
STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 10

INCOME AND CAPITAL

CHAPTER 2

Income

Calculation of earnings of self-employed earners

92.—(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 the claimant's earnings is to be determined by reference to the claimant's 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 the claimant's earnings to be determined more accurately.
- (a) ^{[F1(2)} (a) Where the claimant's earnings consist of any items to which this paragraph 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 employment and support 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 7 (earnings to be disregarded) as is appropriate in the claimant's case;
- (b) This paragraph applies to—
 - (i) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
 - (ii) any payment in respect of any book registered under the Public Lending Right Scheme 1982 or work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work concerned.]

(3) For the purposes of this regulation the claimant's earnings are to be calculated in accordance with Chapter 4 of this Part.

Status: Point in time view as at 16/12/2014.

Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 92. (See end of Document for details)

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Textual Amendments

- F1** Reg. 92(2) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), **reg. 10(4)**

Status:

Point in time view as at 16/12/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 92.