffer hardship;
- (h) one or both members of the couple is a person—
  - (i) who, pursuant to the Children Act 1989, was being looked after by a local authority;
  - (ii) with whom the local authority had a duty, pursuant to that Act, to take reasonable steps to keep in touch; or
  - (iii) who, pursuant to that Act, qualified for advice or assistance from a local authority, but in respect of whom head (i), (ii) or, as the case may be, (iii) above had not applied for a period of three years or less as at the date on which the requirements of regulation 146F are complied with; and
  - (iv) as at the date on which the requirements of regulation 146F are complied with, that member is, or both of those members are, under the age of 21.

(2) Except in a case to which paragraph (3), (4) or (5) applies, a “couple in hardship” means for the purposes of regulation 146D, a joint-claim couple where the Secretary of State is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the couple will suffer hardship unless a joint-claim jobseeker's allowance is paid.

(3) In paragraph (1) and (2), a “couple in hardship” does not include a couple one of whose members is entitled to income support [<sup>F1001</sup>or an employment and support allowance] or who falls within a category of persons prescribed for the purposes of section 124(1)(e) of the Benefits Act.

(4) Paragraph (1)(e) shall not apply in a case where the person being cared for resides in a [<sup>F1002</sup>care home, an Abbeyfield Home or an independent hospital].

(5) In paragraph (2), a “couple in hardship” does not include a joint-claim couple where section 20A(2)(b) or (c) applies to either or both members by virtue of any act or omission relating to a New Deal option [<sup>F1003</sup>or to the Intensive Activity Period specified in regulation 75(1)(a)(iv)].

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- (6) Factors which, for the purposes of paragraphs (1) and (2), the Secretary of State is to take into account in determining whether a joint-claim couple will suffer hardship are—
- (a) the presence in the joint-claim couple of a person who satisfies the requirements for a disability premium specified in paragraphs 20H and 20I of Schedule 1;
  - (b) the resources which, without a joint-claim jobseeker's allowance, are likely to be available to the joint-claim couple, the amount by which these resources fall short of the amount applicable in their case in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples), the amount of any resources which may be available to the joint-claim couple for any person in the couple's household who is not a member of the family and the length of time for which those factors are likely to persist;
  - (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the joint-claim couple, or will be available at considerably reduced levels, the hardship that will result and the length of time those factors are likely to persist.

#### Textual Amendments

- F1000** Words in reg. 146A(1)(a) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 26(9)** (with art. 3)
- F1001** Words in reg. 146A(3) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(18)**
- F1002** Words in reg. 146A(4) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 8**
- F1003** Words in reg. 146A(5) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **9(2)**

#### Period when a joint-claim couple is not in hardship

**146B.**—(1) A joint-claim couple which is not a couple in hardship by virtue of regulation 146A(5) shall not be a couple in hardship throughout the period beginning on the day on which a New Deal decision has effect by virtue of regulation 69 or, as the case may be, by virtue of regulation 7(8) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in relation to either or both members of that couple and ending—

- (a) on the last day on which a member is required to participate in a New Deal option [<sup>F1004</sup>or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)]; or
- (b) on the day which is 14 days after the day on which the New Deal decision had effect,

whichever is the later.

(2) Where a joint-claim couple who are not a couple in hardship by virtue of regulation 146A(5) was a couple in hardship for the purposes of regulation 146D immediately before the commencement of the period referred to in paragraph (1), that couple shall, subject to paragraph (3), again become a couple in hardship for the purposes of regulation 146D on the day following the expiration of that period.

(3) A joint-claim couple to whom paragraph (2) applies shall not again become a couple in hardship for the purposes of regulation 146D if—

- (a) the day following the day the period referred to in paragraph (1) expires is a day within a period in respect of which a subsequent New Deal decision applies by virtue of paragraph (1); or

(b) on the day following the expiration of the period referred to in paragraph (1), they are not a couple in hardship for the purposes of regulation 146D.

(4) In this regulation, “New Deal decision” means a decision that section 20A(2)(b) or (c) applies to a member of a joint-claim couple by virtue of an act or omission relating to one of the New Deal options <sup>F1005</sup> or to the Intensive Activity Period specified in regulation 75(1)(a)(iv)].

#### Textual Amendments

**F1004** Words in reg. 146B(1)(a) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(1)**

**F1005** Words in reg. 146B(4) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(2)**

### Circumstances in which a joint-claim jobseeker's allowance is payable where a joint-claim couple is a couple in hardship

**146C.**—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 146A(1) and is subject to the provisions of regulations 146E and 146F.

(2) Subject to paragraph (3), a couple in hardship referred to in paragraph (1), other than a couple in hardship where either or both members are persons to whom regulation 46(1) (waiting days) applies, shall be treated as entitled to a joint-claim jobseeker's allowance for the period—

- (a) beginning with the fourth day of the jobseeking period or, if later, from the day the couple first becomes a couple in hardship; and
- (b) ending on the day before the claim is determined,

where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A couple in hardship to whom paragraph (2) applies may be treated as entitled to a joint-claim jobseeker's allowance for a period after the date referred to in that paragraph which is applicable in their case but before the date of the statement referred to in regulation 146E(1) is furnished where the Secretary of State is satisfied that that couple suffered hardship because of a lack of resources during that period.

(4) A couple in hardship, except where either or both members have been treated as not available for employment in accordance with regulations under section 6(4) shall, subject to the conditions specified in regulation 146E (conditions for hardship payments), be entitled to a joint-claim jobseeker's allowance without both members satisfying the requirements of section 1(2)(a) to (c) provided the joint-claim couple satisfy the other conditions of entitlement to that benefit.

(5) A joint-claim jobseeker's allowance shall be payable to a joint-claim couple who are a couple in hardship even though payment to the couple of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998 on the ground that a doubt has arisen as to whether either joint-claimant satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

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(6) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 20A(5)(a) (denial of joint-claim jobseeker's allowance) prevents payment of a joint-claim jobseeker's allowance to the couple or section 20A(5)(b) (reduction of joint-claim jobseeker's allowance) reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

### **Further circumstances in which a joint-claim jobseeker's allowance is payable to a couple in hardship**

**146D.**—(1) This regulation applies to a couple in hardship falling within paragraph (2) but not paragraph (1) of regulation 146A and is subject to the provisions of regulations 146E and 146F.

