
STATUTORY INSTRUMENTS

1996 No. 207

The Jobseeker's Allowance Regulations 1996

PART VIII

INCOME AND CAPITAL

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 regulations 104 and 106 (capital treated as income and modifications in respect of children and young persons).

(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.

(4) Where the claimant is in receipt of payments under the earnings top-up scheme operated by the Secretary of State for Social Security ^{F1}, and those payments are subject to any deduction by way of recovery, the amount to be taken into account under paragraph (1) shall be the amount that the claimant would have received but for that deduction.

(5) Where a loan is made to a person pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990 ^{F2} or article 3 of the Education (Student Loans) (Northern Ireland) Order 1990 ^{F3} and that person ceases to be a student before the end of the academic year in respect of which the loan is payable or, as the case may be, before the end of his course, a sum equal to the weekly amount apportionable under paragraph (2) of regulation 136 (treatment of student loans) shall be taken into account under paragraph (1) for each [^{F4}benefit week], in the period over which the loan fell to be apportioned, following the date on which that person ceases to be a student; but in determining the weekly amount apportionable under paragraph (2) of regulation 136 so much of that paragraph as provides for a disregard shall not have effect.

[^{F5}(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.]

(6) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)

Status: Point in time view as at 03/04/2000.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F6}(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 dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.]

Textual Amendments

- F1** Copies of the rules relating to the earnings top-up scheme are available from the Department of Social Security, B2D, 9th Floor, The Adelphi, Adam Street, London WC2N 6HT.
- F2** 1990 c.6.
- F3** S.I. 1990/1506 (N.I. 11).
- F4** Words in reg. 103(5) substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(13)**
- F5** 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)**
- F6** 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)**

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 [^{F7}suppression], the date of that [^{F7}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 £8,000, [^{F8}or, in a case where regulation 107(b) applies, £16,000] be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) 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 section 17 or 24 of the Children Act 1989 ^{F9} or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 ^{F10} (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.

[^{F11}(5) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 shall be treated as income.]

Textual Amendments

- F7** 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**
- F8** 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)**
- F9** 1989 c.41.
- F10** 1968 c.49.

F11 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)**

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;
 - ^{F12}(c) child benefit to which paragraph (2A) refers;
 - (d) [^{F13}working families' tax credit] or [^{F14}disabled person's tax credit];
 - (e) a jobseeker's allowance;
 - (f) payments under the earnings top-up scheme operated by the Secretary of State for Social Security;
 - (g) a personal pension scheme where the claimant is aged under 60; [^{F15}or
 - (h) any sum to which paragraph 42(a) or 43(a) of Schedule 8 (disregard of compensation for personal injuries which is administered by the Court) refers]; [^{F16}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.

^{F17}(2A) 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.]

(3) Where a person, aged not less than 60, is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, and—

- (a) in the case of a personal pension scheme other than one referred to in sub-paragraph (b), he fails to purchase an annuity with the funds available in that scheme where—
 - (i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder;
 - (ii) he fails to take any necessary action to secure that the whole or part 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; or
- (b) in the case of a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 ^{F18}, he fails to purchase an annuity with the funds available under that contract or scheme,

the amount of any income foregone shall be treated as possessed by him, 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 to which either head (i) or (ii) of paragraph (3) (a) applies shall be the maximum amount of income which may be withdrawn from the fund and

Status: Point in time view as at 03/04/2000.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

shall be determined by [^{F19}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 ^{F20}.

(5) The amount of any income foregone in a case to which either head (iii) of paragraph (3) (a), or paragraph (3)(b) applies shall be the income that the claimant could have received without purchasing an annuity had the fund held under the relevant personal pension scheme been held under a personal pension scheme where income withdrawal was available and shall be determined in the manner specified in paragraph (4).

(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—

- (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.

[^{F21}(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) [^{F22}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 in respect of a member of the family shall be treated—

(i) in a case where that payment is derived from a payment of any benefit under the Act or under the Benefits Act, a war disablement pension or war widows pension, as possessed by that single claimant, if it would normally be paid to him, or as possessed by that member of the family, if it would normally be paid to that member;

[^{F23}(ia) in a case where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, as possessed by that single claimant or, as the case may be, by that member;]

(ii) in any other case, as possessed by that single claimant or by that member of the family 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) or 84(1)(g), of that single claimant or, as the case may be, of any member of the family, or is used for any council tax or water charges for which that claimant or member is liable;

(b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family;

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.

[^{F24}(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 Funds;
- (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
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7).]

[^{F25}(d) under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme 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 any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.]

(11) Where the claimant lives in a residential care home or a nursing home, or is temporarily absent from such a home, 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 or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family.

[^{F26}(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 [^{F27}review or supersession][^{F28}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) [^{F29}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,

[^{F30}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; ^{F31}...

[^{F32}(13A) Paragraph (13) shall not apply—

Status: Point in time view as at 03/04/2000.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (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); 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.]

(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 lower rate or, as the case may be, the lower rate and the basic rate of tax in the year of assessment less only the personal relief to which the claimant is entitled under sections 257(1), 257A(1) and 259 of the Income and Corporation Taxes Act 1988^{F33} (personal reliefs) 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 lower rate of tax is to be applied and the amount of the personal relief 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;

“pension fund holder” means with respect to a personal 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^{F34}.

Textual Amendments

F12 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)**

F13 Words in reg. 105(2)(d) substituted (5.10.1999) by [The Social Security and Child Support \(Tax Credits\) Consequential Amendments Regulations 1999 \(S.I. 1999/2566\)](#), regs. 1(2), 2(1), **Sch. 2 Pt. I**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- F14** Words in reg. 105(2)(d) substituted (5.10.1999) by The Social Security and Child Support (Tax Credits) Consequential Amendments Regulations 1999 (S.I. 1999/2566), regs. 1(2), 2(2), **Sch. 2 Pt. II**
- F15** 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**
- F16** Reg. 105(2)(i) and word 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, **6(1)(2)(f)**
- F17** 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)**
- F18** 1988 c.1.
- F19** 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**
- F20** S.I. 1987/1968; paragraph (5) was added by S.I.1995/2303.
- F21** 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**
- F22** 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)**
- F23** 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)**
- F24** 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)**
- F25** 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)**
- F26** 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)**
- F27** 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**
- F28** 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**
- F29** 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)**
- F30** 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**
- F31** 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)**
- F32** Reg. 105(13A) inserted (3.4.2000) by The Social Security (Approved Work) Regulations 2000 (S.I. 2000/678), regs. 1, **2(1)(b)**
- F33** 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).
- F34** 1993 c.48.

Modifications etc. (not altering text)

- C1** Reg. 105 modified (temp.) (29.11.1999) by The Social Security (New Deal Pilot) Regulations 1999 (S.I. 1999/3156), regs. 1(1), **14(1)** (with regs. 1(2), 11, 19)

Status: Point in time view as at 03/04/2000.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Modifications in respect of children and young persons

106.—(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 [^{F35}suppression], the date of that [^{F35}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 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 personal allowance and disabled child premium, if any, 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 ^{F36} (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 ^{F37} (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 personal allowance and disabled child premium, if any, 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 personal allowance and disabled child premium, if any, 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

- F35** 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](#)
- F36** [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.
- F37** [1980 c.44](#); section 50 was amended by the [Education \(Scotland\) Act 1981 \(c.58\)](#), [section 2](#).

Status:

Point in time view as at 03/04/2000.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Jobseeker's Allowance Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations.