
STATUTORY INSTRUMENTS

2012 No. [draft ssac]

SOCIAL SECURITY

The Jobseeker's Allowance Regulations 2012

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Coming into force - -

6th April 2013

[PLEASE NOTE: (1) REFERENCES IN CURLY BRACKETS IN THE HEADING TO REGULATIONS ARE TO THE EQUIVALENT REGULATION IN THE JOBSEEKER'S ALLOWANCE REGULATIONS 1996. (2) REFERENCES IN SQUARE BRACKETS IN THE TEXT OF THE REGULATIONS TO PARTS SHOULD BE IGNORED.]

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SCHEDULE 1 — Sums to be disregarded in the calculation of earnings {Sch 6}

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections XXX of the Jobseekers Act 1995(a).

[A draft of these Regulations has been laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995 and approved by a resolution of each House of Parliament.]

PART 1

General

Citation and commencement

- 1.—(1) These Regulations may be cited as the Jobseeker’s Allowance Regulations 2012.
(2) They come into force on 6th April 2013.

General interpretation {reg 1(3) and 3}

- 2.—(1) For the purposes of the Act and of these Regulations—
“employed earner” has the meaning it has in Part 1 of the Benefits Act by virtue of section 2(1)(a) of that Act;
“employment” includes any trade, business, profession, office or vocation, except in sections 1, 3, 14 and 20 of, and paragraph 8 of Schedule 1 to, the Act and in [Parts XXX] of these Regulations, where it means employed earner’s employment except where otherwise provided;
“pensionable age” has the meaning it has in Parts 1 to 6 of the Benefits Act by virtue of section 122(1) of that Act.
“week” means—
(a) in [Parts XXX] of these Regulations, benefit week except where provided otherwise in [Parts XXX];
(b) in the definitions of “full-time course of advanced education” and of “full-time student” and [Parts XXX], a period of 7 days;
(2) In these Regulations—
“the Act” means the Jobseekers Act 1995;
“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;
“attendance allowance” means—
(a) an attendance allowance under section 64 of the Benefits Act;
(b) an increase of disablement pension under section 104 or 105 of the Benefits Act (increases where constant attendance needed and for exceptionally severe disablement);

(a) 1995 c.18.

- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment;
- (d) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003);

“basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);

“benefit week” means—

- (a) a period of 7 days ending with a day determined in accordance with paragraph (b) unless, in any particular case or class of case, the Secretary of State arranges otherwise;
- (b) the day specified for the purposes of paragraph (a) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

<i>(1)</i>	<i>(2)</i>
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday;

“Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987;

“Claims and Payments Regulations 2012” means the Universal Credit, Personal Independence Payment and Working-age Benefit (Claims and Payments) Regulations 2012;

“close relative” means—

- (a) except in [Parts XXX], a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;
- (b) in [Parts XXX], a member of a couple, parent, step-parent, grandparent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, sister, grandchild or if any of the preceding persons is one member of a couple, the other member of that couple;

“college of further education” means a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992;

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“course of advanced education” means—

- (a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education or a higher national diploma; or

- (b) any other course which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), a Scottish national qualification (higher or advanced higher);

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“date of claim” means the date on which the claimant makes, or is treated as making, a claim for a jobseeker’s allowance for the purposes of regulation 6 of the Claims and Payments Regulations [regulations CP16 to CP19 of the Claims and Payments Regulations 2012];

“earnings” has the meaning specified, in the case of an employed earner, in regulation 67, or in the case of a self-employed earner, in regulation 69;

“examination” means an examination which is specified as an examination related to the course in a document signed on behalf of the establishment at which the course is being undertaken;

“full-time course of advanced education” means a course of advanced education which is—

- (a) a full-time course of study which is not funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education;
- (b) a course of study which is funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (i) in the case of a course funded by the Young People’s Learning Agency for England or the Chief Executive of Skills Funding, in the student’s learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
 - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by the National Council for Education and Training for Wales for the delivery of that course; or
- (c) a course of study (not being higher education) which is funded in whole or in part by the Scottish Ministers at a college of further education if it involves—
 - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person, other than a person in receipt of a training allowance or a person who is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person), who is—

- (a) aged less than 19 and attending or undertaking a full-time course of advanced education; or
- (b) aged 19 or over but under pensionable age and—
 - (i) attending or undertaking a full-time course of study which is not funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;

- (ii) attending or undertaking a course of study which is funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (aa) in the case of a course funded by the Young People’s Learning Agency for England or the Chief Executive of Skills Funding, in the student’s learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
 - (bb) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by the National Council for Education and Training for Wales for the delivery of that course; or
- (iii) attending or undertaking a course of study (not being higher education) which is funded in whole or in part by the Scottish Ministers at a college of further education if it involves—
 - (aa) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (bb) 16 hours or less per week of classroom or workshop based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;

“higher education” means higher education within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992;

“Income Support Regulations” means the Income Support (General) Regulations 1987;

“jobseeking period” means the period described in regulation 46 except where otherwise provided;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part VIII of the Employment Rights Act 1996;

“National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage);

“net earnings” means such earnings as are calculated in accordance with regulation 68;

“net profit” means such profit as is calculated in accordance with regulation 70;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means where a claimant—

- (a) is a member of a couple, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member;

“part-time student” means a person who is attending or undertaking a course of study and who is not a full-time student;

“paternity leave” means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

“payment” includes a part of a payment;

“period of study” means—

- (a) the period during which the student is regarded as attending or undertaking the course of study; and
- (b) any period of attendance by the student at his educational establishment or any period of study undertaken by the student, in connection with the course, which occurs before or after the period during which he is to be regarded as undertaking the course of study;

“remunerative work” has the meaning prescribed in regulation 51(1);

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007, regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007;

“self-employed earner” has the meaning it has in Part I of the Benefits Act by virtue of section 2(1)(b) of that Act;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993 out of sums allocated to it for distribution under that section;

“term-time” means the period specified as term-time in a document signed on behalf of the establishment at which the course is being undertaken;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or the Welsh Ministers; and
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973, or section 2 of the Enterprise and New Towns (Scotland) Act 1990, or is training as a teacher;

“vacation” means any period falling within the period of study, which is not term-time;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“voluntary work” means work for an organisation the activities of which are carried on otherwise than for profit, or work other than for a member of the claimant’s family, where no payment is received by the claimant or the only payment due to be made to him by virtue of being so engaged is a payment in respect of any expenses reasonably incurred by him in the course of being so engaged;

“the Welfare Reform Act” means the Welfare Reform Act 2007;

“Work Experience” means a programme which consists of work experience, job search skills and job skills (and which is not employment), provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973, and which—

- (a) subject to paragraph (b), is of between two and eight weeks duration,
- (b) is of between two and twelve weeks duration where during the first eight weeks of the claimant’s participation in Work Experience, and as a result of that participation, the claimant is offered and accepts an apprenticeship made under government arrangements made respectively for England, Wales or Scotland;

“young person” means a person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act (including a child or young person in respect of whom section 145A of the Benefits Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act) except—

- (a) in [Part XXX],
- (b) where the person is entitled to a jobseeker’s allowance,
- (c) where the person is entitled to income support or would, but for section 134(2) of the Benefits Act (exclusion from benefit) be so entitled,
- (d) where section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies to the person.

Further interpretation {reg 1(3A) to (6)}

3.—(1) For the purposes of the definition of “full-time student” in regulation 2(2), but subject to paragraph (4) of this regulation, a person shall be regarded as attending or, as the case may be, undertaking a course of study or as being on a sandwich course—

- (a) subject to paragraph (2), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study, for a period beginning on the day on which that part of the course starts and ending—
 - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
 - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(2) For the purpose of sub-paragraph (a) of paragraph (1), the period referred to in that sub-paragraph shall include—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(3) In paragraph (1), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

(4) A full-time student shall not be regarded as undertaking a full-time course of advanced education or a full-time course of study for the period specified in paragraph (5) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a student loan (which means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, including in Scotland a young student’s

bursary paid under regulation 4(1)(c) of the Student's Allowances (Scotland) Regulations 1999) or a grant in respect of the period specified in paragraph (5).

(5) The period specified for the purposes of paragraph (4) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that other person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,

whichever shall first occur.

(6) Unless the context requires otherwise, any reference to the claimant's family or, as the case may be, to a member of his family, shall be construed for the purposes of these Regulations as if it included in relation to a polygamous marriage a reference to any partner and to any child or young person who is treated as the responsibility of the claimant or his partner, where that child or young person is a member of the claimant's household.

(7) In such cases and subject to such conditions or requirements as the Secretary of State may specify by means of a direction, any requirement imposed by or under these Regulations for a signature may be satisfied by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000).

PART 2

Jobseeking and sanctions

CHAPTER 1

Entitlement to a jobseeker's allowance and universal credit

Application of regulations where there is dual entitlement {new}

4.—(1) This regulation applies where a person is entitled to universal credit and a jobseeker's allowance.

(2) Chapters 2 (work-related requirements) and 3 (sanctions) of this Part do not apply to such a person.

(3) Part 8 (claimant responsibilities) and chapter 1 of Part 9 (sanctions) of the Universal Credit Regulations 2012 apply to such a person.

(4) Where a sanction is applied to the person under chapter 1 of Part 9 of those Regulations, that sanction is not to apply to the jobseeker's allowance.

Sanction for a jobseeker's allowance moving to universal credit where there is dual entitlement {new}

5.—(1) This regulation applies where—

- (a) a person is entitled to a jobseeker's allowance,
- (b) there is a sanction relating to the award of the jobseeker's allowance,
- (c) the person becomes entitled to universal credit, and
- (d) the person remains entitled to a jobseeker's allowance.

(2) Any sanction relating to the award of the jobseeker's allowance is to cease being applied to the award of the jobseeker's allowance.

CHAPTER 2

Work-related requirements

Interpretation in Chapter 2 {new}

6.—(1) In this Chapter—

“foster parent” has the same meaning as—

- (a) in relation to England, under the Fostering Services (England) Regulations 2011;
- (b) in relation to Wales, under the Foster Services Regulations 2003; and
- (c) in relation to Scotland, [to be added];

“relevant carer” means—

- (a) a parent of a child who is not the responsible carer, but has caring responsibilities for the child; or
- (b) a person who has caring responsibilities for a person who has a physical or mental impairment which necessitates such care;

“responsible carer”, in relation to a child, means—

- (a) a single person who is responsible for the child; or
- (b) a person who is a member of a couple where—
 - (i) the person or the other member of the couple is responsible for the child; and
 - (ii) the person has been nominated by the couple jointly as responsible for the child;

“responsible foster carer” in relation to a child means—

- (a) single person who is a foster parent; or
- (b) a person who is a member of a couple where—
 - (i) the couple are foster parents, and
 - (ii) the person has been nominated by the couple jointly as the responsible foster carer;

“voluntary work preparation” means particular action taken by a claimant for the purpose of making it more likely that the claimant will obtain paid work (or more paid work or better-paid work), but which is not specified by the Secretary of State as a work preparation requirement under section 16.

(2) For the purpose of this Chapter references to paid work include more paid work or better-paid work.

Information to be included in the claimant commitment {new}

7. A claimant commitment is to include—

- (a) the amount by, and period of time for, which an award of a jobseeker’s allowance may be reduced in accordance with section 6J and 6K of the Act in the event that the claimant fails to comply with any of the requirements recorded in their claimant commitment; and
- (b) notice of the claimant’s right of appeal against a decision to reduce an award of a jobseeker’s allowance in accordance with section 6J or 6K of the Act.

Method of acceptance of the claimant commitment {new}

8. A claimant must accept a claimant commitment by one of the following methods, as specified by the Secretary of State—

- (a) electronically;
- (b) by telephone; or
- (c) in writing.

Expected hours of work {new}

9.—(1) A claimant's expected number of hours of work per week are 35 unless some lesser number of hours applies in the claimant's case under paragraph (2).

(2) The lesser number of hours referred to in paragraph (1) are—

- (a) where—
 - (i) the claimant is a relevant carer, a responsible carer or a responsible foster carer, and
 - (ii) the Secretary of State is satisfied that the claimant has reasonable prospects of obtaining paid work;the number of hours that the Secretary of State considers is compatible with those caring responsibilities;
- (b) where the claimant is a responsible carer or responsible foster carer for a child under the age of 13, the number of hours that the Secretary of State considers is compatible with the child's normal school hours (including the normal time it takes the child to travel to and from school); or
- (c) where the claimant has a long-term physical or mental impairment that has a substantial effect on the claimant's ability to carry out work for 35 hours per week, the number of hours that the Secretary of State considers is reasonable in light of the impairment.

Purposes of a work-focused interview {new}

10. The purposes of a work-focused interview are any or all of the following—

- (a) assessing the claimant's prospects for remaining in or obtaining work;
- (b) assisting or encouraging the claimant to remain in or obtain work;
- (c) identifying activities that the claimant may undertake that will make remaining in or obtaining work more likely;
- (d) identifying training, educational or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain work or be able to do so;
- (e) identifying current or future work opportunities for the claimant that are relevant to the claimant's needs and abilities.

Work search requirement: interviews {new}

11. A claimant is to be treated as not having complied with a work search requirement to apply for a particular vacancy for paid work where the claimant fails to participate in an interview in connection with the vacancy.

Work search requirement: all reasonable action {new}

12.—(1) A claimant is to be treated as not having complied with a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week unless—

- (a) either—
 - (i) the claimant takes action for the purpose of obtaining paid work for the claimant's expected hours of work per week minus any relevant deductions; or
 - (ii) the Secretary of State is satisfied that the claimant has taken all reasonable action for the purpose of obtaining paid work despite the number of hours that the claimant spends taking such action being lower than the expected hours of work; and
- (b) that action gives the claimant the best prospects of obtaining work.

(2) In this regulation "relevant deductions" means the total of any time agreed by the Secretary of State—

- (a) for the claimant to carry out paid work in that week;

- (b) for the claimant to carry out voluntary work in that week;
- (c) for the claimant to carry out a work preparation requirement, or voluntary work preparation, in that week; or
- (d) because the claimant is subject to a temporary change of circumstances, and as a consequence the Secretary of State is satisfied that the claimant can only be expected to take action [for purpose of obtaining paid work] for a lower number of hours in that week.

(3) For the purpose of paragraph (2)(b) the time agreed by the Secretary of State for the claimant to carry out voluntary work must not exceed 50% of the claimant's expected hours of work per week.

Work availability requirement: able and willing immediately to take up paid work {new}

13.—(1) A claimant is to be treated as not having complied with a work availability requirement if the claimant is not able and willing immediately to attend an interview in connection with obtaining paid work.

(2) A claimant is to be treated as having complied with a work availability requirement despite not being able immediately to take up paid work, if paragraph (3), (4) or (5) applies.

(3) This paragraph applies where—

- (a) a claimant is a responsible carer or a relevant carer;
- (b) the Secretary of State is satisfied that as a consequence the claimant needs [a longer period of] up to 1 month to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work [, taking into account alternative care arrangements];
- (c) the Secretary of State is satisfied that the claimant will have reasonable prospects of obtaining paid work in spite of the extra time referred to in paragraph (3)(b); and
- (d) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.

(4) This paragraph applies where—

- (a) a claimant is carrying out voluntary work;
- (b) the Secretary of State is satisfied that as a consequence the claimant needs [a longer period of] up to 1 week to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work; and
- (c) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.

(5) This paragraph applies where a claimant—

- (a) is employed under a contract of service;
- (b) is required by section 86 of the Employment Rights Act 1996, or by the contract of service, to give notice to terminate the contract;
- (c) is able and willing to take up paid work once the notice period has expired; and
- (d) is able and willing to attend an interview on being given 48 hours notice.

Work search requirement and work availability requirement: limitations {new}

14.—(1) Paragraphs (2) to (5) set out the limitations on a work search requirement and a work availability requirement.

(2) A work search and availability requirement must be limited to work that is in a location which would normally take the claimant—

- (a) a maximum of one hour and 30 minutes to travel from home to the location; and
- (b) a maximum of one hour and 30 minutes to travel from the location to home.

(3) Where a claimant has previously carried out work of a particular nature, or at a particular level of remuneration, a work search requirement and a work availability requirement must be limited to work of a similar nature, or level of remuneration, for such period as the Secretary of State considers appropriate; but

- (a) only if the Secretary of State is satisfied that the claimant will have reasonable prospects of obtaining paid work in spite of such limitation; and
- (b) the limitation must not exceed 3 months beginning from the date of claim.

(4) Where a claimant has a physical or mental impairment that has a substantial adverse effect on the claimant's ability to carry out work of a particular nature, or in particular locations, a work search requirement or work availability requirement must not relate to work of such a nature or in such locations.

(5) In the case of a claimant who is a relevant carer or a responsible carer or has a long-term physical or mental impairment, a work search and availability requirement must be limited to the number of hours that is determined to be the claimant's expected hours of work in accordance with regulation 9(2).

Imposition of requirements: victims of domestic violence {new}

15.—(1) Where a claimant has recently been a victim of domestic violence, and the circumstances set out in paragraph (3) apply—

- (a) a requirement imposed on that claimant under Part 1 of the Welfare Reform Act 2012 ceases to have effect for a period of 13 weeks starting on the date of the notification referred to in paragraph (3)(a); and
- (b) the Secretary of State must not impose any other requirement under Part 1 of that Act on that claimant during that period.

(2) A person has recently been a victim of domestic violence if 6 months has not expired since the violence was inflicted or threatened.

(3) The circumstances are that—

- (a) the claimant notifies the Secretary of State, in such manner as the Secretary of State specifies, that domestic violence has been inflicted on or threatened against the claimant by a person specified in paragraph (4) during the period of 6 months ending on the date of the notification;
- (b) this regulation has not applied to the claimant for a period of 12 months before the date of the notification;
- (c) on the date of the notification the claimant is not living at the same address as the person who inflicted or threatened the domestic violence;
- (d) as soon as possible, and no later than 1 month, from the date of the notification the claimant provides evidence from a person acting in an official capacity which demonstrates that—
 - (i) the claimant's circumstances are consistent with those of a person who has had domestic violence inflicted or threatened against them during the period 6 months ending on the date of the notification; and
 - (ii) the claimant has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.

(4) A person is specified in this paragraph if the person is—

- (a) where the claimant is, or was, a member of a couple, the other member of the couple;
- (b) the claimant's grandparent, grandchild, parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, brother-in-law, sister, or sister-in-law; or
- (c) where any of the persons listed in sub-paragraph (b) is a member of a couple, the other member of that couple.

(5) In this regulation—

“domestic violence” means abuse of a kind specified on page 11, of section 2.2. of ‘Responding to domestic abuse: a handbook for health professionals’ published by the Department of Health in December 2005^(a);

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the national Health Service Reform and Health Care Professions Act 2002;

“person acting in an official capacity” means a health care professional, a police officer, a registered social worker, the claimant’s employer, a representative of the claimant’s trade union, or any public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic violence;

“registered social worker” means a person registered as a social worker in a register maintained by—

- (a) The General Social Care Council;
- (b) The Care Council for Wales;
- (c) The Scottish Social Services Council; or
- (d) The Northern Ireland Social Care Council.

Circumstances in which a work search requirement must not be imposed and definition of able and willing to take up work under a work availability requirement in those circumstances {new}

16.—(1) Where paragraph (3), (4) or (5) applies—

- (a) the Secretary of State must not impose a work search requirement on a claimant;
- (b) “able and willing to immediately take up work” under a work availability requirement means able and willing to take up paid work, or attend an interview, immediately once the circumstances set out in paragraph (3), (4) or (5) no longer apply.

(2) A work search requirement previously applying to the claimant ceases to have effect from the date that the circumstances set out in paragraph (3), (4) or (5) apply.

(3) This paragraph applies where—

- (a) the claimant is attending a court or tribunal as a party to any proceedings or as a witness;
- (b) the claimant is temporarily absent from Great Britain because they are—
 - (i) taking a child outside Great Britain for medical treatment,
 - (ii) attending a job interview outside Great Britain, or
 - (iii) receiving medical treatment outside Great Britain;
- (c) it is within 6 months of the death of—
 - (i) where the claimant is a member of a couple, the other member;
 - (ii) a child for whom the claimant or, where the claimant is a member of a couple, the other member, is responsible;
 - (iii) a child, where the claimant is the child’s parent; or
 - (iv) a severely disabled person for whom the claimant had regular and substantial caring responsibilities immediately before the death;
- (d)
 - (i) the claimant has recently been a victim of domestic violence within the meaning in regulation 15(2),
 - (ii) and the circumstances set out in regulation 15(3) apply, and
 - (iii) it is within three months of the date paragraphs (i) and (ii) apply;

(a)

- (e) the claimant is receiving and participating in a structured recovery orientated course of alcohol or drug addiction treatment, for a period of up to 6 months, and the claimant's participation in the course is recorded on the national drug treatment monitoring system;
- (f) the claimant is subject to arrangements made by a protection provider under section 82 of the Serious Organised Crime and Police Act 2005 for a period of up to 3 months for the purpose of protecting the claimant.