(2) A couple in hardship shall be treated as entitled to a joint-claim jobseeker's allowance for a period commencing on whichever is the later of—

- (a) the 15th day following the date of claim disregarding any waiting days; or
- (b) the day on which regulation 146E is complied with,

and ending on the day before the claim is determined where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members of that couple satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A joint-claim jobseeker's allowance shall be payable, subject to paragraph (4), to a couple in hardship even though payment to them of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998 (suspension of benefit) on the ground that a doubt has arisen as to whether either or both members of that couple satisfy the requirements of section 1(2)(a) to (c) of the Act but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

(4) A joint-claim jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.

(5) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 20A(5)(a) (denial of joint-claim jobseeker's allowance) prevents payment of a joint-claim jobseeker's allowance to them or section 20A(5)(b) (reduction of joint-claim jobseeker's allowance) reduces the amount of a joint-claim jobseeker's allowance payable to them but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which section 20A applies; and
- (b) shall be payable thereafter only where the conditions of entitlement to a joint-claim jobseeker's allowance are satisfied or where one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

### Conditions for hardship payments to a joint-claim couple

**146E.**—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 146C or, as the case may be, 146D, except where either member of the joint-claim couple has—

- (a) furnished on a form approved for the purpose by the Secretary of State or in such other form as he may in any particular case approve, a statement of the circumstances he relies upon to establish entitlement under regulation 146C or, as the case may be, regulation 146D; and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by either member to such office as the Secretary of State may specify.

### Provision of information

**146F.** For the purposes of section 20B(5) and paragraph 10(3) of Schedule 1 to the Act, a member of a joint-claim couple shall provide to the Secretary of State information as to the circumstances of the alleged hardship of that couple.

### Applicable amount in hardship cases for joint-claim couples

**146G.**—(1) The weekly applicable amount of the joint-claim couple to whom a joint-claim jobseeker's allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to 40% or, in a case where a member of a joint-claim couple is either pregnant or seriously ill or where a member of the joint-claim couple is a member of a polygamous marriage and one of the members of that marriage is pregnant or seriously ill, 20% of the following amount—

- (a) where one member of the joint-claim couple or the polygamous marriage is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage, each other member, is a person under 18 to whom section 3A(1)(e)(ii) applies or is not subject to a direction under section 16, the amount specified in paragraph 1(1)(d) of Schedule 1;
- (b) where one member of the joint-claim couple or of the polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (a) applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

#### Modifications etc. (not altering text)

**C19** Reg. 146G(1) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), [Sch. 19](#)

### Payments made on account of suspended benefit

**146H.**—(1) This regulation applies to a joint-claim couple to whom—

- (a) payments of a joint-claim jobseeker's allowance have been suspended in accordance with regulations made under section 21 of the Social Security Act 1998;
- (b) a joint-claim jobseeker's allowance is paid under regulation 146C or 146D.

(2) In the case of a joint-claim couple to whom—

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- (a) this regulation applies; and
  - (b) payments in respect of the benefit suspended fall to be made,
- any benefit paid or payable by virtue of regulation 146C(5) or 146D(3) shall be treated as having been paid on account of the suspended benefit and only the balance of the suspended benefit, if any, shall be payable.]

## PART X

### URGENT CASES

#### Urgent cases

**147.**—(1) In a case to which this regulation applies, a claimant’s weekly applicable amount and his income and capital shall be calculated for the purposes of an income-based jobseeker’s allowance in accordance with the following provisions of this Part.

(2) This regulation applies in accordance with the following provisions to—

- [<sup>F1006</sup>(a) a claimant to whom paragraph (2A) applies (persons not excluded from income-based jobseeker’s allowance under section 115 of the Immigration and Asylum Act);]
- (b) a claimant to whom paragraph (6) (certain persons whose income is not readily available to them) applies.

[<sup>F1007</sup>(2A) This paragraph applies to a person not excluded from entitlement to income-based jobseeker’s allowance under section 115 of the Immigration and Asylum Act by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 except for a person to whom paragraphs 3 and 4 of Part I to the Schedule to those Regulations applies.]

<sup>F1008</sup>(3) .....

<sup>F1008</sup>(4) .....

<sup>F1008</sup>(5) .....

(6) This paragraph shall only apply to a person who is treated as possessing income by virtue of regulation 105(6) and (7) (notional income) where the income he is treated as possessing is not readily available to him; and—

- (a) the amount of jobseeker’s allowance payable to him otherwise than under this Part is less than the amount of a jobseeker’s allowance payable to him under this Part; and
- (b) [<sup>F1009</sup>the Secretary of State] is satisfied that, unless the provisions of this Part are applied to the claimant, the claimant or his family will suffer hardship.

#### Textual Amendments

**F1006**Reg. 147(2)(a) substituted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **4(5)(a)** (with reg. 12(3)(4)(5))

**F1007**Reg. 147(2A) inserted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **4(5)(b)** (with reg. 12(3)(4)(5))

**F1008**Reg. 147(3)(4)(5) omitted (3.4.2000) by virtue of [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **4(5)(c)** (with reg. 12(3)(4)(5))



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**F1009** Words in reg. 147(6)(b) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 2](#)

**Applicable amount in urgent cases**

**148.**—(1) For the purposes of calculating any entitlement to an income-based jobseeker's allowance [<sup>F1010</sup>but not a joint-claim jobseeker's allowance] under this Part—

(a) <sup>F1011</sup>except in a case to which sub-paragraph ... (c) or (d) applies, a claimant's weekly applicable amount shall be the aggregate of—

(i) 90 per cent. of the amount applicable (reduced where appropriate in accordance with regulation 145 (applicable amount in hardship cases)) in respect of himself or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both of them under paragraph 1(1), (2) or (3) of Schedule 1 or, as the case may be, the amount applicable in respect of them under regulation 84 (polygamous marriages);

(ii) [<sup>F1012</sup>the amount applicable under paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, except as provided in regulation 106(1) (modifications in respect of children and young persons), would exceed £3,000;]

(iii) the amount, if applicable, specified in Part [<sup>F1013</sup>II or] III of Schedule 1 (premiums);

(iv) any amounts applicable under regulation 83(f) or, as the case may be, 84(1)(g) (housing costs);

<sup>F1014</sup>(v) .....

