
STATUTORY INSTRUMENTS

1996 No. 207

The Jobseeker's Allowance Regulations 1996

PART VIII

INCOME AND CAPITAL

Chapter VI

Capital

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); [^{F1}or]
- [^{F2}(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.]
- (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; [^{F3}or]
 - [^{F4}(da) an occupational pension scheme [^{F5}or a payment made by the Board of the Pension Protection Fund] where the claimant is aged under 60; or]
 - [^{F6}(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) [^{F7}Any payment of capital, other than a payment of capital specified in paragraph (3A)] made—

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- (a) to a third party in respect of a single claimant or [^{F8}in respect of a member of the family][^{F8}his partner] shall be treated—
- [^{F9}(ia) in a case where that payment is a payment of an occupational pension[^{F10}, 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 [^{F11}that member][^{F11}the claimant's partner];
- (i) in a case where that payment is derived from a payment of any benefit under the [^{F12}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 [^{F13}by that member of the family, if it would normally be paid to that member][^{F13}by his partner, if it would normally be paid to his partner];
- (ii) in any other case, as possessed by that single claimant [^{F14}or by that member of the family][^{F14}or his partner] to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit [^{F15}is payable] or any housing costs to the extent that they are met under regulation 83(f)[^{F16}, 84(1)(g), 86A(d) or 86B(e)]^{F17} ..., of that single claimant or, as the case may be, [^{F14}of any member of the family][^{F14}of his partner], or is used for any council tax or water charges for which that claimant or [^{F14}member is liable][^{F14}partner is liable];
- (b) [^{F18}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.]
- [^{F19}(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[^{F20}, the Independent Living [^{F21}Fund (2006)][^{F22}, 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
- [^{F24} ... in the Intensive Activity Period specified in regulation 75(1)(a)(iv); or]
- ^{F23}(ia)
- (iii) in a qualifying course within the meaning specified in regulation 17A(7).]
- [^{F25}(c) under an occupational pension scheme[^{F26}, 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 [^{F27}any member of his family][^{F27}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.

Textual Amendments

- F1** 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**
- F2** 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)**
- F3** 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**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**

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- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** 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)**
- F15** 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)**
- F16** 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**
- F17** 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)**
- F18** 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)**
- F19** 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)**
- F20** 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)**
- F21** 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)**
- F22** 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)**
- F23** 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**
- F24** 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)**
- F25** 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)**
- F26** 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)**
- F27** 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)

- C1** 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)**

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