(4) This paragraph applies where the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement, including if such a requirement were limited in accordance with section 6D(4) of the Act because the claimant—

- (a) has temporary child care responsibilities;
- (b) is subject to a temporary change of circumstances;
- (c) is carrying out a public duty; or
- (d) is carrying out a work preparation requirement.

(5) This paragraph applies where the claimant—

- (a) is unfit for work—
 - (i) for a maximum of 14 consecutive days from the date that the evidence referred to in sub-paragraph (b) is provided; and
 - (ii) on no more than 2 such periods in any period of 12 months; and
- (b) provides to the Secretary of State the following evidence—
 - (i) for the first 7 days when they are unfit for work, a declaration made by the claimant in such manner and form as the Secretary of State approves that the claimant is unfit for work; and
 - (ii) for any further days when they are unfit for work, a statement given by a doctor in accordance with the rules set out in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976 which provides that the person is not fit for work.

(6) In this regulation—

“structured recovery orientated course” means XXX;

“tribunal” means any tribunal listed in Schedule 1 to the Tribunal and inquiries Act 1992.

CHAPTER 3

Sanctions

Interpretation {new}

17.—(1) For the purposes of this chapter—

“compliance period” means the period between two consecutive dates on which the Secretary of State requires a claimant to confirm compliance with a work-related requirement in accordance with section 6G of the Act (connected requirements: confirming compliance with work-related requirements);

“current sanctionable failure” means a failure which is sanctionable under section 6J (high-level sanctions) or 6K of the Act (other sanctions) in relation to which the Secretary of State has not yet determined whether the amount of an award of a jobseeker's allowance is to be reduced in accordance with section 6J or 6K of the Act;

“daily reduction amount” means the amount set out in regulation 45 that applies in the claimant's case;

“high-level sanction” means a reduction to the amount of an award of a jobseeker's allowance in accordance with section 6J of the Act;

“low-level sanction” means a reduction to the amount of an award of a jobseeker’s allowance in accordance with section 6K of the Act as a result of a failure by a claimant to comply with—

- (a) a work-focused interview requirement under section 6B(1) of the Act;
- (b) a work preparation requirement under section 6C(1) of the Act;
- (c) a work search requirement under section 6D(1)(b) of the Act (requirement to take action specified by the Secretary of State to obtain work); or
- (d) a requirement under section 6G of the Act (connected requirements);

“medium-level sanction” means a reduction to the amount of an award of a jobseeker’s allowance in accordance with section 6K of the Act as a result of a failure by the claimant to comply with—

- (a) a work search requirement under section 6D(1)(a) of the Act (requirement to take all reasonable action to obtain paid work); or
- (b) a work availability requirement under section 6E(1) of the Act (requirement to be available for work).

“sanctionable failure” means a failure which is sanctionable under section 6J or 6K of the Act in relation to which the Secretary of State has determined that the amount of an award of a jobseeker’s allowance is to be reduced in accordance with section 6J or 6K.

(2) For the purposes of these Regulations, a sanctionable failure to comply with a work-related requirement or a connected requirement under section 6G of the Act occurs on the last day by which the claimant was required to comply with the requirement.

Sanctionable failures under section 6J of the Act: work placements {new}

18.—(1) Mandatory Work Activity is a scheme designed to provide work or work preparation for up to 30 hours per week over a period of four consecutive weeks.

(2) Mandatory Work Activity is a work placement for the purpose of section 6J(2)(a) of the Act (sanctionable failure not to comply with a work preparation requirement to undertake a work placement).

Calculation of a reduction under section 6J or 6K of the Act {new}

19.—(1) Where the Secretary of State has determined that the amount of an award of jobseeker’s allowance is to be reduced in accordance with section 6J or 6K of the Act, the reduction for each benefit week is to be calculated as follows.

(2) Multiply the daily reduction amount by—

- (a) the number of days in the benefit week, or
- (b) if lower, the total outstanding reduction period.

(3) The total outstanding reduction period for a claimant is to be calculated as follows—

Step 1

Add together the number of days which apply in the claimant’s case under regulations 23, 24, 25 and 26, and which have not yet resulted in a reduction to the amount of the award for a benefit week.

The result of this step is the total outstanding reduction period, but this is subject to steps 2 and 3.

Step 2

Where an award of jobseeker’s allowance is terminated (“the old award”) and—

- (a) the old award had not been reduced for the claimant’s total outstanding reduction period; and

- (b) the claimant (as a single person or a member of a couple), is awarded a new award of jobseeker's allowance,

reduce the total outstanding reduction period by the number of days between the date on which the old award was terminated and the date on which the new award starts.

Step 3

Where the total outstanding reduction period is more than 1095 days, reduce the period of a reduction for the most recent sanctionable failure by such number of days as is required for the total outstanding reduction period to be 1095 days.

Effective date of a reduction under section 6J or 6K of the Act {new}

20. A reduction calculated in accordance with regulation 19 takes effect from—

- (a) the first day of the benefit week in which the failure occurred,
- (b) where the payment of a jobseeker's allowance for the benefit week referred to in paragraph (a) is not reduced in accordance with the Secretary of State's determination, the first day of the next benefit week,
- (c) where the amount of the award of the jobseeker's allowance for the benefit week referred to in paragraph (a) or (b) is already subject to a reduction because of a determination under section 6J or 6K of the Act, the first day in respect of which the amount of the award is no longer subject to a reduction.

Amount of a reduction under sections 6J and 6K of the Act: high, medium and low level sanctions {new}

21. The daily reduction amount that applies to a claimant for the purpose of regulation 19 is—

- (a) £8 of the claimant's jobseeker's allowance where they are under 25 years old on the last day of a benefit week; or
- (b) £10 of the claimant's jobseeker's allowance where they are 25 years old or over on the last day of a benefit week.

Cases in which no reduction is made under section 6J of the Act {new}

22.—(1) No reduction is to be made under section 6J of the Act where—

- (a) the current sanctionable failure is listed in section 6J(2)(b) or (c) of the Act (failure to apply for a vacancy for paid work or failure to take up an offer of paid work) and the paid work is vacant because of a strike arising from a trade dispute;
- (b) the current sanctionable failure is listed in section 6J(2)(d) of the Act (ceases paid work or loses pay) and the following circumstances apply—
 - (i) the claimant's work search and work availability requirements are subject to limitations under sections 6D(4) and 6E(3) of the Act to work available for a certain number of hours;
 - (ii) the claimant takes up paid work, or is in paid work and takes up more paid work, that is for a greater number of hours; and
 - (iii) the claimant voluntarily ceases that paid work, or more paid work, or loses pay, within a trial period;
- (c) the current sanctionable failure is listed in section 6J(3) of the Act (failures that occur before a claim is made) and—
 - (i) there are 182 days or more between the date of the current sanctionable failure and the date of the claim for a jobseeker's allowance; or

- (ii) the period of the reduction that would otherwise apply under regulation 23(3) is the same as or shorter than the number of days between the date of the current sanctionable failure and the date of that claim;
 - (d) the current sanctionable failure is that the claimant voluntarily ceases paid work, or loses pay, because of a strike arising from a trade dispute;
 - (e) the current sanctionable failure is that the claimant voluntarily ceases paid work as a member of the regular forces or the reserve forces (within the meanings in section 374 of the Armed Forces Act 2006), or loses pay in that capacity; or
 - (f) the current sanctionable failure is that the claimant voluntarily ceases paid work in one of the following circumstances—
 - (i) the claimant has been dismissed because of redundancy after volunteering or agreeing to be dismissed;
 - (ii) the claimant has ceased work on an agreed date without being dismissed in pursuance of an agreement relating to voluntary redundancy; or
 - (iii) the claimant has been laid-off or kept on short-time to the extent specified in section 148 of the Employment Rights Act 1996, and has complied with the requirements of that section.
- (2) In this regulation—
- “redundancy” means one of the facts set out in paragraphs (a) and (b) of section 139(1) of the Employment Rights Act 1996;
- “strike” has the same meaning as in section 246 of the Trade Union and Labour Relations (Consolidation) Act 1992;
- “trade dispute” has the same meaning as in section 244 of that Act.

Period of a reduction under section 6J of the Act: high-level sanctions {new}

23.—(1) A high-level sanction is to have effect for a period of 91 days, subject to regulation SA19 and as follows.

- (2) Where there has been a sanctionable failure by the claimant which—
- (a) resulted in a high-level sanction for a period of 91 days (or would have done but for step 3 of regulation 19(3) or regulation 24(2)); and
 - (b) occurred—
 - (i) before the compliance period for the current sanctionable failure, or before the claimant made a claim for a jobseeker’s allowance; and
 - (ii) 365 days or less before the date of the current sanctionable failure,
- a high-level sanction has effect for a period of 182 days.

- (3) Where there has been a sanctionable failure by the claimant which—
- (a) resulted in a high-level sanction for a period of 182 days (or would have done but for step 3 of regulation 19(3) or regulation 24(2)); and
 - (b) occurred—
 - (i) before the compliance period for the current sanctionable failure, or before the claimant made a claim for a jobseeker’s allowance; and
 - (ii) 365 days or less before the date of the current sanctionable failure,
- a high-level sanction has effect for a period of 1095 days.

- (4) Where there has been a sanctionable failure by the claimant which—
- (a) resulted in a high-level sanction for a period of 1095 days (or would have done but for step 3 of regulation SA19(3) or regulation 24(2)); and
 - (b) occurred 365 days or less before the date of the current sanctionable failure,
- a high-level sanction has effect for a period of 1095 days.

Period of a reduction under section 6J of the Act: high-level sanctions for pre-claim failures {new}

24.—(1) Where a sanctionable failure by a claimant—

- (a) occurred before the claimant made a claim for a jobseeker’s allowance; and
- (b) resulted in a high-level sanction that is to have effect for a period of 91 days,

the failure must not be counted for the purpose of determining the period of a current sanctionable failure by the claimant.

(2) The period for which a high-level sanction which relates to a current sanctionable failure listed in section 6J(3) of the Act is to have effect is to be calculated in accordance with paragraphs (3) and (5).

(3) Except where paragraph (4) applies, the period is—

- (a) the number of days for which a sanction is to have effect in the claimant’s case under regulation 23 (“the applicable sanction period”), minus
- (b) the number of days between the date of the current sanctionable failure and the date of claim for a jobseeker’s allowance.

(4) This paragraph applies where—

- (a) the current sanctionable failure was in relation to paid work which was due to last for a limited period;
- (b) the limited period ends on or before the end of the applicable sanction period; and
- (c) the date of the claim is on or before the end date of the limited period.