(vi) the amount of any protected sum which may be applicable to him in accordance with regulation 87(2);

<sup>F1015</sup>(b) .....

<sup>F1016</sup>(c) .....

(d) <sup>F1011</sup>except where sub-paragraph ...(c) applies, in the case of a person to whom any paragraph, other than [<sup>F1017</sup>paragraph 13A] in column (1) of Schedule 5 (special cases) applies, the amount shall be 90 per cent. of the amount applicable in column 2 of that Schedule in respect of the claimant and partner (if any), plus, if applicable—

(i) [<sup>F1018</sup>any amount in respect of a child or young person who is a member of the family except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, except as provided in regulation 106(1) (modifications in respect of children and young persons), would exceed £3,000;]

(ii) any premium under Part [<sup>F1019</sup>II or] III of Schedule 1; and

(iii) any amounts applicable under regulation 83(f) or, as the case may be, 84(1)(g); and

(iv) the amount of the protected sum which may be applicable to him in accordance with regulation 87(2).

<sup>F1020</sup>(1A) .....

[<sup>F1021</sup>(2) Where the calculation of a claimant's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.]

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### Textual Amendments

- F1010** Words in reg. 148(1) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 46**
- F1011** Words in reg. 148 omitted (8.4.2002) by S.I. 2001/3767 Sch. Pt. 2 para. 15(za)(bb) (as inserted by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2002 \(S.I. 2002/398\)](#), regs. 1, **4(3)(a)**)
- F1012** Reg. 148(1)(a)(ii) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 19(a)**
- F1013** Words in reg. 148(1)(a)(iii) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 19(b)**
- F1014** Reg. 148(1)(a)(v) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 7(a)(i)**
- F1015** Reg. 148(1)(b) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), **Sch. Pt. 2 para. 15(a)**
- F1016** Reg. 148(1)(c) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 7(a)(ii)**
- F1017** Words in reg. 148(1)(d) substituted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **reg. 4(6)**
- F1018** Reg. 148(1)(d)(i) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 19(a)**
- F1019** Words in reg. 148(1)(d)(ii) omitted (for specified purposes and with effect in accordance with reg. 1(6)(7)(8) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 2 para. 19(b)**
- F1020** Reg. 148(1A) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1121\)](#), reg. 1, **Sch. 2 para. 7(b)**
- F1021** Reg. 148(1A) inserted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), **Sch. Pt. 2 para. 15(c)**

### Modifications etc. (not altering text)

- C20** Reg. 148(1)(a)(i) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), **Sch. 19**
- C21** Reg. 148(1)(a)(ii) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **24(2)(a)**
- C22** Reg. 148(1)(d) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), **Sch. 19**
- C23** Reg. 148(1)(d)(i) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **24(2)(a)**

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## [<sup>F1022</sup>Applicable amount in urgent cases: joint-claim couples

**148A.**—(1) For the purpose of calculating any entitlement to a joint-claim jobseeker's allowance under this Part—

(a) <sup>F1023</sup>except in a case to which sub-paragraph ... (c) or (d) applies, a joint-claim couple's weekly applicable amount shall [<sup>F1024</sup>, subject to paragraph (1A),] be the aggregate of—

(i) 90 per cent. of the amount applicable (reduced where appropriate in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples)) in respect of the couple under paragraph 1(3) of Schedule 1 or, as the case may be, the amount applicable in respect of them under regulation 86B (joint-claim couples: polygamous marriages);

(ii) the amount, if applicable, specified in Part IVA of Schedule 1 (premiums);

(iii) any amounts applicable under regulation 86A(d) or, as the case may be, 86B(e) (housing costs); and

<sup>F1025</sup>(iv) .....

<sup>F1026</sup>(b) .....

<sup>F1027</sup>(c) .....

(d) except where sub-paragraph <sup>F1023</sup>... (c) applies, in the case of a member of a joint-claim couple to whom any paragraph of Schedule 5A (applicable amounts of joint-claim couples in special cases) applies, the amount shall be 90 per cent. of the amount applicable in column (2) of that Schedule in respect of the joint-claim couple plus, if applicable—

(i) any premium under Part IVA of Schedule 1;

(ii) any amounts applicable under regulation 86A(d) or, as the case may be, 86B(e) (housing costs).

<sup>F1028</sup>(1A) .....

(2) Where the calculation of a joint-claim couple's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.]

### Textual Amendments

**F1022**Reg. 148A inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000](#) (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 47**

**F1023**Words in reg. 148A omitted (8.4.2002) by S.I. 2001/3767 Sch. Pt. 2 para. 16(za)(bb) (as inserted by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2002](#) (S.I. 2002/398), regs. 1, **4(3)(b)**)

**F1024**Words in reg. 148A(1)(c) inserted (8.4.2002) by [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001](#) (S.I. 2001/3767), **Sch. Pt. 2 para. 16(b)**

**F1025**Reg. 148A(1)(a)(iv) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003](#) (S.I. 2003/1121), reg. 1, **Sch. 2 para. 8(a)(i)**

**F1026**Reg. 148A(1)(b) omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001](#) (S.I. 2001/3767), **Sch. Pt. 2 para. 16(a)**

**F1027**Reg. 148A(1)(c) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003](#) (S.I. 2003/1121), reg. 1, **Sch. 2 para. 8(a)(ii)**

**F1028**Reg. 148A(1A) omitted (6.10.2003) by virtue of [The Social Security \(Removal of Residential Allowance and Miscellaneous Amendments\) Regulations 2003](#) (S.I. 2003/1121), reg. 1, **Sch. 2 para. 8(b)**

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#### Modifications etc. (not altering text)

- C24** Reg. 148A(1)(a)(i) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), [Sch. 19](#)
- C25** Reg. 148A(1)(d) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), 24(10), [Sch. 19](#)

#### Assessment of income and capital in urgent cases

**149.**—(1) The claimant's income shall be calculated in accordance with Part VIII subject to the following modifications—

