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STATUTORY INSTRUMENTS

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**2013 No. 378**

**The Jobseeker's Allowance Regulations 2013**

**PART 7**

**Earnings**

**Calculation of net profit of self-employed earners**

**61.**—(1) For the purposes of regulation 55 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account are—

- (a) in the case of a self-employed earner who is engaged in employment on their 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 67, the claimant's share of the net profit derived from that employment less—
  - (i) an amount in respect of income tax and of national insurance contributions payable under the Benefits Act calculated in accordance with regulation 62 (deduction of tax and contributions for self-employed earners); and
  - (ii) half of any premium paid in the period that is relevant under regulation 55 in respect of a personal pension scheme.

(2) There is to be disregarded from a claimant's net profit any sum, where applicable, specified in paragraphs 1 to 11 of the Schedule to these Regulations.

(3) For the purposes of paragraph (1)(a) the net profit of the employment is, except where paragraph (9) applies, to be calculated by taking into account the earnings of the employment over the period determined under regulation 55 (calculation of earnings of self-employed earners) less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax; and
  - (ii) national insurance contributions payable under the Benefits Act, calculated in accordance with regulation 62 (deductions of tax and contributions for self-employed earners); and
- (c) half of any premium paid in the period determined under regulation 55 in respect of a personal pension scheme.

(4) For the purposes of paragraph (1)(b), the net profit of the employment is to be calculated by taking into account the earnings of the employment over the period determined under regulation 55 less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment.

(5) Subject to paragraph (6), no deduction is to be made under paragraph (3)(a) or (4) 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 55;
  - (e) the repayment of capital on any loan taken out for the purposes of the employment;
  - (f) any expenses incurred in providing business entertainment.
- (6) A deduction is to be made under paragraph (3)(a) or (4) 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.
- (7) The Secretary of State must not make a deduction under paragraph (3)(a) or (4) in respect of any expenses where the Secretary of State 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.
- (8) A deduction under paragraph (3)(a) or (4)—
- (a) must not be made in respect of any sum unless it has been incurred for the purposes of the business;
  - (b) must be made in respect of—
    - (i) the excess of any Value Added Tax paid over Value Added Tax received in the period determined under regulation 55;
    - (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.
- (9) Where a claimant is engaged in employment as a child-minder the net profit of the employment is to be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
    - (i) income tax; and
    - (ii) national insurance contributions payable under the Benefits Act, calculated in accordance with regulation 62 (deductions of tax and contributions for self-employed earners); and
  - (b) half of any premium paid in the period determined under regulation 55 in respect of a personal pension scheme.
- (10) Notwithstanding regulation 55 and paragraphs (1) to (9), the Secretary of State may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 55 provided that the other period may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.
- (11) Where a claimant is engaged in employment as a self-employed earner and they are engaged in one or more other employments as a self-employed or employed earner, any loss incurred in any one of their employments is not to be offset against their earnings in any other of their employments.