(5) Where paragraph (4) applies, the period is the number of days between the date of the current sanctionable failure and the date of the limited period minus the number of days between the date of the current sanctionable failure and the date of the claim.

Period of a reduction under section 6K of the Act: medium-level sanctions {new}

25.—(1) A medium-level sanction is to have effect for a period of 28 days, subject as follows.

(2) Where there has been a sanctionable failure by the claimant which—

- (a) resulted in a medium-level sanction for a period of 28 days (or would have done but for step 3 of regulation 19(3)); and
- (b) occurred—
 - (i) before the compliance period for the current sanctionable failure; and
 - (ii) 365 days or less before the date of the current sanctionable failure,

a medium-level sanction has effect for a period of 91 days.

(3) Where there has been a sanctionable failure by the claimant which—

- (a) resulted in a medium-level sanction for a period of 91 days (or would have done but for step 3 of regulation 19(3)); and
- (b) occurred 365 days or less before the date of the current sanctionable failure,

a medium-level sanction has effect for a period of 91 days.

Period of a reduction under section 6K of the Act: low-level sanctions {new}

26.—(1) The period for which a low-level sanction is to have effect is to be calculated in accordance with paragraph (2), subject as follows.

(2) A low-level sanction is to have effect for the total of—

- (a) 7 days, and
- (b) the number of days beginning with the date of the current sanctionable failure and ending with the date on which—

- (i) the claimant meets a compliance condition specified by the Secretary of State, or
- (ii) if sooner, the claimant's award of jobseeker's allowance is terminated.

(3) Where there has been a sanctionable failure by the claimant which—

- (a) resulted in a low-level sanction for a period of 7 days (or would have done but for step 3 of regulation 19(3)); and
- (b) occurred—
 - (i) before the compliance period for the current sanctionable failure; and
 - (ii) 365 days or less before the date of the current sanctionable failure,

the reference to 7 days in paragraph (2)(a) is to be read as if it were a reference to 14 days.

(4) Where there has been a sanctionable failure by the claimant which—

- (a) resulted in a low-level sanction for a period of 14 days (or would have done but for step 3 of regulation 19(3)); and
- (b) occurred—
 - (i) before the compliance period for the current sanctionable failure; and
 - (ii) 365 days or less before the date of the current sanctionable failure,

the reference to 7 days in paragraph (2)(a) is to be read as if it were a reference to 28 days.

(5) Where there has been a sanctionable failure by the claimant which—

- (a) resulted in a low-level sanction for a period of 28 days (or would have done but for step 3 of regulation 19(3)); and
- (b) occurred 365 days or less before the date of the current sanctionable failure,

the reference to 7 days in paragraph (2)(a) is to be read as if it were a reference to 28 days.

Provision of information and evidence showing good reason {new}

27.—(1) A claimant is to be treated as not having a good reason for an act or omission for the purposes of a sanction under section 6J or 6K of the Act where paragraph (2) applies.

(2) This paragraph applies where the claimant has not provided information or evidence to the Secretary of State within [a specified time].

Cases in which a reduction made under section 6J or 6K of the Act is to be terminated {new}

28.—(1) A reduction to the amount of an award of an employment and support allowance in accordance with section 6J or 6K of the Act is to be terminated where paragraph (2) applies.

(2) This paragraph applies where the claimant has been in paid work within the meaning in paragraph (3) for a period of at least 182 days since the most recent sanctionable failure by the claimant.

(3) The claimant is in paid work for the purposes of paragraph (2) where their weekly earnings are at least equal to 16 multiplied by the national minimum wage which would apply for a person of the claimant's age.

Cases in which a reduction made under section 11J of the Act is to be suspended {new}

29.—(1) A reduction in the amount of an award of an employment and support allowance in accordance with section 11J of the Act is to be suspended where a sanction is imposed on the claimant's employment and support allowance under section 6B or 7 of the Social Security Fraud Act 2001.

(2) The suspension referred to in paragraph (1) ends when the sanction ceases to be imposed under section 6B or 7 of the Social Security Fraud Act 2001.

CHAPTER 4

Moving from universal credit to jobseeker's allowance

Sanctions on universal credit where a person becomes entitled to a jobseeker's allowance {new}

30.—(1) This regulation applies where—

- (a) a person ceases to be entitled to universal credit,
- (b) there is a sanction relating to the award of the universal credit, and
- (c) the person becomes entitled to a jobseeker's allowance.

(2) Any sanction relating to the award of the universal credit is to be applied to the award of the jobseeker's allowance.

(3) The period for which the sanction is to have effect is the number of days which apply to the person under regulations SA4, SA18, SA19, SA5, SA20, SA6, SA21 or SA7 of the Universal Credit Regulations 2012 minus any such days—

- (a) which have already resulted in a reduction to the amount of universal credit, and
- (b) between the date the award of universal credit was terminated and the date on which the award of a jobseeker's allowance starts.

(4) The daily reduction amount for the sanction is—

- (a) £8 of the claimant's jobseeker's allowance where they are under 25 years old; or
- (b) £10 of the claimant's jobseeker's allowance where they are over 25 years old.

(5) The reduction of the claimant's award of a jobseeker's allowance is the period for which the sanction is to have effect referred to in paragraph (3) multiplied by the daily reduction amount referred to in paragraph (4).

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31. [Blank regulation to be removed]

PART 3

Other conditions of entitlement

CHAPTER 1

Information and evidence

Provision of information and evidence {reg 24}

32.—(1) A claimant shall furnish such information in connection with the claim, or any question arising out of it, as may be required by the Secretary of State.

(2) A claimant shall furnish such certificates, documents and other evidence as may be required by the Secretary of State for the determination of the claim.

(3) A claimant shall furnish such certificates, documents and other evidence affecting his continuing entitlement to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount as the Secretary of State may require.

(4) A claimant shall notify the Secretary of State—

- (a) of any change of circumstances which has occurred which he might reasonably be expected to know might affect his entitlement to a jobseeker's allowance or the payability or amount of such an allowance; and
- (b) of any such change of circumstances which he is aware is likely so to occur.

(5) The notification referred to in paragraph (4) must be given as soon as reasonably practicable after the occurrence or, as the case may be, after he becomes so aware, by giving notice of the change to an office of the Department for Work and Pensions specified by the Secretary of State—

- (a) in writing or by telephone (unless the Secretary of State determines in any particular case that notice must be in writing or may be given otherwise than in writing or by telephone); or
- (b) in writing if in any class of case he requires written notice (unless he determines in any particular case to accept notice given otherwise than in writing).

(6) Where, pursuant to paragraph (1), a claimant is required to provide information he shall do so when he participates in a work-focused interview under section 6B of the Act, if so required by the Secretary of State, or within such period as the Secretary of State may require.

(7) Where, pursuant to paragraph (2) or (3), a claimant is required to provide certificates, documents or other evidence he shall do so within seven days of being so required or such longer period as the Secretary of State may consider reasonable.

Alternative means of notifying changes of circumstances {reg 24A}

33.—(1) In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 32(4) to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

- (a) where the change of circumstances is a birth or death, through a relevant authority, or a county council in England, by personal attendance at an office specified by that authority or county council, provided the Secretary of State has agreed with that authority or county council for it to facilitate such notification; or
- (b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the Secretary of State.

(2) In this regulation “relevant authority” has the same meaning as in the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006.

Information given electronically {reg 24B}

34.—(1) A person may give any certificate, notice, information or evidence required to be given and in particular may give notice of a change of circumstances required to be notified under regulation 32 by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC to the Claims and Payments Regulations [Schedule 2 to the Claims and Payments Regulations 2012].

(2) In this regulation, “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000.

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35. [Blank regulation to be removed]

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36. [Blank regulation to be removed]

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37. [Blank regulation to be removed]

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39. [Blank regulation to be removed]

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40. [Blank regulation to be removed]

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41. [Blank regulation to be removed]

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42. [Blank regulation to be removed]

CHAPTER 2

General

The conditions and relevant earnings {reg 45A}

43.—(1) A claimant's relevant earnings for the purposes of section 2(2)(b) of the Act are the total amount of the claimant's earnings at the lower earnings limit for the base year.

(2) For the purposes of paragraph (1), earnings which exceed the lower earnings limit are to be disregarded.

Relaxation of the first set of conditions {reg 45B}

44.—(1) A claimant who also satisfies the condition in paragraph (2) is to be taken to satisfy the first set of conditions if the claimant has—

- (a) paid Class 1 contributions before the relevant benefit week in respect of any one tax year; and
- (b) earnings at the lower earnings limit in that tax year on which primary Class 1 contributions have been paid or treated as paid which in total, and disregarding any earnings which exceed the lower earnings limit for that year, are not less than that limit multiplied by 26.

(2) The condition referred to in paragraph (1) is that the claimant, in respect of any week during the last complete tax year preceding the relevant benefit year, is entitled to be credited with earnings in accordance with regulation 9E of the Social Security (Credits) Regulations 1975 (credits for certain spouses and civil partners of members of Her Majesty's forces).

Waiting Days {reg 46}

45.—(1) Paragraph 4 of Schedule 1 to the Act shall not apply in a case where—

- (a) a person's entitlement to a jobseeker's allowance commences within 12 weeks of an entitlement of his to income support, incapacity benefit, employment and support allowance or carer's allowance coming to an end; or
- (b) a claim for a jobseeker's allowance falls to be determined by reference to section 3(1)(f)(ii) (persons under the age of 18).

(2) In the case of a person to whom paragraph 4 of Schedule 1 to the Act applies, the number of days is 3.

Jobseeking Period {reg 47}

46.—(1) For the purposes of the Act, but subject to paragraphs (2) and (3), the “jobseeking period” means any period throughout which the claimant satisfies or is treated as satisfying the conditions specified in paragraphs (b) and (e) to (i) of subsection (2) of section 1 (conditions of entitlement to a jobseeker’s allowance).

(2) Any period in which a claimant is entitled to a jobseeker’s allowance in accordance with regulation 11(3) of the Jobseeker’s Allowance (Transitional Provisions) Regulations 1995 shall, for the purposes of paragraph (1), be treated as a period in which he satisfies the conditions specified in paragraphs (b) and (e) to (i) of subsection (2) of section 1.