- <sup>F1029</sup>(a) any income other than—
- (i) a payment of income or income in kind made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living <sup>F1030</sup>Fund (2006)]; or
  - (ii) income to which paragraph 5, 7 (but only to the extent that a concessionary payment would be due under that paragraph for any non-payment of income support <sup>F1031</sup>or of employment and support allowance under regulation 164 of the Employment and Support Allowance Regulations] under regulation 70 of these Regulations or of jobseeker's allowance under regulation 147 of the Jobseeker's Allowance Regulations 1996 (urgent cases)), 31, 39(2), (3) or (4), 40, 42, 52 or 57 of Schedule 9 (disregard of income other than earnings) applies,
- possessed or treated as possessed by him, shall be taken into account in full notwithstanding any provision in that Part disregarding the whole or any part of that income;]
- (b) any income to which regulation 116 (calculation of tariff income from capital) applies shall be disregarded;
  - (c) income treated as capital by virtue of regulation 110(1),(2),(3) and (9) (income treated as capital) shall be taken into account as income;
  - (d) in a case to which paragraph (2)(b) of regulation 147 (urgent cases) applies, any income to which regulation 105(6) and (7) (notional income) applies shall be disregarded.

(2) The claimant's capital calculated in accordance with Part VIII, but including any capital referred to in paragraphs 3 and, to the extent that such assets as are referred to in paragraph 11 <sup>F1032</sup>consist] of liquid assets, 11 and, except to the extent that the arrears referred to in paragraph 12 consist of arrears of housing benefit payable under Part VII of the Benefits Act <sup>F1033F1034</sup>... <sup>F1035</sup>or any arrears of benefit due under regulation 147 of these Regulations or regulation 70 of the Income Support Regulations (urgent cases)], 12, 14(b), 24 and 32 of Schedule 8 (capital to be disregarded) shall be taken into account in full and the amount of a jobseeker's allowance which would, but for this paragraph be payable under this regulation, shall be payable only to the extent that it exceeds the amount of that capital.

#### Textual Amendments

- F1029**Reg. 149(1)(a) substituted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), [regs. 1, 19\(2\)\(a\)](#)

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- F1030** Words in reg. 149(1)(a)(i) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **4(7)(c)**
- F1031** Words in reg. 149(1)(a)(ii) added (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(19)**
- F1032** Word in reg. 149(2) substituted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F1033** 1982 c.24; Part II was repealed by the Social Security Act 1986 (c.50), section 86, **Schedule 11.**
- F1034** Words in reg. 149(2) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **4(13)**
- F1035** Words in reg. 149(2) inserted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1, **19(2)(b)**

## PART XI

### PART-WEEKS

#### Amount of a jobseeker's allowance payable

**150.**—(1) Subject to the following provisions of this Part, the amount payable by way of an income-based jobseeker's allowance in respect of part-week shall be calculated by applying the formula—

- (a) where the claimant has no income—

$$\frac{N \times A}{7}$$

; or

- (b) where the claimant has an income—

$$\frac{(N \times (A - I)) - B}{7}$$

where—

A is the claimant's weekly applicable amount in the relevant week;

B is the amount of any jobseeker's allowance, income support, maternity allowance, incapacity benefit<sup>F1036</sup>, severe disablement allowance or employment and support allowance] payable to any member of the claimant's family other than the claimant in respect of any day in the part-week;

I is the claimant's weekly income in the relevant week less B;

N is the number of days in the part-week.

<sup>F1037</sup>(1A) In relation to a joint-claim couple jointly claiming a joint-claim jobseeker's allowance, paragraph (1) shall have effect as if the references to the claimant were references to the joint-claim couple.

(1B) Where a joint-claim couple become, or cease to be, a joint-claim couple on any day other than on the first day of a benefit week, the amount payable by way of a joint-claim jobseeker's allowance in respect of that benefit week shall be calculated by applying the formula in paragraph (1).]

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(2) Subject to the following provisions of this Part, the amount payable by way of a contribution-based jobseeker's allowance in respect of a part-week shall be calculated by applying the formula—

$$\frac{(N \times X) - Y}{7}$$

where—X is the personal rate determined in accordance with section 4(1);

Y is the amount of any widow's benefit, [<sup>F1038</sup>carer's allowance ], training allowance and any increase in disablement pension payable in accordance with Part I of Schedule 7 to the Benefits Act (Unemployment Supplement) payable in respect of any day in the part-week;

N is the number of days in the part-week.

(3) In this Part—

“part-week” means an entitlement to a jobseeker's allowance in respect of any period of less than a week;

“relevant week” means the period of 7 days determined in accordance with regulation 152.

**Textual Amendments**

**F1036** Words in reg. 150(1)(b) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(20)**

**F1037** Reg. 150(1A)(1B) inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), reg. 1(1), **Sch. 2 para. 48**

**F1038** Words in reg. 150 substituted (1.4.2003) by [The Social Security \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/511\)](#), regs. 1, **3(4)(5)**

**Amount of a jobseeker's allowance payable where a person is in a residential care or nursing home**

<sup>F1039</sup>**151.** . . . . .

**Textual Amendments**

**F1039** Reg. 151 omitted (8.4.2002) by virtue of [The Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), reg. 1, **Sch. Pt. II para. 17**

**Relevant week**

**152.**—(1) Where the part-week—

- (a) is the whole period for which a jobseeker's allowance is payable or occurs at the beginning of an award, the relevant week is the period of 7 days ending on the last day of that part-week; or
- (b) occurs at the end of an award, the relevant week is the period of 7 days beginning on the first day of the part week; or
- (c) occurs because a jobseeker's allowance is not payable for any period in accordance with section 19 [<sup>F1040</sup>or 20A] of the Act (circumstances in which a jobseeker's allowance is not payable), the relevant week is the 7 days ending immediately before the start of the next benefit week to commence for that claimant [<sup>F1041</sup>or the joint-claim couple].

(2) <sup>F1042</sup>Except in a case to which paragraph (3) applies,] where a person has an award of a jobseeker's allowance and his benefit week changes, for the purpose of calculating the amounts of a jobseeker's allowance payable for the part-week beginning on the day after his last complete benefit week before the change and ending immediately before the change, the relevant week is the period of 7 days beginning on the day after the last complete benefit week.

<sup>F1043</sup>(3) Where a joint-claim couple have an award of a joint-claim jobseeker's allowance and their benefit week changes, for the purpose of calculating the amounts of a joint-claim jobseeker's allowance payable for the part-week beginning on the day after their last complete benefit week before the change and ending immediately before the change, the relevant week is the period of 7 days beginning on the day after the last complete benefit week.]

