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STATUTORY INSTRUMENTS

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**2008 No. 794**

**The Employment and Support Allowance Regulations 2008**

**PART 14**

**PERIODS OF LESS THAN A WEEK**

**Entitlement for less than a week – amount of an employment and support allowance payable**

**165.**—(1) This regulation applies where the claimant is entitled to an employment and support allowance for a part-week and is subject to the following provisions of this Part.

(2) The amount payable by way of an income-related allowance in respect of that part-week is to be calculated by applying the formula—

(a) where the claimant has no income—

$$\frac{(Nx A)}{7}$$

or

(b) where the claimant has an income—

$$\frac{Nx(A - I)}{7} - B$$

where—

A is the claimant's weekly applicable amount in the relevant week;

B is the amount of any employment and support allowance, jobseeker's allowance, income support, maternity allowance, incapacity benefit or severe disablement allowance payable to the claimant or the claimant's partner in respect of any day in the part-week;

I is the claimant's weekly income in the relevant week; and

N is the number of days in the part week.

(3) The amount payable by way of a contributory allowance in respect of a part-week is to be calculated by applying the formula—

$$\frac{(Nx X) - Y}{7}$$

where—

X is the amount calculated in accordance with section 2(1) of the Act;

Y is the amount of any widow's benefit, widowed parent's allowance, bereavement allowance, training allowance, carer's allowance and any increase in disablement pension payable in accordance with Part 1 of Schedule 7 to the Contributions and Benefits Act (Unemployability Supplement) payable in respect of any day in the part-week;

N is the number of days in the part-week.

(4) In this Part—

“part-week” means an entitlement to an employment and support allowance in respect of any period of less than a week;

“relevant week” means the period of 7 days determined in accordance with regulation 166.

### **Relevant week**

**166.**—(1) Where a part-week—

- (a) is the whole period for which an employment and support 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.

(2) Where a claimant has an award of an employment and support allowance and that claimant's benefit week changes, for the purpose of calculating the amounts of an employment and support allowance payable for the part-week beginning on the day after the 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.

### **Modification in the calculation of income**

**167.** For the purposes of regulation 165 (entitlement for less than a week – amount of an employment and support allowance payable), a claimant's income and, in determining the amount payable by way of an income-related allowance, the income of any person which the claimant is treated as possessing under regulations made under section 17(3) of the Act, regulation 68 (polygamous marriages) or regulation 83 (calculation of income and capital of members of claimant's family and of a polygamous marriage), is to be calculated in accordance with Parts 10 (income and capital) and 13 (urgent cases) subject to the following changes—

- (a) any income which is due to be paid in the relevant week is to be treated as paid on the first day of that week;
- (b) in determining the amount payable by way of an income-related allowance, any jobseeker's allowance, employment and support allowance, income support<sup>F1</sup>, universal credit, maternity allowance, incapacity benefit or severe disablement allowance payable in the relevant week but not in respect of any day in the part-week is to be disregarded;
- (c) the amount referred to as B in regulation 165(2) is to be disregarded;
- (d) in determining the amount payable by way of a contributory allowance, any widow's benefit, training allowance, widowed parent's allowance, bereavement allowance, carer's allowance and any increase in disablement pension payable in accordance with Part 1 of Schedule 7 to the Contributions and Benefits Act (unemployability supplement) which is payable in the relevant week but not in respect of any day in the part-week is to be disregarded;
- (e) where the part-week occurs at the end of the claim—
  - (i) any income; or
  - (ii) 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 is to be disregarded;
- (f) where only part of the weekly balance of income is taken into account in the relevant week, the balance is to be disregarded.

#### Textual Amendments

- F1** Words in [reg. 167\(b\)](#) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **37(6)**

#### Reduction in certain cases

**[<sup>F2</sup>168.**—(1) Where a disqualification is to be made in accordance with regulation 157 in respect of a part-week, the amount referred to in paragraph (2) is to be payable by way of an employment and support allowance in respect of that part-week.

(2) The amount mentioned in paragraph (1) is—

- (a) one seventh of the employment and support allowance which would have been paid for the part-week if—
  - (i) there was no disqualification under regulation 157; and
  - (ii) it was not a part-week; multiplied by
- (b) the number of days in the part-week in respect of which no disqualification is to be made in accordance with regulation 157.]

#### Textual Amendments

- F2** [Reg. 168](#) substituted (29.10.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2013 \(S.I. 2013/2536\)](#), regs. 1(1), **13(31)**

#### Payment of a contributory allowance for days of certain regular treatment

**169.**—(1) Where a claimant is entitled to a contributory allowance as a result of being treated as having limited capability for work in accordance with regulation 26 the amount payable is to be equal to one seventh of the amount of the contributory allowance which would be payable in respect of a week in accordance with section 2(1) of the Act multiplied by N.

(2) In paragraph (1), N is the number of days in that week on which the claimant was receiving treatment referred to in regulation 26 or recovering from that treatment, but does not include any day during which the claimant does work.

**Status:**

Point in time view as at 05/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, PART 14.