(3) The following periods shall not be, or be part of, a jobseeking period—

- (a) any period in respect of which no claim for a jobseeker’s allowance has been made or treated as made;
- (b) such period as falls before the day on which a claim for a jobseeker’s allowance is made or treated as made;
- (c) where a claim for a jobseeker’s allowance has been made or treated as made but no entitlement to benefit arises in respect of a period before the date of claim by virtue of section 1(2) of the Administration Act (limits for backdating entitlement), that period;
- (d) any week in which a claimant is not entitled to a jobseeker’s allowance in accordance with section 14 (trade disputes); or
- (e) any period in respect of which the claimant is not entitled to a jobseeker’s allowance because section 1(1A) of the Administration Act (requirement to state national insurance number) applies.

(4) For the purposes of section 5 (duration of a jobseeker’s allowance) any day—

- (a) which falls within a jobseeking period; and either
- (b) (i) on which the claimant satisfies the conditions specified in section 2 (the contribution-based conditions) other than the conditions specified in subsection (1)(c) and (d) of that section; and
- (ii) on which a jobseeker’s allowance is not payable to the claimant by virtue of [section 19] or by virtue of a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions); or
- (c) which falls within a period which is treated as a period in which the claimant satisfies the condition specified in paragraph (b) of subsection (2) of section 1, in accordance with paragraph (2),

shall be treated as if it was a day in respect of which he was entitled to a jobseeker’s allowance.

Jobseeking periods: periods of interruption of employment {reg 47A}

47.—(1) For the purposes of section 2(4)(b)(i) and for determining any waiting days—

- (a) where a linked period commenced before 7th October 1996, any days of unemployment which form part of a period of interruption of employment where the last day of unemployment in that period of interruption of employment was no more than 8 weeks before the date upon which that linked period commenced;
- (b) where a jobseeking period or a linked period commences on 7th October 1996, any period of interruption of employment ending within the 8 weeks preceding that date; or
- (c) where a jobseeking period or a linked period commences after 7th October 1996, any period of interruption of employment ending within the 12 weeks preceding the day the jobseeking period or linked period commenced,

shall be treated as a jobseeking period and, for the purposes of sub-paragraph (a), a day shall be treated as being, or not being, a day of unemployment in accordance with section 25A of the Social Security Contributions and Benefits Act 1992 and with any regulations made under that section, as in force on 6th October 1996.

(2) In paragraph (1) “period of interruption of employment” in relation to a period prior to 7th October 1996 has the same meaning as it had in the Benefits Act by virtue of section 25A of that Act (determination of days for which unemployment benefit is payable) as in force on 6th October 1996.

Linking Periods {reg 48}

48.—(1) For the purposes of the Act, two or more jobseeking periods shall be treated as one jobseeking period where they are separated by a period comprising only—

- (a) any period of not more than 12 weeks;
- (b) a linked period;
- (c) any period of not more than 12 weeks falling between—
 - (i) any two linked periods; or
 - (ii) a jobseeking period and a linked period;
- (d) a period in respect of which the claimant is summoned for jury service and is required to attend court.

(2) Linked periods for the purposes of the Act are any of the following periods—

- (a) to the extent specified in paragraph (4), any period throughout which the claimant is entitled to a carer’s allowance under section 70 of the Benefits Act;
- (b) any period throughout which the claimant is incapable of work, or is treated as incapable of work, in accordance with Part XIIA of the Benefits Act;
- (c) any period throughout which the claimant has, or is treated as having, limited capability for work for the purposes of Part 1 of the Welfare Reform Act;
- (d) any period throughout which the claimant was entitled to a maternity allowance under section 35 of the Benefits Act;
- (e) any period throughout which the claimant was engaged in training for which a training allowance is payable;
- (f) a period which includes 6th October 1996 during which the claimant attends court in response to a summons for jury service and which was immediately preceded by a period of entitlement to unemployment benefit.

(3) A period is a linked period for the purposes of section 2(4)(b)(ii) of the Act only where it ends within 12 weeks or less of the commencement of a jobseeking period or of some other linked period.

(4) A period of entitlement to carer’s allowance shall be a linked period only where it enables the claimant to satisfy contribution conditions for entitlement to a jobseeker’s allowance which he would otherwise be unable to satisfy.

Persons approaching Retirement and the Jobseeking Period {reg 49}

49.—(1) Subject to paragraph (5), the provisions of this regulation apply only to days—

- (a) which fall after 6th October 1996 and within a tax year in which the claimant has attained the qualifying age for state pension credit (which is, in the case of a woman, pensionable age and in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man) but is under pensionable age; and
- (b) in respect of which a jobseeker’s allowance is not payable because the decision of the determining authority is that the claimant—
 - (i) has exhausted his entitlement to a jobseeker’s allowance; or
 - (ii) fails to satisfy one or both the contribution conditions specified in section 2(1)(a) and (b); or
 - (iii) is entitled to a jobseeker’s allowance but the amount payable is reduced to nil by virtue of deductions made in accordance with regulation 60 for pension payments.

(2) For the purposes of paragraph (1) of regulation 46 (jobseeking period) but subject to paragraphs (3), (4) and (5), any days to which paragraph (1) applies and in respect of which the person does not satisfy the condition specified in paragraph (b) of subsection (2) of section (1) (conditions of entitlement to a jobseeker's allowance), shall be days on which the person is treated as satisfying the condition in paragraphs (b) and (e) to (i) of subsection (2) of section (1).

(3) Where a person is employed as an employed earner or a self-employed earner for a period of more than 12 weeks, then no day which falls within or follows that period shall be days on which the person is treated as satisfying those conditions so however that this paragraph shall not prevent paragraph (2) from again applying to a person who makes a claim for a jobseeker's allowance after that period.

(4) Any day which is, for the purposes of section 30C of the Benefits Act, a day of incapacity for work falling within a period of incapacity for work shall not be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).

(5) Any day which, for the purposes of Part 1 of the Welfare Reform Act, is a day where the person has limited capability for work falling within a period of limited capability for work shall not be a day on which the person is treated as satisfying the conditions referred to in paragraph (2).

Persons temporarily absent from Great Britain {reg 50}

50.—(1) For the purposes of the Act, a claimant shall be treated as being in Great Britain during any period of temporary absence from Great Britain—

- (a) not exceeding 4 weeks in the circumstances specified in paragraph (2);
- (b) not exceeding 8 weeks in the circumstances specified in paragraph (3).

(2) The circumstances specified in this paragraph are that—

- (a) the claimant is in Northern Ireland and satisfies the conditions of entitlement to a jobseeker's allowance; and
- (b) immediately preceding the period of absence from Great Britain the claimant was entitled to a jobseeker's allowance; and
- (c) the period of absence is unlikely to exceed 52 weeks.

(3) The circumstances specified in this paragraph are that—

- (a) immediately preceding the period of absence from Great Britain, the claimant was entitled to a jobseeker's allowance; and
- (b) the period of absence is unlikely to exceed 52 weeks; and
- (c) the claimant continues to satisfy or be treated as satisfying the other conditions of entitlement to a jobseeker's allowance; and
- (d) the claimant is, or the claimant and any other member of his family are, accompanying a member of the claimant's family who is a child or young person solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement; and
- (e) those arrangements relate to treatment—
 - (i) outside Great Britain;
 - (ii) during the period whilst the claimant is, or the claimant and any member of his family are, temporarily absent from Great Britain; and
 - (iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.

(4) A person shall also be treated, for the purposes of the Act, as being in Great Britain during any period of temporary absence from Great Britain where—

- (a) the absence is for the purpose of attending an interview for employment; and
- (b) the absence is for 7 consecutive days or less; and

- (c) notice of the proposed absence is given to the Secretary of State before departure, and is given in writing if so required by the Secretary of State; and
- (d) on his return to Great Britain the person satisfies the Secretary of State that he attended for the interview in accordance with his notice.

(5) For the purposes of the Act a claimant shall be treated as being in Great Britain during any period of temporary absence from Great Britain if—

- (a) he was entitled to a jobseeker's allowance immediately before the beginning of that period of temporary absence; and
- (b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—
 - (i) under section 6(2) of the National Health Service Act 2006 (performance of functions outside England) or section 6(2) of the National Health Service (Wales) Act 2006 (performance of functions outside Wales);
 - (ii) pursuant to arrangements made under section 12(1) of the National Health Service Act 2006 (Secretary of State's arrangements with other bodies), section 10(1) of the National Health Service (Wales) Act 2006 (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the National Health Service Act 2006 (joint exercise of functions) or paragraph 18 of Schedule 3 to the National Health Service (Wales) Act 2006 (joint exercise of functions); or
 - (iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.

(6) In this regulation, "appropriately qualified" means qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

Remunerative Work {reg 51}

51.—(1) For the purposes of the Act "remunerative work" means work for which payment is made or which is done in expectation of payment in which a claimant is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week.

(2) For the purposes of paragraph (1), the number of hours in which a claimant is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person's work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
 - (i) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
 - (ii) in any other case, the period of five weeks immediately before the date of claim or the date of suppression, or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately.

(3) In determining in accordance with this regulation the number of hours for which a person is engaged in remunerative work—

- (a) that number shall include any time allowed to that person by his employer for a meal or for refreshments, but only where the person is, or expects to be, paid earnings in respect of that time;
- (b) no account shall be taken of any hours in which the person is engaged in an employment or scheme to which any one of paragraphs (a) to (e) of regulation 53 (person treated as not engaged in remunerative work) applies;

- (c) no account shall be taken of any hours in which the person is engaged otherwise than in an employment as an earner in caring for—
 - (i) a person who is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate; or
 - (ii) a person who has claimed an attendance allowance or a disability living allowance, but only for the period beginning with the date of claim and ending on the date the claim is determined or, if earlier, on the expiration of the period of 26 weeks from the date of claim; or
 - (iii) another person and is in receipt of a carer's allowance under section 70 of the Benefits Act; or
 - (iv) a person who has claimed either attendance allowance or disability living allowance and has an award of attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made.

(4) In this regulation, “disability living allowance” means a disability living allowance under section 71 of the Benefits Act.

Persons treated as engaged in remunerative work {reg 52}

52.—(1) Except in the case of a person on maternity leave, paternity leave, adoption leave or absent from work through illness, a person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in regulation 51(1) (remunerative work) where the absence is either without good cause or by reason of a recognised, customary or other holiday.

(2) Subject to paragraph (3), a person who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which regulation 67(1)(c) (earnings of employed earners) applies are paid, shall be treated as engaged in remunerative work for the period for which those earnings are taken into account in accordance with [Part XXX].

(3) Paragraph (2) shall not apply to earnings disregarded under paragraph 1 of Schedule 1 to these regulations.