#### Textual Amendments

- F1040** Words in reg. 152(1)(c) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 50(a)(i)**
- F1041** Words in reg. 152(1)(c) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 50(a)(ii)**
- F1042** Words in reg. 152(2) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 50(b)**
- F1043** Reg. 152(3) added (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 50(c)**

#### Modification in the Calculation of Income

**153.** For the purposes of regulation 150 (amount of jobseeker's allowance payable for part-weeks) a claimant's income and, in determining the amount payable by way of an income-based jobseeker's allowance, the income of any person which the claimant is treated as possessing under section 12(4)<sup>F1044</sup>, regulation 88(4) or 88ZA(3)], shall be calculated in accordance with Parts VIII, and, where applicable, IX and X subject to the following changes—

- (a) any income which is due to be paid in the relevant week shall be treated as paid on the first day of that week;
- (b) in determining the amount payable by way of an income-based jobseeker's allowance, any jobseeker's allowance, income support, maternity allowance, incapacity benefit or severe disablement allowance under the Benefits Act <sup>F1045</sup>or employment and support allowance] payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (c) in determining the amount payable by way of a contribution-based jobseeker's allowance, any widow's benefit, <sup>F1046</sup>carer's allowance ], training allowance or any increase in disablement pension payable in accordance with Part I of Schedule 7 to the Benefits Act (Unemployment Supplement) which is payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (d) where the part-week occurs at the end of the claim, any income or any change in the amount of income of the same kind which is first payable within the relevant week but not on any day in the part-week shall be disregarded;
- (e) where the part-week occurs immediately after a period in which a person was treated as engaged in remunerative work under regulation 52 (persons treated as engaged in remunerative work) any earnings which are taken into account for the purposes of determining that period shall be disregarded;

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- (f) where only part of the weekly amount of income is taken into account in the relevant week, the balance shall be disregarded.

#### Textual Amendments

- F1044** Words in reg. 153 substituted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 51**
- F1045** Words in reg. 153(b) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **3(21)**
- F1046** Words in reg. 153 substituted (1.4.2003) by The Social Security (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/511), regs. 1, **3(4)(5)**

#### Reduction in certain cases

**154.** The reduction to be made in accordance with Part IX (Hardship) in respect of an income based jobseeker's allowance shall be an amount equal to one seventh of the reduction which would be made under that Part for a week multiplied by the number of days in the part-week.

#### Modification of section 15(2) of the Act

**155.**—<sup>F1047</sup>(1) In its application to an income-based jobseeker's allowance [<sup>F1048</sup>but not a joint-claim jobseeker's allowance] payable for a part-week, section 15(2)(d) shall have effect subject to the following modification—

- “(d) any payment by way of an income-based jobseeker's allowance for that period or any part of it which apart from this paragraph would be made to the claimant—
- (i) shall not be made, if the amount of an income-based jobseeker's allowance which would be payable for a period of less than a week is equal to or less than the proportion of the prescribed sum appropriate to the number of days in the part-week;
- (ii) shall be at a rate equal to the difference between the amount which would be payable for a period of less than a week and the prescribed sum where that amount would be more than the prescribed sum.

<sup>F1049</sup>(2) In its application to a joint-claim jobseeker's allowance payable for a part-week, section 15(2)(d) shall have effect subject to the following modification—

- “(d) any payment by way of a joint-claim jobseeker's allowance for that period or any part of it which apart from this paragraph would be made to the nominated member for the purposes of section 3B—
- (i) shall not be made, if the amount of joint-claim jobseeker's allowance which would be payable for less than a week is equal to or less than the proportion of the prescribed sum appropriate to the number of days in the part-week;
- (ii) shall be at a rate equal to the difference between the amount which would be payable for a period of less than a week and the prescribed sum where that amount would be more than the prescribed sum.”

#### Textual Amendments

- F1047** Reg. 155(1): reg. 155 renumbered as reg. 155(1) (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 52**



**F1048** Words in reg. 155(1) inserted (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 52(a)**

**F1049** Reg. 155(2) added (19.3.2001) by The Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978), reg. 1(1), **Sch. 2 para. 52(b)**

## PART XII

### SPECIAL CATEGORIES SHARE FISHERMEN, PERSONS OUTSIDE GREAT BRITAIN AND MEMBERS OF THE FORCES

#### *Chapter I*

#### *Share Fishermen*

#### **Interpretation**

**156.** In this Chapter—

"fishing boat" means a fishing vessel as defined by section 313 of the Merchant Shipping Act 1995 <sup>F1050</sup>;

"share fisherman" means any person who—

- (a) is ordinarily employed in the fishing industry otherwise than under a contract of service, as a master or member of the crew of any fishing boat manned by more than one person, and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat; or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Great Britain, otherwise than under a contract of service, making or mending any gear appurtenant to a fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in such employment;

and other expressions used in this Chapter, unless the context otherwise requires, have the same meanings as in the Social Security (Mariners' Benefits) Regulations 1975 <sup>F1051</sup>.

#### **Textual Amendments**

**F1050** 1995 c.21.

**F1051** S.I. 1975/529.

#### **Special provisions in respect of share fishermen**

**157.** The Act and the foregoing provisions of these Regulations shall have effect in relation to share fishermen subject to the provisions of this Chapter.

#### **Modifications of section 2**

**158.**—(1) Section 2 (the contribution-based conditions) shall apply to share fishermen with the modifications set out in the following provisions of this regulation.

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(2) After the words "Class 1 contributions" in each place where they appear there shall be inserted the words " or special Class 2 contributions ".

(3) In subsection (4) after the definition of "the relevant benefit year" there shall be inserted the following definition—

““special Class 2 contributions" means any Class 2 contributions paid by a share fisherman at the rate applicable to share fishermen in accordance with [F1052]regulation 125(c) of the Social Security (Contributions) Regulations 2001].”.

#### Textual Amendments

F1052 Words in [reg. 158\(3\)](#) substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), [regs. 1\(3\)](#), [13\(8\)](#)

#### Modifications of sections 19 and 20

**159.** For the purposes of sections 19 and 20 (circumstances in which a jobseeker's allowance is not payable) employment as a share fisherman shall be treated as employment as an employed earner.

