

[See S.I. 1999/779 at page 1.6401 for details of treatment of persons and payments participating in New Deal 25 plus].

**1996 No. 207**

**SOCIAL SECURITY**

**The Jobseeker's Allowance Regulations 1996**

*Made - - - - - 1st February 1996*  
*Coming into force 7th October 1996*

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Whereas a draft of this instrument was laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995(a) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Education and Employment, in relation to Parts II, IV and V and regulation 170 of these Regulations, and the Secretary of State for Social Security in relation to the remainder of the Regulations, in exercise of the powers conferred by sections 2(1)(c), 3, 4(1)(b), (2), (4), (5) and (12), 5(3), 6, 7, 8, 9(1), (8), (10), (11) and (12), 10(1), (6)(c) and (7), 11(2), (5) and (7), 12, 13, 15(1), (2)(d), (5) and (6), 17(1), 19(2), (4), (7), (8) and (10)(c), 20, 21, 22, 23, 35(1) and (3), 36 and 40 of, and Schedule 1 to, the Jobseekers Act 1995(b), sections 5(1)(h), (i) and (j), 22(4), 23(9) and (10), 59, 189(4) and (5) and 191 of, and Schedule 3 to, the Social Security Administration Act 1992(c), sections 171D, 171G(2) and 175(3) and (4) of the Social

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(a) 1995 c. 18.

(b) Section 35(1) is an interpretation provision: it is cited because it contains powers exercised in these Regulations in the definitions of "employment", "jobseeking period", "pensionable age", "pensionable payments", "training" and "work" and because of the meaning assigned to the words "prescribed" and "regulations".

(c) 1992 c. 5: section 191 is an interpretation provision and it is cited because of the meaning ascribed to the word "prescribe".

## Reg. 1

Security Contributions and Benefits Act 1992(a), and of all other powers enabling each of them in that behalf, by this instrument, which contains only regulations made by virtue of, or consequential upon, those provisions of the Jobseekers Act 1995 and which is made before the end of a period of 6 months beginning with the coming into force of those provisions(b), hereby makes the following Regulations:

[In the following S.I. wherever the words "training for work" appear substitute the words "work based training for adults" except in the case of reference to the title or principal order or of the 1993 order. As per S.I. 1998/1426 from 3.7.98.]

## PART I

## GENERAL

►<sup>1</sup>Citation, commencement, interpretation and application◄

<sup>1</sup>Words in heading substituted, and para. 1(2A) inserted in reg. 1 by reg. 30(2) of S.I. 2013/630 as from 29.4.13.

1.—(1) These Regulations may be cited as the Jobseeker's Allowance Regulations 1996.

(2) These Regulations shall come into force on 7th October 1996.

*See reg. 13(1)(d) & (2) to (4) of S.I. 2010/1222 at page 11.7185 for details of the modification of reg. 1(3) in certain situations as from 22.11.10.*

►<sup>1</sup>(2A) These Regulations do not apply to a particular case on any day on which section 33(1)(a) of the 2012 Act (abolition of income-based jobseeker's allowance) is in force and applies in relation to that case.◄

(3) In these Regulations—

►<sup>2</sup>"Abbeyfield Home" means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;◄

"the Act" means the Jobseekers Act 1995;

►<sup>3</sup>"the 2012 Act" means the Welfare Reform Act 2012;◄

►<sup>4</sup>"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(c);◄

►<sup>5</sup>"the Armed Forces and Reserve Forces Compensation Scheme" means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(d);◄

►<sup>6</sup>"armed forces independence payment" means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) order 2011;◄

"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);

(c)-(d) ►<sup>7</sup>◄

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(e) or any analogous payment;

<sup>2</sup>Defn. of "Abbeyfield Home" inserted by para. 1(a)(ii) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Defn. of "the 2012 Act" inserted by para. 16(2) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Defn. of "adoption leave" inserted by reg. 3(2)(a) of S.I. 2002/2689 as from 8.12.02.