Persons treated as not engaged in remunerative work {reg 53}

53.—(1) A person shall be treated as not engaged in remunerative work in so far as—

- (a) he is engaged by a charity or a voluntary organisation or is a volunteer where the only payment received by him or due to be paid to him is a payment in respect of any expenses incurred, or to be incurred, if he otherwise derives no remuneration or profit from the employment;
- (b) he is engaged on a scheme for which a training allowance is being paid;
- (c) he is engaged in employment as—
 - (i) a part-time fire-fighter employed by a fire and rescue authority;
 - (ii) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 (asp 5)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
 - (iii) an auxiliary coastguard in respect of coastal rescue activities;
 - (iv) a person engaged part-time in the manning or launching of a lifeboat;
 - (v) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;
- (d) he is performing his duties as a councillor, and for this purpose “councillor” has the same meaning as in section 171F(2) of the Benefits Act;

- (e) he is engaged in caring for a person who is accommodated with him by virtue of arrangements made under any of the provisions referred to in regulation 69(2)(b) or (c), and is in receipt of any payment specified in regulation 69(2)(b) or (c);
- (f) he is engaged in an activity in respect of which—
 - (i) a sports award had been made, or is to be made, to him; and
 - (ii) no other payment is made or is expected to be made to him;
- (g) he is engaged in the programme known as Work Experience.

(2) In this regulation, “volunteer” means a person who is engaged in voluntary work, otherwise than for a close relative, grand-parent, grand-child, uncle, aunt, nephew or niece, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work

Relevant education {reg 54}

54.—(1) Only full-time education which is undertaken by a child or young person and which is not a course of advanced education shall be treated as relevant education for the purposes of the Act.

(2) A child or young person shall be treated as receiving full-time education where he is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person).

(3) A young person who—

- (a) is a part-time student; and
- (b) is undertaking a course of study, other than a course of advanced education or a course of study of a kind specified in sub-paragraphs (i), (ii) or (iii) of paragraph (b) of the definition of “full-time student” in regulation 2(2),

shall not be treated as receiving relevant education.

(4) A young person to whom paragraph (3) applied and who has completed or terminated his course of part-time study shall not be treated as receiving relevant education.

(5) A young person who is participating in the Full-Time Education and Training Option of the New Deal (being a scheme which lasts for any individual for up to one year and which includes for that individual some or all of the following, namely education, training, work experience and support in job search skills) shall not be treated as receiving relevant education.

Short periods of sickness {reg 55}

55.—(1) Subject to the following provisions of this regulation, a person who—

- (a) satisfies the requirements for entitlement to a jobseeker’s allowance or has been awarded a jobseeker’s allowance, or is a person to whom any of the circumstances mentioned in [section 19(5) or (6)] apply; and
- (b) proves to the satisfaction of the Secretary of State that he is unable to work on account of some specific disease or disablement; and
- (c) but for his disease or disablement, would satisfy the requirements for entitlement to a jobseeker’s allowance other than those specified in section 1(2)(f) (capable of work or not having limited capability for work),

shall be treated for a period of not more than 2 weeks as capable of work or as not having limited capability for work, except where the claimant states in writing that for the period of his disease or disablement he proposes to claim or has claimed incapacity benefit, employment and support allowance, severe disablement allowance or income support.

(2) The evidence which is required for the purposes of paragraph (1)(b) is a declaration made by the claimant in writing, in a form approved for the purposes by the Secretary of State, that he has been unfit for work from a date or for a period specified in the declaration.

(3) The preceding provisions of this regulation shall not apply to a claimant on more than two occasions in any one jobseeking period or where a jobseeking period exceeds 12 months, in each successive 12 months within that period and for the purposes of calculating any period of 12 months, the first 12 months in the jobseeking period commences on the first day of the jobseeking period.

(4) The preceding provisions of this regulation shall not apply to any person where the first day in respect of which he is unable to work falls within 8 weeks of the person's entitlement to statutory sick pay.

(5) The preceding provisions of this regulation shall not apply to a claimant who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(5).

Periods of sickness and persons receiving treatment outside Great Britain {reg 55A}

56.—(1) A person—

- (a) who has been awarded a jobseeker's allowance, or is a person to whom any of the circumstances mentioned in [section 19(5) or (6)] apply; and
- (b) who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(5); and
- (c) who proves to the satisfaction of the Secretary of State that he is unable to work on account of some specific disease or disablement; and
- (d) but for his disease or disablement, would satisfy the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(f) (capable of work or not having limited capability for work),

shall be treated during that period of temporary absence abroad as capable of work or as not having limited capability for work, except where that person has stated in writing before that period of temporary absence abroad begins that immediately before the beginning of the period of that temporary absence abroad he has claimed employment and support allowance.

(2) The evidence which is required for the purposes of paragraph (1)(c) is a declaration made by that person in writing, in a form approved for the purposes by the Secretary of State, that he will be unfit for work from a date or for a period specified in the declaration.

Prescribed amount of earnings {reg 56}

57. The prescribed amount of earnings for the purposes of section 2(1)(c) (the contribution-based conditions) shall be calculated by applying the formula—

$$(A + D) - £0.01$$

where—

A is the age-related amount applicable to the claimant in accordance with section 4(2); and

D is any amount disregarded from the claimant's earnings in accordance with regulation 68(2) (calculation of net earnings of employed earners) or regulation 70(2) (calculation of net profit of self-employed earners) and Schedule 1.

Weekly amounts of jobseeker's allowance {reg 79}

58.—(1) In the case of a jobseeker's allowance, the age-related amount applicable to a claimant for the purposes of section 4(1)(a) shall be—

- (a) in the case of a person who has not attained the age of 18, £53.45 per week;
- (b) in the case of a person who has attained the age of 18 but not the age of 25, £53.45 per week;
- (c) in the case of a person who has attained the age of 25, £67.50 per week.

(2) Where the amount of any jobseeker's allowance would, but for this paragraph, include a fraction of one penny, that fraction shall be treated as one penny.

Deductions in respect of earnings {reg 80}

59. The deduction in respect of earnings which falls to be made in accordance with section 4(1)(b) from the amount which, apart from this regulation, would be payable by way of a jobseeker's allowance for any benefit week is an amount equal to the weekly amount of the claimant's earnings calculated in accordance with [Part XXX] (income and capital).

Payments by way of Pensions {reg 81}

60.—(1) The deduction in respect of pension payments, PPF payments or FAS payments from the amount which apart from this regulation would be payable to a claimant by way of a jobseeker's allowance for any benefit week shall be a sum equal to the amount by which that payment exceeds or, as the case may be, the aggregate of those payments exceed £50 per week.

(2) Where pension payments, PPF payments or FAS payments first begin to be made to a person for a period starting other than on the first day of a benefit week, the deduction referred to in paragraph (1) shall have effect from the beginning of that benefit week.

(3) Where pension payments, PPF payments or FAS payments are already in payment to a person and a change in the rate of payment takes effect in a week other than at the beginning of the benefit week, the deduction referred to in paragraph (1) shall have effect from the first day of that benefit week.

(4) In determining the amount of any pension payments, PPF payments or FAS payments for the purposes of paragraph (1), there shall be disregarded—

- (a) any payments from a personal pension scheme, an occupational pension scheme or a public service pension scheme which are payable to him and which arose in accordance with the terms of such a scheme on the death of a person who was a member of the scheme in question; and
- (b) any PPF payments or FAS payments which are payable to him and which arose on the death of a person who had an entitlement to such payments.

(5) Subject to the provisions of paragraph (4), where a pension payment, PPF payment or FAS payment, or an aggregate of such payments, as the case may be, is paid to a person for a period other than a week, such payments shall be treated as being made to that person by way of weekly pension payments, weekly PPF payments or weekly FAS payments and the weekly amount shall be determined—

- (a) where payment is made for a year, by dividing the total by 52;
- (b) where payment is made for three months, by dividing the total by 13;
- (c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;
- (d) where payment is made for two or more months, otherwise than for a year or for three months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or
- (e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.

Minimum amount of a jobseeker's allowance {reg 87A}

61. Where the amount of a jobseeker's allowance is less than 10 pence a week that allowance shall not be payable.

Rounding of fractions {reg 92}

62. Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant's advantage, be treated as a penny, otherwise it shall be disregarded.

CHAPTER 3

Earnings

Calculation of earnings derived from employed earner's employment {reg 94}

63.—(1) Earnings derived from employment as an employed earner shall be taken into account over a period determined in accordance with the following paragraphs and at a weekly amount determined in accordance with regulation 66 (calculation of weekly amount of earnings).

(2) Subject to the following provisions of this regulation, the period over which a payment is to be taken into account shall be—

- (a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;
- (b) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;
- (c) in any other case, 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 net earnings by the amount of jobseeker's 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 that payment under Schedule 1 (sums to be disregarded in the calculation of earnings), as is appropriate in the claimant's case,

and that period shall begin on the date on which the payment is treated as paid under regulation 65.

(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

- (a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;
- (b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 65 (date on which earnings are treated as paid).

(4) In a case to which paragraph (5) applies, earnings under regulation 67 (earnings of employed earners) shall be taken into account in the following order of priority—

- (a) earnings normally derived from the employment;
- (b) any compensation payment;
- (c) any holiday pay.

(5) Where earnings to which regulation 67(1)(b) or (c) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.

(6) Subject to paragraph (9), the period over which a compensation payment is to be taken into account shall be the period beginning on the date on which the payment is treated as paid under regulation 65 (date on which earnings are treated as paid) and ending—

- (a) subject to sub-paragraph (b), where the person who made the payment represents that it, or part of it, was paid in lieu of notice of termination of employment or on account of the early termination of a contract of employment for a term certain, on the expiry date;

- (b) in a case where the person who made the payment represents that it, or part of it, was paid in lieu of consultation under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, on the later of—
 - (i) the date on which the consultation period under that section would have ended;
 - (ii) in a case where sub-paragraph (a) also applies, the expiry date; or
 - (iii) the standard date;
- (c) in any other case, on the standard date.

(7) The maximum length of time over which a compensation payment may be taken into account under paragraph (8) is 52 weeks from the date on which the payment is treated as paid under regulation 65.

(8) In this regulation—

- (a) “compensation payment” means any payment to which paragraph (4) of regulation 67 (earnings of employed earners) applies;
- (b) “the expiry date” means in relation to the termination of a person’s employment—
 - (i) the date on which any period of notice applicable to the person was due to expire, or would have expired had it not been waived; and for this purpose “period of notice” means the period of notice of termination of employment to which a person is entitled by statute or by contract, whichever is the longer, or, if he is not entitled to such notice, the period of notice which is customary in the employment in question; or
 - (ii) subject to paragraph (11), where the person who made the payment represents that the period in respect of which that payment is made is longer than the period of notice referred to in head (i) above, the date on which that longer period is due to expire; or
 - (iii) where the person had a contract of employment for a term certain, the date on which it was due to expire;
- (c) “the standard date” means the earlier of—
 - (i) the expiry date; and
 - (ii) the last day of the period determined by dividing the amount of the compensation payment by the maximum weekly amount which, on the date on which the payment is treated as paid under regulation 65, is specified in section 227(1) of the Employment Rights Act 1996, and treating the result (less any fraction of a whole number) as a number of weeks.