#### Modification of section 35

**160.** The definition of "trade dispute" in section 35(1) (interpretation) shall apply to share fishermen with the effect that the owner (or managing owner if there is more than one owner) of a fishing boat shall be treated as the employer of any share fisherman (other than himself) ordinarily employed as master or member of the crew of, or making or mending any gear appurtenant to, or performing other services ancillary to or in connection with, that fishing boat, and any such share fisherman shall be treated as his employee.

#### Additional conditions for payment of a jobseeker's allowance

**161.—(1)** It shall be an additional condition with respect to the payment of a jobseeker's allowance to a share fisherman in respect of any [F1053]benefit week], that in respect of any period in that [F1053]benefit week] when he has not worked as a share fisherman, he proves that he has not neglected to avail himself of a reasonable opportunity of employment as a share fisherman.

(2) The following provisions shall apply for the purposes of the application of paragraph (1)—

- (a) work as a share fisherman within the meaning of paragraph (1) shall include any of the work specified in sub-paragraph (b) which at the time of its performance is necessary for the safety or reasonable efficiency of the fishing boat, or is likely to become so necessary in the near future, and which it is the duty of the share fisherman (whether by agreement, custom, practice or otherwise) to undertake without remuneration other than by way of a share in the profits or gross earnings of the fishing boat, but any other work done to the fishing boat or its nets or gear shall be disregarded; and
- (b) the work so included by sub-paragraph (a) is any work done to the fishing boat or its nets or gear by way of repairs (including running repairs) or maintenance, or in connection with the laying up of the boat and its nets and gear at the end of a fishing season or their preparation for a season's fishing.

(3) It shall be a further additional condition with respect to the payment of a contribution-based jobseeker's allowance to a share fisherman in respect of any [F1053]benefit week] that, where he is master or a member of the crew of a fishing boat of which either the master or any member of the crew is the owner or part owner, he must also prove that in respect of any period in that [F1053]benefit

week] when he was not working as a share fisherman, the fishing boat did not put to sea with a view to fishing for the reason—

- (a) that on account of the state of the weather the fishing boat could not reasonably have put to sea with a view to fishing; or
- (b) that the fishing boat was undergoing repairs or maintenance, not being repairs or maintenance to which paragraph (2) relates; or
- (c) that there was an absence of fish from any waters in which the fishing boat could reasonably be expected to operate; or
- (d) that any other good cause necessitated abstention from fishing.

[<sup>F1054</sup>(4) In this regulation, “benefit week” in relation to a contribution-based jobseeker’s allowance has the meaning it has in regulation 164 (share fisherman: amount payable) and in relation to an income-based jobseeker’s allowance has the meaning it has in regulation 1(3) (interpretation).]

#### Textual Amendments

**F1053** Words in reg. 161 substituted (7.10.1996) by [The Jobseeker’s Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **17(a)**

**F1054** Reg. 161(4) added (7.10.1996) by [The Jobseeker’s Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **17(b)**

#### Remunerative work

**162.** In determining the number of hours in which a person is engaged in remunerative work for the purposes of establishing entitlement to a contribution-based jobseeker’s allowance, no account shall be taken of any hours in which a person is engaged in work as a share fisherman.

#### Calculation of earnings

**163.—**(1) In the calculation of earnings derived from work as a share fisherman for the purposes of establishing entitlement to a contribution-based jobseeker’s allowance, the provisions of Part VIII (income and capital) shall apply subject to the following provisions of this regulation.

(2) Regulation 95 (calculation of earnings of self-employed earners) shall be omitted.

(3) For regulation 101 (calculation of net profit of self-employed earners) there shall be substituted the following regulation—

#### “ Calculation of earnings derived from work as a share fisherman

**101.—**(1) Earnings derived from employment as a share fisherman within the meaning of regulation 156 (interpretation) shall be calculated in accordance with the following provisions of this regulation.

(2) Any such earnings shall be treated as paid in the benefit week in respect of which they are earned.

(3) The amount of earnings to be taken into account in respect of any benefit week shall be the claimant’s share of the net profit derived from that work less—

- (a) an amount in respect of income tax and national insurance contributions under the Benefits Act calculated in accordance with regulation 102 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of any premium paid in respect of a personal pension scheme.

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(4) Subject to paragraph (5), there shall be disregarded from a claimant's weekly net profit—

- (a) £ [<sup>F1055</sup>£20]; and
- (b) the amount of any earnings specified in paragraphs 4 and 15 of Schedule 6, if applicable.

(5) Where a share fisherman has earnings from work other than work as a share fisherman, and an amount is disregarded from those earnings in accordance with paragraphs 9, 10, or 12 of Schedule 6—

- (a) if the amount so disregarded is [<sup>F1055</sup>£20], paragraph (4)(a) shall not apply;
- (b) if the amount so disregarded is less than [<sup>F1055</sup>£20], the amount disregarded under paragraph (4)(a) shall not exceed the difference between the amount disregarded from those other earnings and [<sup>F1055</sup>£20].

(6) For the purposes of paragraph (3), the net profit shall be calculated by taking into account the earnings less, subject to paragraphs (7) to (9), any expenses relevant to that benefit week which were wholly, exclusively and necessarily incurred for the purposes of that employment.

(7) Subject to paragraph (8), no deduction shall be made under paragraph (6) in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) the repayment of capital on any loan taken out for the purposes of the employment;
- (e) any expenses incurred in providing business entertainment.

(8) A deduction shall be made under paragraph (6) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(9) [<sup>F1056</sup>The Secretary of State] shall refuse to make a deduction under paragraph (6) in respect of any expenses where he is not satisfied that the expense has been incurred or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(10) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (6) in respect of any sum unless it has been incurred for the purposes of the business;
- (b) a deduction shall be made in respect of—
  - (i) the excess of any VAT paid over VAT received in the benefit week;
  - (ii) any expense incurred in the repair of an existing asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(11) Notwithstanding the foregoing paragraphs, [<sup>F1056</sup>the Secretary of State] may calculate earnings or expenditure over a period other than the benefit week if he considers it is reasonable to do so having regard to all the facts of the case and in particular whether the earnings earned or expenditure incurred in respect of a benefit week are [<sup>F1057</sup>unusually] high or low.