<sup>5</sup>Defn. of "The Armed Forces and Reserve Forces Compensation Scheme" inserted by reg. 2(1) of S.I. 2005/574 as from 4.4.05.

<sup>6</sup>Defn. of "armed forces independence payment" inserted in reg. 1(3) by para. 103(2) of Sch. to S.I. 201/591 as from 8.4.13.

<sup>7</sup>Paras. (c) & (d) omitted by reg. 6(1)(a) of S.I. 2013/2536 as from 29.10.13.

(a) 1992 c. 4: sections 171D and 171G(2) were inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 6(1) and have effect for the purposes of the Jobseekers Act 1995 by virtue of paragraph 2 of Schedule 1 to that Act. Section 171G(2) is an interpretation provision and is cited because of the meaning ascribed to the word "prescribed".

(b) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).

(c) 1996 c. 18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

(d) 2004 c. 32.

(e) S.I. 1983/686.

**Reg. 1**

(f) any payment based on the need for attendance which is paid as an addition to a war disablement pension;

▶<sup>1</sup>“Back to Work Session” means a seminar or appointment referred to as “a Back to Work Session” arranged by or on behalf of the Secretary of State, the purpose of which is to provide a person who attends with information, support and advice with a view to assisting him to find employment or to improve his chances of finding employment; ◀

<sup>1</sup>Defn. of “Back to Work Session” inserted by reg. 2(2)(a) of S.I. 2009/480, see reg. 1 to this S.I. for when to apply.

▶<sup>2</sup>“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); ◀

<sup>2</sup>Defn. of “basic rate” inserted in reg. 1 by reg. 4(2)(a) of S.I. 2009/583 as from 6.4.09.

▶<sup>3</sup>“the benefit Acts” means the Act, the Benefits Act ▶<sup>4</sup>, Part 1 of the Welfare Reform Act 2007 and Part 4 of the 2012 Act” ◀; ◀

<sup>3</sup>Defn. of “the benefit Acts” inserted in reg. 1 by reg. 3(2)(g) of S.I. 2008/3157 as from 5.1.09.

▶<sup>5</sup>“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;

<sup>4</sup>Words in defn. of “the benefits Act” substituted by para. 16(2)(b) of Sch. to S.I. 2013/388 as from 8.4.13.

(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—

<sup>5</sup>Defn. of “benefit week” substituted by reg. 3 of S.I. 2009/604 as from 6.4.09.

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

“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;

▶<sup>6</sup>“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by ▶<sup>7</sup>paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 ◀; ◀

<sup>6</sup>Defn. of “care home” inserted by para. 1(a)(ii) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

▶<sup>8</sup>“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions; ◀

<sup>7</sup>Words in defn. of “care home” substituted by para. 20(a) of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

▶<sup>9</sup>“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002; ◀

<sup>8</sup>Defn. of “the Caxton Foundation” inserted by reg. 10(2)(a) of S.I. 2011/2425 as from 31.10.11.

▶<sup>10</sup>“the Children Order” means the Children (Northern Ireland) Order 1995(a) ◀ “Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(b);

<sup>9</sup>Defn. of “child tax credit” inserted in reg. 1(3) by Sch. 2, para. 1(a) of S.I. 2002/2402 as from 6.4.03.

<sup>10</sup>Defn. of “the Children Order” inserted in reg. 1(3) by reg. 5(2)(f) of S.I. 1998/563 as from 6.4.98.

(a) S.I. 1995/755 (N.I. 2).

(b) S.I. 1987/1968.

**Reg. 1**

<sup>1</sup>Ref. in defn. of "close relative" deleted by reg. 2(2)(b) of S.I. 1996/2538 as from 28.10.96.

<sup>2</sup>Words substituted in defn. of "close relative" substituted by para. 26(2)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Words substituted in defn. of "concessionary payment" by reg. 3(2)(a) of S.I. 2008/3157 as from 5.1.09.

