
STATUTORY INSTRUMENTS

2013 No. 378

The Jobseeker's Allowance Regulations 2013

PART 9

Share fishermen

Calculation of earnings

73.—(1) In the calculation of earnings derived from work as a share fisherman for the purposes of establishing entitlement to a jobseeker's allowance, the provisions of Part 7 apply subject to the following provisions of this regulation.

(2) Regulation 55 (calculation of earnings of self-employed earners) is to be omitted.

(3) For regulation 61 (calculation of net profit of self-employed earners) there is to be substituted the following regulation—

“Calculation of earnings derived from work as a share fisherman

61.—(1) Earnings derived from work as a share fisherman within the meaning of regulation 67 (interpretation) are to be calculated in accordance with the following provisions of this regulation.

(2) Any such earnings are to be treated as paid in the benefit week in respect of which they are earned.

(3) The amount of earnings to be taken into account in respect of any benefit week are to be the claimant's share of the net profit derived from the work as a share fisherman less—

(a) an amount in respect of income tax and national insurance contributions under the Benefits Act calculated in accordance with regulation 62 (deduction of tax and contributions for self-employed earners); and

(b) half of any premium paid in respect of a personal pension scheme.

(4) Subject to paragraph (5), there is to be disregarded from a claimant's share of the weekly net profit—

(a) £20; and

(b) the amount of any earnings specified in paragraphs 4 and 10 of the Schedule to these Regulations, if applicable.

(5) Where a share fisherman has earnings from work other than work as a share fisherman, and an amount is disregarded from those earnings in accordance with paragraph 5, 6 or 7 of the Schedule—

(a) if the amount so disregarded is £20, paragraph (4)(a) does not apply;

(b) if the amount so disregarded is less than £20, the amount disregarded under paragraph (4)(a) must not exceed the difference between the amount disregarded from those other earnings and [^{F1}£20].

(6) For the purposes of paragraph (3), the net profit is to be calculated by taking into account the earnings less, subject to paragraphs (7) to (9), any expenses relevant to that benefit week which were wholly, exclusively and necessarily incurred for the purposes of the employment.

(7) Subject to paragraph (8), no deduction is to be made under paragraph (6) 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) the repayment of capital on any loan taken out for the purposes of the employment;
- (e) any expenses incurred in providing business entertainment.

(8) A deduction is to be made under paragraph (6) 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.

(9) No reduction is to be made under paragraph (6) 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.

(10) A deduction under paragraph (6)—

- (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 benefit week;
 - (ii) any expense incurred 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.

(11) Notwithstanding paragraphs (1) to (10), the Secretary of State may calculate earnings or expenditure over a period other than the benefit week if the Secretary of State considers it is reasonable to do so having regard to all the facts of the case and in particular whether the earnings earned or expenditure incurred in respect of a benefit week are unusually high or low.

(12) In this regulation “benefit week” has the same meaning as in regulation 74 (share fishermen: amount payable).”.

(4) In regulation 62 (deduction of tax and contributions for self-employed earners)—

- (a) in paragraphs (1) and (3), for the words “regulation 61(1)(b)(i)” there is to be substituted the words “ regulation 61(3)(a) ”;
- (b) paragraphs (2) and (4) are to be omitted;

[^{F2}(ba) in paragraph (3) for “Subject to paragraph (4), the” substitute “The”];

- (c) in paragraph (5)(a) for the words “regulation 61(3)(a) or, as the case may be, (4)” there is to be substituted the words “ regulation 61(6) ”;
- (d) at the end of the regulation there is to be added the following paragraph—

“(6) For the purposes of paragraphs (1) and (3) the earnings to which the basic rate^[F3], or the Scottish basic rate,] of tax is to be applied and the amount of personal [^{F4}reliefs] deductible, ^{F5}... and the upper limit of profits and gains referred to in paragraph (3)(b), are

to be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 61.”.

Textual Amendments

- F1** Words in reg. 73(3) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **4(4)**
- F2** [Reg. 73\(4\)\(ba\)](#) inserted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **7(5)(a)**
- F3** Words in [reg. 73\(4\)\(d\)](#) inserted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **7(5)(b)(i)**
- F4** Word in [reg. 73\(4\)\(d\)](#) substituted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **7(5)(b)(ii)**
- F5** Words in [reg. 73\(4\)\(d\)](#) omitted (6.4.2024) by virtue of [The Social Security \(Class 2 National Insurance Contributions\) \(Consequential Amendments and Savings\) Regulations 2024 \(S.I. 2024/377\)](#), regs. 1(1), **8(20)(b)** (with reg. 1(4))

Changes to legislation:

There are currently no known outstanding effects for the The Jobseeker's Allowance Regulations 2013, Section 73.