(12) In this regulation "benefit week" has the same meaning as in regulation 164 (share fishermen: amount payable)."

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- (4) In regulation 102 (deduction of tax and contributions for self-employed earners)—
- (a) in paragraphs (1) and (2) — for the words “regulation 101(1)(b)(i)” there shall be substituted the words “regulation 101(3)(a)”;
  - (b) in paragraph (3)(a) for the words “under paragraph (4)(a) or, as the case may be, (5)” there shall be substituted the words “under paragraph (6)”;
  - (c) at the end of the regulation there shall be added the following paragraph—
 

“(4) For the purposes of paragraphs (1) and (2) the earnings to which the [<sup>F1058</sup>starting rate] of tax is to be applied and the amount of personal relief deductible, the amount specified in section 11(4) of the Benefits Act, and the upper limit of profits and gains referred to in paragraph (2)(b), shall be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 101.”.

#### Textual Amendments

- F1055** Word in reg. 163(3) substituted (1.4.2001 for specified purposes, 2.4.2001 for specified purposes) by [The Social Security Amendment \(Capital Limits and Earnings Disregards\) Regulations 2000](#) (S.I. 2000/2545), regs. 1(1)(a)(ii)(b)(c), 3, **Sch. para. 3(a)** (with reg. 3, Sch. para. 3(a))
- F1056** Words in reg. 163(3) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**
- F1057** Words in reg. 163(3) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996](#) (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F1058** Words in reg. 163(4)(c) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007](#) (S.I. 2007/2618), regs. 1(1), **8(13)**

#### Amount payable

**164.**—(1) The amount payable to a share fisherman by way of a contribution-based jobseeker's allowance shall be calculated in accordance with regulations 79 to 81 (weekly amounts of contribution-based jobseekers allowance, deductions in respect of earnings and payments by way of pensions) and this regulation, and Part XI (part-weeks) shall not apply.

(2) Regulations 79 to 81 shall apply in respect of share fishermen so that the amount payable is calculated by reference to earnings earned and pension payments received in the benefit week.

- (3) In this regulation “benefit week” means—
- (a) in respect of the week in which the claim is made, the period of 7 days beginning with the date of claim; and
  - (b) in respect of any subsequent week, the period of 7 days beginning with the day after the last day of the previous benefit week.

### Chapter II

#### Persons Outside Great Britain

#### Amendment of the Social Security Benefit (Persons Abroad) Regulations

**165.**—(1) Regulation 11 of the Social Security Benefit (Persons Abroad) Regulations 1975 <sup>F1059</sup> (modification of the Act in relation to employment on the Continental Shelf) shall be amended in accordance with the following provisions of this regulation.

- (2) After paragraph (1) there shall be inserted the following paragraph—

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“(1A) Where a claimant would be entitled to a contribution-based jobseeker’s allowance but for section 1(2)(i) of the Jobseekers Act 1995 <sup>F1060</sup> (conditions of entitlement to a jobseeker’s allowance: requirement to be in Great Britain), he shall be entitled to a contribution-based jobseeker’s allowance notwithstanding his absence from Great Britain if—

- (a) the absence from Great Britain is due to his being or having been in prescribed employment in a designated area; or
- (b) subject to paragraph (2B), he is, in connection with prescribed employment—
  - (i) in a prescribed area; or
  - (ii) travelling between one prescribed area and another; or
  - (iii) travelling between a designated area and a prescribed area; or
  - (iv) travelling between Norway or a member State (including the United Kingdom) and a prescribed area.”.

(3) In paragraph (2B) for the words “Paragraph (2A)” there shall be substituted the words “Paragraphs (1A) and (2A)”.

(4) In paragraph (4) after the word “thereunder” there shall be inserted the words “, and the Jobseekers Act 1995 and regulations made thereunder”.

#### Textual Amendments

**F1059**S.I. 1975/563; relevant amending instrument is **S.I. 1982/1738**.

**F1060**1995 c.18.

### Amendment of the Social Security (Mariners’ Benefits) Regulations

**166.**—(1) The Social Security (Mariners’ Benefits) Regulations 1975 <sup>F1061</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 for the words from “no day” to the end of the regulation there shall be substituted the words “he shall not be [<sup>F1062</sup>regarded] as available for employment on any day in that period of leave.”.

(3) After regulation 4 there shall be inserted the following regulation—

#### “ Entitlement to a contribution-based jobseeker’s allowance for persons outside Great Britain

**4A.**—(1) Subject to paragraph (2), where a claimant would be entitled to a contribution-based jobseeker’s allowance but for section 1(2)(i) of the Jobseekers Act 1995 <sup>F1063</sup> (conditions of entitlement to a jobseeker’s allowance: requirement to be in Great Britain), he shall be entitled to a contribution-based jobseeker’s allowance notwithstanding his absence from Great Britain if—

- (a) he is or has been employed as a mariner on board any ship or vessel, or is or has been under contract to travel at his employer’s expense for the purpose of commencing such employment, and
- (b) while so employed or under contract so to travel, he has been left outside Great Britain, and reports to the appropriate superintendent or consular officer or chief officer of customs not later than 14 days after being so left, or, if it is not reasonably practicable for him to report within 14 days, as soon as is reasonably practicable.

- (2) Paragraph (1) shall cease to apply to a claimant—
- (a) on his commencing or resuming employment outside Great Britain; or
  - (b) on his being returned to the place to which regulation 6 of the Merchant Shipping (Repatriation) Regulations 1979<sup>F1064</sup> (place for return) requires him to be returned; or
  - (c) where he is required to be returned under regulation 6 of the Merchant Shipping (Repatriation) Regulations 1979 but is not so returned, on the first day on which his return could reasonably have been expected.”.

- (4) In regulation 6 for paragraph (1) there shall be substituted the following paragraph—

“(1) A mariner or share fisherman employed as such on board any ship or vessel shall be treated as available for and actively seeking employment during any period when he is absent from Great Britain if he would be so available or actively seeking employment but for the fact that he is absent from Great Britain.”.