<sup>4</sup>Defn. of "the Contributions Regulations" inserted by reg. 2(2) of S.I. 2012/1616 as from 30.7.12.

<sup>5</sup>Defn. of "contributory employment and support allowance" inserted by reg. 3(2)(c)(i) of S.I. 2013/630 as from 29.4.13.

<sup>6</sup>Defn. of "couple" substituted by para. 26(2)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>7</sup>Words in defn. of "course of advanced education" substituted by reg. 6(1) of S.I. 2004/1708 as from 1.8.04 where course of study begins on or after that date but before 1.9.04, or 1.9.04 in any other case.

<sup>8</sup>Defn. of "course of study" substituted by reg. 6(2)(a)(i) of S.I. 2000/1981 as from 31.7.00.

<sup>9</sup>Defn. of "Crown servant" inserted by reg. 2 of S.I. 2014/2735 as from 9.11.14.

"close relative" means, except in Parts II <sup>1</sup> and V, a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, <sup>2</sup> or if any of the preceding persons is one member of a couple, the other member of that couple <sup>4</sup>;

"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 <sup>(a)</sup>;

"concessionary payment" means a payment made under arrangements made by the Secretary of State with the consent of the treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit <sup>3</sup> or tax credits under the benefit Acts or the Tax Credits Act 2002 <sup>(b)</sup> <sup>4</sup> are charged;

<sup>4</sup>"the Contributions Regulations" means the Social Security (Contributions) Regulations 2001 <sup>(c)</sup> <sup>4</sup>

<sup>5</sup>"contributory employment and support allowance" means an allowance under Part 1 of the Welfare Reform Act as amended by the provisions of Schedule 2, and Part 1 of Schedule 15, to the 2012 Act that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act as that Part has effect apart from those provisions; <sup>4</sup>

"co-ownership scheme" means a scheme under which a dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any condition stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

<sup>6</sup>"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; <sup>4</sup>

"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), <sup>7</sup> a Scottish national qualification (higher or advanced higher) <sup>4</sup>;

<sup>8</sup>"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; <sup>4</sup>

<sup>9</sup>"Crown servant" means a person holding an office or employment under the Crown; <sup>4</sup>

"Crown tenant" means a person who occupies a dwelling under a tenancy or licence where the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest belonging to Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

(a) 1992 c. 37.

(b) 2002 c. 21.

(c) S.I. 2001/1004.

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“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(a);

“disability living allowance” means a disability living allowance under section 71 of the Benefits Act;

▶<sup>1</sup>◀

“dwelling occupied as the home” means the dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;

“earnings” has the meaning specified, in the case of an employed earner, in regulation 98, or in the case of a self-employed earner, in regulation 100;

▶<sup>2</sup>◀

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

▶<sup>3</sup>“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;◀

“employment-related course” means a course the purpose of which is to assist persons to acquire or enhance skills required for employment, for seeking employment or for a particular occupation;

▶<sup>4</sup>“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);◀

▶<sup>5</sup>“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(b) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State ▶<sup>6</sup>◀;◀

▶<sup>7</sup>“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament ▶<sup>8</sup>or the National Assembly for Wales◀◀;◀

▶<sup>9</sup>“first year of training” means a period of one year beginning with a person’s first day of training.◀

▶<sup>10</sup>“ERA payment” means a payment made in respect of participation in the Employment Retention and Advancement Scheme for the provision of assistance to individuals to improve their job retention or career advancement (or both) under section 2 of the Employment Training Act 1973(c).◀

▶<sup>11</sup>◀

<sup>1</sup>Defn. of “disabled person’s tax credit” omitted from reg. 1(3) by Sch. 2, para. 1(c) of S.I. 2002/2402 as from 6.4.03.