(9) For the purposes of paragraph (10), if it appears to the Secretary of State in a case to which sub-paragraph (b)(ii) of that paragraph applies that, having regard to the amount of the compensation payment and the level of remuneration normally received by the claimant when he was engaged in the employment in respect of which the compensation payment was made, it is unreasonable to take the payment into account until the date specified in that sub-paragraph, the expiry date shall be the date specified in paragraph (10)(b)(i).

(10) For the purposes of this regulation the claimant’s earnings shall be calculated in accordance with [Part XXX].

Calculation of earnings of self-employed earners {reg 95}

64.—(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 his earnings shall be determined by reference to his 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 his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of any items to which paragraph (3) 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 jobseeker's 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 1 (earnings to be disregarded) as is appropriate in the claimant's case.

(3) This paragraph applies to—

- (a) 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
- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) 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 trade mark, or an original contributor to the book or work concerned.

(4) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with [Part XXX].

Date on which earnings are treated as paid {reg 96}

65. A payment of earnings to which regulation 63 (calculation of earnings derived from employed earner's employment) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

Calculation of weekly amount of earnings {regs 97}

66.—(1) For the purposes of regulation 63 (calculation of earnings derived from employed earner's employment), subject to paragraphs (2) to (7), where the period in respect of which a payment of earnings or tax credit is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
 - (iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;
 - (iv) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;
 - (v) in any other case by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

(2) Where a payment for a period not exceeding a week is treated under regulation 65(1)(a) (date on which earnings are treated as paid) as paid before the first benefit week and a part is to be

taken into account for some days only in that week (“the relevant days”), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week (“the relevant days”), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) Except in the case of a payment which it has not been practicable to treat under regulation 65(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 65(1)(b) (date on which earnings are treated as paid) is treated as paid first.

(5) Where the amount of the claimant’s earnings fluctuates and has changed more than once, or a claimant’s regular pattern of work is such that he does not work every week, the foregoing paragraphs may be modified so that the weekly amount of his earnings is determined by reference to his average weekly earnings—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of five weeks or such other period as may, in the particular case, enable the claimant’s average weekly earnings to be determined more accurately.

(6) In this regulation, “working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002.

Earnings of employed earners {reg 98}

67.—(1) Subject to paragraphs (2) and (4), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any compensation payment;
- (c) any holiday pay except any payable more than four weeks after the termination or interruption of employment but this exception shall not apply to a person who is, or would be, prevented from being entitled to a jobseeker’s allowance by section 14 (trade disputes);
- (d) any payment by way of a retainer;
- (e) any payment made by the claimant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
- (f) any payment or award of compensation made under section 112(4), 113, 117(3)(a), 128, 131 and 132 of the Employment Rights Act 1996 (the remedies: orders and compensation, the orders, enforcement of order and compensation, interim relief);

- (g) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
 - (h) any award of compensation made under section 156, 161 to 166, 189 or 192 of the Trade Union and Labour Relations (Consolidation) Act 1992 (compensation for unfair dismissal or redundancy on grounds of involvement in trade union activities, and protective awards);
 - (i) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
- (2) "Earnings" shall not include—
- (a) subject to paragraph (3), any payment in kind;
 - (b) any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
 - (c) any remuneration paid by or on behalf of an employer to the claimant in respect of a period throughout which the claimant is on maternity leave, paternity leave, adoption leave or is absent from work because he is ill;
 - (d) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (e) any occupational pension;
 - (f) any redundancy payment within the meaning of section 135(1) of the Employment Rights Act 1996;
 - (g) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
 - (h) any payment in respect of expenses arising out of the claimant's participation in a service user group.
- (3) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(i).
- (4) In this regulation—
- "compensation payment" means any payment made in respect of the termination of employment other than—
- (a) any remuneration or emolument (whether in money or in kind) which accrued in the period before the termination;
 - (b) any holiday pay;
 - (c) any payment specified in paragraphs (1)(f), (g), or (h) or (2);
 - (d) any refund of contributions to which that person was entitled under an occupational pension scheme;
- "service user group" means a group of individuals that is consulted by or on behalf of—
- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
 - (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
 - (c) a public authority (including any person certain of whose functions are functions of a public nature) in consequence of a function under section 49A of the Disability Discrimination Act 1995,
 - (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
 - (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,

- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (h) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- (i) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment (including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament),

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons.

Calculation of net earnings of employed earners {reg 99}

68.—(1) For the purposes of regulation 63 (calculation of earnings of employed earners) the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant’s net earnings, any sum, where applicable, specified in Schedule 1.

(3) For the purposes of paragraph (1) net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions payable under the Benefits Act; and
- (b) one-half of any sum paid by the claimant in respect of a pay period (the period in respect of which a claimant is, or expects to be, normally paid by his employer, being a week, a fortnight, four weeks, a month or other longer or shorter period as the case may be) by way of a contribution towards an occupational or personal pension scheme.

Earnings of self-employed earners {reg 100}

69.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment.

(2) “Earnings” shall not include—

- (a) where a claimant is involved in providing board and lodging accommodation for which a charge is payable, any payment by way of such a charge;
- (b) any payment made to the claimant with whom a person is accommodated by virtue of arrangements made—
 - (i) by a local authority under—
 - (aa) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (bb) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (cc) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
 - (ii) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);

- (c) any payment made to the claimant for a person (“the person concerned”), who is not normally a member of the claimant’s household but is temporarily in his care, by—
 - (i) a health authority;
 - (ii) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (iii) a voluntary organisation;
 - (iv) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 - (v) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the Health Service Act; or
 - (vi) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act;
- (d) any sports award.

(3) In this regulation, “board and lodging accommodation” means—

- (a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or
- (b) accommodation provided to a person in a hotel, guest house, lodging house or some similar establishment,

except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis.

Calculation of net profit of self-employed earners {reg 101}

70.—(1) For the purposes of regulation 64 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his 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 75, his share of the net profit derived from that employment less—
 - (i) an amount in respect of income tax and of social security contributions payable under the Benefits Act calculated in accordance with regulation 71 (deduction of tax and contributions for self-employed earners); and
 - (ii) one half of any premium paid in the period that is relevant under regulation 64 in respect of a personal pension scheme.

(2) There shall be disregarded from a claimant’s net profit any sum, where applicable, specified in paragraphs 1 to 11 of Schedule 1.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 64 (calculation of earnings of self-employed earners) less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax; and

- (ii) social security contributions payable under the Benefits Act, calculated in accordance with regulation 71 (deductions of tax and contributions for self-employed earners); and
 - (c) one-half of any premium paid in the period that is relevant under regulation 81 in respect of a personal pension scheme.
- (4) For the purposes of paragraph (1)(b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 64 less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.
- (5) Subject to paragraph (6), no deduction shall 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 64;
 - (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 shall 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 shall refuse to make a deduction under paragraph (3)(a) or (4) in respect of any expenses where he is not satisfied that the expense has been defrayed 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 expended for the purposes of the business;
 - (b) must be made in respect of—
 - (i) the excess of any VAT paid over VAT received in the period determined under regulation 64;
 - (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 shall be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the Benefits Act, calculated in accordance with regulation 71 (deductions of tax and contributions for self-employed earners); and
 - (b) one half of any premium paid in the period that is relevant under regulation 64 in respect of a personal pension scheme.
- (10) Notwithstanding regulation 64 and the foregoing paragraphs, the Secretary of State may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 64 such as 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 he is engaged in one or more other employments as a self-employed or employed earner, any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

Deduction of tax and contributions for self-employed earners {reg 102}

71.—(1) The amount to be deducted in respect of income tax under regulation 70(1)(b)(i), (4)(b)(i) or (10)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax less only the personal allowance to which the claimant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowance) as is appropriate to his circumstances; but, if the period determined under regulation 64 is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal allowance deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 70(1)(b)(i), (4)(b)(ii) or (10)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Benefits Act at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the period determined under regulation 64 is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but if the period determined under regulation 64 is less than a year, those limits shall be reduced pro rata.

(3) In this regulation "chargeable income" means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (4)(a) or, as the case may be, (5), of regulation 70;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

Amount of a jobseeker's allowance payable {reg 150}

72.—(1) Subject to the following provisions of this Part, the amount payable by way of a jobseeker's allowance in respect of a part-week shall be calculated by applying the formula—

$$((NxX)/7) - Y$$

where—

X is the personal rate determined in accordance with section 4(1);

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

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

(2) In this Part—

"part-week" means an entitlement to a jobseeker's allowance in respect of any period of less than a week;

"relevant week" means the period of 7 days determined in accordance with regulation 73.

Relevant week {reg 152}

73.—(1) Where the part-week—

- (a) is the whole period for which a jobseeker's 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; or
- (c) occurs because a jobseeker's allowance is not payable for any period in accordance with [section 19] of the Act (circumstances in which a jobseeker's allowance is not payable), the relevant week is the 7 days ending immediately before the start of the next benefit week to commence for that claimant.

(2) Except in a case to which paragraph (3) applies, where a person has an award of a jobseeker's allowance and his benefit week changes, for the purpose of calculating the amounts of a jobseeker's allowance payable for the part-week beginning on the day after his 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 {reg 153}

74. For the purposes of regulation 72 (amount of jobseeker's allowance payable for part-weeks) a claimant's income shall be calculated in accordance with [Parts XXX] subject to the following changes—

- (a) any income which is due to be paid in the relevant week shall be treated as paid on the first day of that week;
- (b) in determining the amount payable by way of a jobseeker's allowance, any widow's benefit, carer's allowance, training allowance or any increase in disablement pension payable in accordance with Part I of Schedule 7 to the Benefits Act (Unemployment Supplement) which is payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (c) where the part-week occurs at the end of the claim, any income or 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 shall be disregarded;
- (d) where the part-week occurs immediately after a period in which a person was treated as engaged in remunerative work under regulation 52 (persons treated as engaged in remunerative work) any earnings which are taken into account for the purposes of determining that period shall be disregarded;
- (e) where only part of the weekly amount of income is taken into account in the relevant week, the balance shall be disregarded.