#### Textual Amendments

**F1061** S.I. 1975/529.

**F1062** Word in reg. 166(2) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

**F1063** 1995 c.18.

**F1064** S.I. 1979/97.

#### Modification of contribution conditions for volunteer development workers

**167.** Section 2 (the contribution-based conditions) shall apply with the modifications that after the words “Class 1 contributions” in each place where they appear there shall be inserted the words “ or Class 2 contributions under [<sup>F1065</sup>Case G of Part 9 of the Social Security (Contributions) Regulations 2001]”.

#### Textual Amendments

**F1065** Words in reg. 167 substituted (2.10.2006) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **13(9)**

### Chapter III

#### Members of the Forces

#### Amendment to the Social Security Benefit (Members of the Forces) Regulations

**168.**—(1) Regulation 3 of the Social Security Benefit (Members of the Forces) Regulations 1975<sup>F1066</sup> (unemployment benefit) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words from “shall be disqualified” to the end of the paragraph there shall be substituted the words “ shall be treated for the purposes of section 19 of the Jobseekers Act 1995<sup>F1067</sup> (circumstances in which a jobseeker’s allowance is not payable) as though he has lost his employment through misconduct. ”.

- (3) For paragraph (2) there shall be substituted the following paragraph—

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“(2) Section 19(6)(b) and (d) of the Jobseekers Act 1995 (jobseeker’s allowance not payable where claimant has voluntarily left employment or neglected to avail himself of a reasonable opportunity of employment) shall not apply to a claimant who whilst a serving member of the forces is discharged at his own request.”.

(4) In paragraph (3) for the words “unemployment benefit” there shall be substituted the words “a jobseeker’s allowance”.

#### Textual Amendments

**F1066**S.I. 1975/493.

**F1067**1995 c.18.

## PART XIII

### MISCELLANEOUS

#### *Recovery of Maintenance*

#### Recovery orders

**169.**—(1) Where an award of income-based jobseeker’s allowance has been made to a person (“the claimant”), the Secretary of State may apply to the court for a recovery order against the claimant’s spouse [<sup>F1068</sup>or civil partner] (“the liable person”).

(2) On making a recovery order the court may order the liable person to pay such amount at such intervals as it considers appropriate, having regard to all the circumstances of the liable person and in particular his income.

(3) Except in Scotland, a recovery order shall be treated for all purposes as if it were a maintenance order within the meaning of section 150(1) of the Magistrates Courts Act 1980 <sup>F1069</sup>.

(4) Where a recovery order requires the liable person to make payments to the Secretary of State, the Secretary of State may, by giving notice in writing to the court which made the order, the liable person, and the claimant, transfer to the claimant the right to receive payments under the order and to exercise the relevant rights in relation to the order.

(5) In this regulation—

the expressions “the court” and “recovery order” have the same meanings as in section 23 of the Act; and

“the relevant rights” means, in relation to a recovery order, the right to bring any proceedings, take any steps or do any other thing under or in relation to the order.

#### Textual Amendments

**F1068**Words in *reg. 169(1)* inserted (5.12.2005) by *The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877)*, art. 1, **Sch. 3 para. 26(10)** (with art. 3)

**F1069**1980 c.43.



## Training Allowance

### Persons in receipt of a training allowance

**170.**—<sup>F1070</sup>(1) A person who is not receiving training falling within paragraph (2) <sup>F1071</sup>and is not a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person)] may be entitled to an income-based jobseeker's allowance without—

- (a) being available for employment;
- (b) having entered into a jobseeker's agreement; or
- (c) actively seeking employment,

if he is in receipt of a training allowance or if he would be in receipt of a training allowance if the Social Security (Breach of Community Order) Regulations 2001 did not prevent the payment of a training allowance to him.]

(2) Training falls within this paragraph if it is training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible, <sup>F1072</sup>secured by the Learning and Skills Council for England or by the <sup>F1073</sup>Welsh Ministers] and, in Scotland, provided] directly or indirectly by a Local Enterprise Company<sup>F1074</sup>, or a Chamber of Commerce, Training and Enterprise, under its contractual arrangement with the Secretary of State].

#### Textual Amendments

- F1070**Reg. 170(1) substituted (15.10.2001) by [The Social Security \(Breach of Community Order\) \(Consequential Amendments\) Regulations 2001 \(S.I. 2001/1711\)](#), regs. 1, **2(4)(b)**
- F1071**Words in reg. 170(1) inserted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **3(8)**
- F1072**Words in reg. 170(2) substituted (26.3.2001) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2001 \(S.I. 2001/652\)](#), regs. 1(1)(a), **5(e)**
- F1073**Words in reg. 170(2) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **3(8)**
- F1074**Words in reg. 170(2) substituted (4.8.1998) by [The Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1998 \(S.I. 1998/1698\)](#), regs. 1(1), **5**

## Trade Disputes

### Trade disputes: exemptions from section 15 of the Act

**171.** Section 15(2) (trade disputes: effect on other claimants) shall not apply to a claimant during any period where—

- (a) a member of the claimant's family is, or would be, prevented by section 14 from being entitled to a jobseeker's allowance; and
- (b) that member is—
  - (i) a child or young person; <sup>F1075</sup>...
  - (ii) <sup>F1076</sup>incapable of work] or within the maternity period, and for this purpose "the maternity period" means the period commencing at the beginning of the 6th week before the expected week of confinement and ending at the end of the 7th week after the week in which confinement takes place <sup>F1077</sup>or
  - (iii) has limited capability for work.]

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**Textual Amendments**

- F1075** Word in reg. 171(b)(i) omitted (27.10.2008) by virtue of [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(22)(a)**
- F1076** Words in reg. 171(b)(ii) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F1077** Reg. 171(b)(iii) and word added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(22)(b)**

**Trade disputes: prescribed sum**

**172.** The prescribed sum for the purposes of section 15(2)(d) is [<sup>F1078</sup>£32.50].

**Textual Amendments**

- F1078** Sum in reg. 172 substituted (for specified purposes and with effect in accordance with art. 1(2)(k)(ii) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(k)(ii), **25**

Signed for the purposes of Parts II, IV and V and regulation 170 of the Regulations on behalf of the Secretary of State for Education and Employment.

*Eric Forth*  
Minister of State,  
Department for Education and Employment

Signed for the purposes of the remainder of the Regulations on behalf of the Secretary of State for Social Security.

*Roger Evans*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**Status:**

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**Changes to legislation:**

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