<sup>2</sup>Defns. of “earnings top-up” and “the Earnings Top-up Scheme” omitted by reg. 6(2) of S.I. 2005/574 as from 4.4.05.

<sup>3</sup>Defn. of “the employment and support allowance regulations” inserted by reg. 3(2)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Defn. of “the Employment, Skills and Enterprise Scheme” added to reg. 1(3) by reg. 11(1)(d) & (2) of S.I. 2011/917 as from 20.5.11.

<sup>5</sup>Defns. of “employment zone” and “employment zone contractor” inserted by reg. 2 of S.I. 2000/724 as from 3.4.00.

<sup>6</sup>Words in defn. of “employment zone contractor” omitted by reg. 4(2)(a) of S.I. 2008/698. See reg. 1(2) to this S.I. for when to apply.

<sup>7</sup>Defn. of “enactment” added to reg. 1 by reg. 4(2) of S.I. 2009/2655. See reg. 1(2)(b) to this S.I. for the relevant commencement date.

<sup>8</sup>Words inserted in defn. of “enactment” by reg. 6(2)(b) of S.I. 2013/2536 as from 29.10.13.

<sup>9</sup>Defn. of “first year of training” inserted by reg. 3(2) of S.I. 2015/389 as from 6.4.15.

<sup>10</sup>Defn. of “ERA payment” inserted by reg. 3(2) of S.I. 2003/2279 as from 1.10.03.

<sup>11</sup>Defn. of “the FEFC” deleted in defn. of “full-time course of advanced education” by reg. 2(2)(a)-(c) of S.I. 2001/1434 as from 1.4.01.

(a) Regulation 6 was amended by S.I. 1988/522, 1989/1686, 1998/1686, 1990/725, 2208, 1991/2284, 2741, 1993/2113 and 1994/2319.

(b) 1999 c. 30.

(c) 1973 (c. 50) as amended by the Employment Act 1988 (c. 19), the Trade Union Reform and Employment Rights Act 1993 (c. 19) and the Employment Act 1989 (c. 38).

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<sup>1</sup>Defn. of "the Flexible New Deal" inserted by reg. 2(2)(b) of S.I. 2009/480 as from 5.10.09.

<sup>2</sup>Words omitted in defn. of "full-time course of advanced education" by reg. 6(2)(a)(ii) of S.I. 2000/1981 as from 31.7.00.

<sup>3</sup>Words substituted & para. (b) inserted in defn. of "full-time course of advanced education" by reg. 2(2)(a)-(c) of S.I. 2001/1434 as from 1.4.01.

<sup>4</sup>Words substituted in defn. of "full-time course of advanced education" by reg. 5(2) of S.I. 2010/1941 as from 1.9.10.

<sup>5</sup>Words substituted in defn. of "full-time course of advanced education" by Reg. 5(2)(a)(i) and (ii) of S.I. 2012/956 as from 1.6.12.

<sup>6</sup>Words substituted in paras. (a), (b) & (b)(ii) to defn. of "full-time course of advanced education" by reg. 3(2)(a) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Words deleted & added in defn. of "full-time course of advanced education" by reg. 2(3) of S.I. 1996/1516 as from 7.10.96.

<sup>8</sup>Words substituted in defn. of "full time course of advanced education" by reg. 2(3)(b) of S.I. 2001/2319 as from 2.7.01.

<sup>9</sup>Words omitted in defn. of "full-time course of advanced education" by reg. 6(2)(a)(ii) of S.I. 2000/1981 as from 31.7.00.

<sup>10</sup>Words substituted in defns. of "full-time course of advanced education" by reg. 2(3)(b) of S.I. 2001/2319 as from 2.7.01.

<sup>11</sup>Words inserted in defn. of "full-time student" by reg. 3(2) of S.I. 2006/718 as from 10.4.06.