Interpretation {reg 156}

75. In this Chapter—

“fishing boat” means a fishing vessel as defined by section 313 of the Merchant Shipping Act 1995;

“owner” has the same meaning as in the Social Security (Mariners' Benefits) Regulations 1975;

“share fisherman” means any person who—

- (a) is ordinarily employed in the fishing industry otherwise than under a contract of service, as a master or member of the crew of any fishing boat manned by more than one person, and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing boat; or

- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Great Britain, otherwise than under a contract of service, making or mending any gear appurtenant to a fishing boat or performing other services ancillary to or in connection with that boat and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in such employment.

Special provisions in respect of share fishermen {reg 157}

76. The Act and the foregoing provisions of these Regulations shall have effect in relation to share fishermen subject to the provisions of [Part XXX].

Modifications of section 2 {reg 158}

77.—(1) Section 2 (the contribution-based conditions) shall apply to share fishermen with the modifications set out in the following provisions of this regulation.

(2) After the words “Class 1 contributions” in each place where they appear there shall be inserted the words “or special Class 2 contributions”.

(3) In subsection (4) after the definition of “the relevant benefit year” there shall be inserted the following definition—

““special Class 2 contributions” means any Class 2 contributions paid by a share fisherman at the rate applicable to share fishermen in accordance with regulation 125(c) of the Social Security (Contributions) Regulations 2001.”.

[Blank regulation to be removed]

78. [Blank regulation to be removed]

Modification of section 35 {reg 160}

79.—(1) The definition of “trade dispute” in section 35(1) (interpretation) shall apply to share fishermen with the effect that the owner (or managing owner if there is more than one owner) of a fishing boat shall be treated as the employer of any share fisherman (other than himself) ordinarily employed as master or member of the crew of, or making or mending any gear appurtenant to, or performing other services ancillary to or in connection with, that fishing boat, and any such share fisherman shall be treated as his employee.

(2) In this regulation, “managing owner” means that the owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel.

Additional conditions for payment of a jobseeker’s allowance {reg 161}

80.—(1) It shall be an additional condition with respect to the payment of a jobseeker’s allowance to a share fisherman in respect of any benefit week, that in respect of any period in that benefit week when he has not worked as a share fisherman, he proves that he has not neglected to avail himself of a reasonable opportunity of employment as a share fisherman.

(2) The following provisions shall apply for the purposes of the application of paragraph (1)—

- (a) work as a share fisherman within the meaning of paragraph (1) shall include any of the work specified in sub-paragraph (b) which at the time of its performance is necessary for the safety or reasonable efficiency of the fishing boat, or is likely to become so necessary in the near future, and which it is the duty of the share fisherman (whether by agreement, custom, practice or otherwise) to undertake without remuneration other than by way of a share in the profits or gross earnings of the fishing boat, but any other work done to the fishing boat or its nets or gear shall be disregarded; and

- (b) the work so included by sub-paragraph (a) is any work done to the fishing boat or its nets or gear by way of repairs (including running repairs) or maintenance, or in connection with the laying up of the boat and its nets and gear at the end of a fishing season or their preparation for a season's fishing.

(3) It shall be a further additional condition with respect to the payment of a jobseeker's allowance to a share fisherman in respect of any benefit week that, where he is master or a member of the crew of a fishing boat of which either the master or any member of the crew is the owner or part owner, he must also prove that in respect of any period in that benefit week when he was not working as a share fisherman, the fishing boat did not put to sea with a view to fishing for the reason—

- (a) that on account of the state of the weather the fishing boat could not reasonably have put to sea with a view to fishing; or
- (b) that the fishing boat was undergoing repairs or maintenance, not being repairs or maintenance to which paragraph (2) relates; or
- (c) that there was an absence of fish from any waters in which the fishing boat could reasonably be expected to operate; or
- (d) that any other good cause necessitated abstention from fishing.

(4) In this regulation, "benefit week" in relation to a jobseeker's allowance has the meaning it has in regulation 83 (share fisherman: amount payable).

Remunerative work {reg 162}

81. In determining the number of hours in which a person is engaged in remunerative work for the purposes of establishing entitlement to a jobseeker's allowance, no account shall be taken of any hours in which a person is engaged in work as a share fisherman.

Calculation of earnings {reg 163}

82.—(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 XXX] (income and capital) shall apply subject to the following provisions of this regulation.

(2) Regulation 64 (calculation of earnings of self-employed earners) shall be omitted.

(3) For regulation 70 (calculation of net profit of self-employed earners) there shall be substituted the following regulation—

"Calculation of earnings derived from work as a share fisherman

84.—(1) Earnings derived from employment as a share fisherman within the meaning of regulation 75 (interpretation) shall be calculated in accordance with the following provisions of this regulation.

(2) Any such earnings shall 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 shall be the claimant's share of the net profit derived from that work less—

- (a) an amount in respect of income tax and national insurance contributions under the Benefits Act calculated in accordance with regulation 71 (deduction of tax and contributions for self-employed earners); and

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

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

- (a) £20; and

(b) the amount of any earnings specified in paragraphs 4 and 10 of Schedule 1, 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 paragraphs 5, 6 or 7 of Schedule 1—

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

(b) if the amount so disregarded is less than £20, the amount disregarded under paragraph (4)(a) shall not exceed the difference between the amount disregarded from those other earnings and £15.

(6) For the purposes of paragraph (3), the net profit shall 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 that employment.

(7) Subject to paragraph (8), no deduction shall 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 shall 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) The Secretary of State shall refuse to make a deduction under paragraph (6) in respect of any expenses where he 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 VAT paid over VAT 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 the foregoing paragraphs, the Secretary of State may calculate earnings or expenditure over a period other than the benefit week if he 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 83 (share fishermen: amount payable).”.

(4) In regulation 71 (deduction of tax and contributions for self-employed earners)—

(a) in paragraphs (1) and (2), for the words “regulation 70(1)(b)(i)” there shall be substituted the words “regulation 70(3)(a)”;

- (b) in paragraph (3)(a) for the words “under paragraph (4)(a) or, as the case may be, (5)” there shall be substituted the words “under paragraph (6)”;
- (c) at the end of the regulation there shall be added the following paragraph—
 - “(4) For the purposes of paragraphs (1) and (2) the earnings to which the basic rate of tax is to be applied and the amount of personal relief deductible, the amount specified in section 11(4) of the Benefits Act, and the upper limit of profits and gains referred to in paragraph (2)(b), shall be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 70.”.

Amount payable {reg 164}

83.—(1) The amount payable to a share fisherman by way of a jobseeker’s allowance shall be calculated in accordance with regulations 58 to 60 (weekly amounts of jobseeker’s allowance, deductions in respect of earnings and payments by way of pensions) and this regulation, and [Part XXX] (part-weeks) shall not apply.

(2) Regulations 58 to 60 shall apply in respect of share fishermen so that the amount payable is calculated by reference to earnings earned and pension payments received in the benefit week.

(3) In this regulation “benefit week” means—

- (a) in respect of the week in which the claim is made, the period of 7 days beginning with the date of claim; and
- (b) in respect of any subsequent week, the period of 7 days beginning with the day after the last day of the previous benefit week.

Modification of contribution conditions for volunteer development workers {reg 167}

84. Section 2 (the contribution-based conditions) shall apply with the modifications that after the words “Class 1 contributions” in each place where they appear there shall be inserted the words “or Class 2 contributions under Case G of Part 9 of the Social Security (Contributions) Regulations 2001”.

Signed by authority of the Secretary of State for Work and Pensions.

	<i>Name</i>
	Minister of State,
Date	Department for Work and Pensions

SCHEDULE 1 Regulations 68(2) and 70(2)

Sums to be disregarded in the calculation of earnings {Sch 6}

- 1.**—(1) In the case of a claimant who has been engaged in remunerative work as an employed earner or, has the employment been in Great Britain, would have been so engaged—
- (a) any earnings, other than items to which sub-paragraph (2) applies, paid or due to be paid from that employment which terminated before the first day of entitlement to a jobseeker’s allowance;
 - (b) any earnings, other than a payment of the nature described in sub-paragraph (2)(a) or (b)(ii), paid or due to be paid from that employment which has not been terminated where the claimant is not—

- (i) engaged in remunerative work, or
- (ii) suspended from his employment.

(2) This sub-paragraph applies to—

- (a) any payment of the nature described in—
 - (i) regulation 67(1)(d), or
 - (ii) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and
- (b) any award, sum or payment of the nature described in—
 - (i) regulation 67(1)(f) or (h), or
 - (ii) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings.

2.—(1) In the case of a claimant to whom this paragraph applies, any earnings (other than items to which paragraph 1(2) applies) which relate to employment which ceased before the first day of entitlement to a jobseeker's allowance whether or not that employment has terminated.

(2) This paragraph applies to a claimant who has been engaged in part-time employment as an employed earner or, had the employment been in Great Britain, would have been so engaged; but it does not apply to a claimant who has been suspended from his employment.

3. Any payment to which regulation 67(1)(f) applies—

- (a) which is due to be paid more than 52 weeks after the date of termination of the employment in respect of which the payment is made; or
- (b) which is a compensatory award within the meaning of section 118(1)(b) of the Employment Rights Act 1996 for so long as such an award remains unpaid and the employer is insolvent within the meaning of section 127 of that Act.

4. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 64(2) (royalties etc) applies.

5. In a case to which neither of paragraphs 6 or 7 applies to the claimant, £5.

6. £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by a fire and rescue authority;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 (asp 5)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a lifeboat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

7. Where the claimant is engaged in one or more employments specified in paragraph 6 but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other part-time employment, so much of his earnings from that other employment up to £5 as would not in aggregate with the amount of his earnings disregarded under paragraph 6 exceed £20.

8. Notwithstanding the foregoing provisions of this Schedule, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, because it has not been practicable to treat the payments under regulation 65(1)(b) (date on which

earnings are treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there shall be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.

9. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

10. Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

11. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

12. In the case of a claimant who—

- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001; and
- (b) by reason of that employment has failed to satisfy any of the conditions of entitlement to a jobseeker's allowance, other than the condition in section 2(1)(c) (prescribed amount of earnings) or section 3(1)(a) (income not in excess of applicable amount),

any earnings from that employment paid in respect of the period in which the claimant was not entitled to a jobseeker's allowance.

13. In this Schedule "part-time employment" means employment in which the person is not to be treated as engaged in remunerative work under regulation 52 or 53 (persons treated as engaged, or not engaged, in remunerative work).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations.

[to be completed]

A full impact assessment has not been published for these Regulations as they have no impact on the private sector and civil society organisations.