▶<sup>1</sup>"the Flexible New Deal" means the employment programme specified in regulation 75(1)(a)(v);◀

"full-time course of advanced education" means a course of advanced education which is ▶<sup>2</sup>◀–

(a) ▶<sup>2</sup>◀ a full-time course of study which is not funded in whole or in part by ▶<sup>3</sup>the ▶<sup>4</sup>▶<sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀, the Chief Executive of Skills Funding◀ or by the ▶<sup>6</sup>Welsh Ministers◀◀ or a full-time course of study ▶<sup>7</sup>◀ which is not funded in whole or in part by the ▶<sup>8</sup>Scottish Ministers◀ at a college of further education ▶<sup>7</sup>or a full-time course of study which is a course of higher education and is funded in whole or in part by the ▶<sup>8</sup>Scottish Ministers◀;◀

▶<sup>3</sup>(b) a course of study which is funded in whole or in part by the ▶<sup>4</sup>▶<sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀, the Chief Executive of Skills Funding◀ or by the ▶<sup>6</sup>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–

▶<sup>4</sup>(i) in the case of a course funded by the ▶<sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀ 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 ▶<sup>5</sup>persons◀ for the delivery of that course; or◀

(ii) in the case of a course funded by the ▶<sup>6</sup>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) ▶<sup>9</sup>◀ a course of study (not being higher education) which is funded in whole or in part by the ▶<sup>10</sup>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 ▶<sup>11</sup>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–

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- (a) aged less than 19 and <sup>1</sup>attending or undertaking a full-time course of advanced education or
- (b) aged 19 or over but under pensionable age and—
  - (i) attending <sup>1</sup>or undertaking a full-time course of study which is not funded in whole or in part by <sup>2</sup>the <sup>3</sup><sup>4</sup>Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the <sup>5</sup>Welsh Ministers or a full-time course of study <sup>6</sup> which is not funded in whole or in part by the <sup>7</sup>Scottish Ministers at a college of further education <sup>7</sup>or a full-time course of study which is a course of higher education and is funded in whole or in part by the <sup>7</sup>Scottish Ministers;
  - <sup>2</sup>(ii) <sup>4</sup>attending or undertaking a course of study which is funded in whole or in part by the <sup>3</sup><sup>4</sup>Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the <sup>5</sup>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—
    - <sup>3</sup>(aa) in the case of a course funded by the <sup>4</sup>Secretary of State under section 14 of the Education Act 2002 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 <sup>4</sup>persons for the delivery of that course; or,
    - (bb) in the case of a course funded by the <sup>5</sup>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) <sup>1</sup>attending or undertaking a course of study (not being higher education) which is funded in whole or in part by the <sup>7</sup>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 hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;

<sup>1</sup>Words inserted in defn. of "full-time student" by reg. 4(2)(b) of S.I. 2010/641 as from 6.4.10.  
<sup>2</sup>Words in para (b)(i) & para. (b)(ii) substituted in defn. of "full-time student" by regs. 2(2)(b) & (d) of S.I. 2001/1434 as from 1.4.01.  
<sup>3</sup>Words substituted in the defn. of "full-time student" by reg. 5(b) of S.I. 2010/1941 as from 1.9.10.  
<sup>4</sup>Words substituted in the defn. of "full-time student" by reg. 5(2)(b)(i) and (ii) of S.I. 2012/956 as from 1.5.12.  
<sup>5</sup>Words substituted in sub-para. (b)(i), (b)(ii) & (b)(ii)(bb) to defn. of "full-time student" by reg. 3(2)(c) of S.I. 2008/3157 as from 5.1.09.  
<sup>6</sup>Words in para. (b)(i) deleted and added in defn. of "full-time student" by reg. 2(2) of S.I. 1996/1516 as from 7.10.96.  
<sup>7</sup>Word substituted in defn. of "full-time student" by reg. 2(3)(c) of S.I. 2001/2319 as from 2.7.01.

"the Fund" means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992, or, in Scotland, on 10th April 1992;

<sup>8</sup>"a guaranteed income payment" means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(a);

<sup>9</sup>"Health Service Act" means the National Health Service Act 2006;

"Health Service (Wales) Act" means the National Health Service (Wales) Act 2006;

<sup>10</sup>"Her Majesty's forces" has the meaning in the Armed Forces Act 2006(b);

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

"housing association" has the meaning assigned to it by section 1(1) of the Housing Associations Act 1985(d);

<sup>8</sup>Defn. of "a guaranteed income payment" inserted by reg. 2(1) of S.I. 2005/574 as from 4.4.05.  
<sup>9</sup>Defns. of "Health Service Act" & "Health Service (Wales) Act" inserted omitted by reg. 4(2)(a) & (b) of S.I. 2008/2767 as from 17.11.08.  
<sup>10</sup>Defn. of "Her Majesty's forces" inserted by reg. 2 of S.I. 2014/2735 as from 9.11.14.

(a) S.I. 2005/439.  
 (b) 2006 c. 52.  
 (c) 1992 c. 37.  
 (d) 1985 c. 69.

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<sup>1</sup>Defn. of "housing benefit expenditure" substituted by reg. 4(2) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>2</sup>Words substituted in defn. of "housing benefit expenditure" by para. 8(2) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>3</sup>Defn. of "Immigration and Asylum Act" inserted by reg. 4(2) of S.I. 2000/636 as from 3.4.00.

<sup>4</sup>Defn. of "independent hospital" substituted by art. 8 of S.I. 2010/1881 as from 1.10.10.

<sup>5</sup>Sub-para. (c) in defn. of "independent hospital" substituted by para. 20(b) of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

<sup>6</sup>Defns. of "the Independent Living (Extension) Fund" "the Independent Living Fund", the Indep.... (1993) Fund" & "the Independent Living Funds" omitted by reg. 4(2)(a) & (b) of S.I. 2008/2767 as from 17.11.08.

<sup>7</sup>Defn. of "the Independent Living Fund (2006)" inserted by art. 4(2) of S.I. 2007/2538 as from 1.10.07.

<sup>8</sup>Defn. of "Intensive Activity Period for 50 plus" omitted by reg. 4(2)(b) of S.I. 2008/698. See reg. 1(2) to this S.I. for when to apply.

<sup>9</sup>Words inserted in defn. of "jobseeking period" by reg. 2 of S.I. 1998/1274 as from 1.6.98.

<sup>10</sup>Defn. of "local welfare provision" inserted by reg. 4(2) of S.I. 2013/443 as from 2.4.13.

<sup>11</sup>Defn. of "the London Bombings Relief Charitable Fund" inserted by reg. 5(2)(a) of S.I. 2005/339 as from 12.12.05.

►<sup>1</sup>"housing benefit expenditure" means expenditure in respect of which housing benefit is payable as specified in ►<sup>2</sup>regulation 12(1) of the Housing Benefit Regulations 2006◄ but does not include any such expenditure in respect of which an amount is applicable under regulation 83(f) or 84(1)(g) (housing costs);◄

►<sup>3</sup>"Immigration and Asylum Act" means the Immigration and Asylum Act 1999(a)◄ "Income Support Regulations" means the Income Support (General) Regulations 1987(b);

►<sup>4</sup>"independent hospital"–

(a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

(b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and

►<sup>5</sup>(c) in Scotland, means an independent healthcare service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978;◄

►<sup>6</sup>◄

►<sup>7</sup>"the Independent Living Fund (2006)" means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;◄

►<sup>6</sup>◄

►<sup>8</sup>◄

"invalid carriage or other vehicle" means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

"jobseeking period" means the period described in regulation 47 ►<sup>9</sup>except where otherwise provided◄;

"last day of the course" has the meaning prescribed in regulation 130 for the purposes of the definition of "period of study" in this paragraph;

"liable relative" has the meaning prescribed in regulation 47;

►<sup>10</sup>"local welfare provision" means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of–

(a) meeting or helping to meet, an immediate short term need–

(i) arising out of an exceptional event, or exceptional circumstances; and  
(ii) that requires to be met in order to avoid a risk to the well-being of an individual; or

(b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be–

(i) in prison, hospital, a residential care establishment or other institution; or

(ii) homeless or otherwise living an unsettled way of life;◄

►<sup>11</sup>"the London Bombings Relief Charitable Fund" means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;◄

"lone parent" means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;

"long tenancy" means a tenancy granted for a term of years certain exceeding twenty one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise and includes a lease for a term fixed by law

(a) 1999 c. 33.

(b) S.I. 1987/1967.



under a grant with a covenant or obligation for perpetual renewal unless it is a lease by sub-demise from one which is not a long tenancy;

▶<sup>1</sup>“long-term patient” means a person who—

- (a) is a patient within the meaning of regulation 85(4); and
- (b) has been such a patient for a continuous period of more than 52 weeks;◀

▶<sup>2</sup>◀

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 2nd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“making a claim” includes treated as making a claim;

▶<sup>3</sup>“the Mandatory Work Activity Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment◀

“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 ▶<sup>4</sup>Part VIII of the Employment Rights Act 1996(a)◀;

▶<sup>5</sup>“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products”;◀

“mobility supplement” means any supplement under ▶<sup>6</sup>article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(b)◀ including such a supplement by virtue of any other scheme or order under article 25A of the Personal Injuries (Civilians) Scheme 1983(c);

“net earnings” means such earnings as are calculated in accordance with regulation 99;

“net profit” means such profit is calculated in accordance with regulation 101;

▶<sup>7</sup>“the New Deal options” means the employment programmes specified in regulation 75(1)(a)(ii) and the training scheme specified in regulation 75(1)(b)(ii);◀

“non-dependant” has the meaning prescribed in regulation 2;

“non-dependant deduction” means a deduction that is to be made under regulation 83(f) and paragraph 17 of Schedule 2;

▶<sup>8</sup>◀

“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 ▶<sup>9</sup>a couple◀, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member;

<sup>1</sup>Defn. of “long-term patient” inserted by reg. 3(2) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>2</sup>Defn. of “lower rate” revoked by Sch. to S.I. 2007/2618 as from 1.10.07.

<sup>3</sup>Defn. of “the Mandatory Work Activity Scheme” inserted in reg. 1(3) by reg. 11(2) of S.I. 2011/688 as from 25.4.11.

<sup>4</sup>Words substituted in defn. of “maternity leave” by reg. 8(2)(a) of S.I. 2007/2618 as from 1.10.07.

<sup>5</sup>Defn. of “MFET Limited” inserted by reg. 4(2)(a) of S.I. 2010/641 as from 6.4.10.

<sup>6</sup>Words substituted in defn. of “mobility supplement” by reg. 3(2)(d) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Defn. of “the New Deal options” inserted by reg. 2(2) of S.I. 2000/239 as from 6.3.00.

<sup>8</sup>Defn. of “nursing home” omitted by para. 1(a)(i) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>9</sup>Words substituted in para. (a) of defn. of “partner” by para. 26(2)(c) of Sch. 3 to S.I. 2005/2877 as from 5.12.05

(a) 1996 c. 18.

(b) S.I. 2006/606.

(c) S.I. 1983/686; amended by S.I. 1983/1164, 1540 and 1986/628.

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<sup>1</sup>Words inserted in defn. of "partner" by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Defn. of "paternity leave" substituted by reg. 4(2) of S.I. 2012/757 as from 1.4.12.

<sup>3</sup>Words in defn. of "paternity leave" omitted by art. 7(2)(a) & (b) of S.I. 2014/3255 as from 5.4.15.

<sup>4</sup>Para. (b)(i) of defn. of "period of study" substituted by reg. 3(2)(a) of S.I. 2000/1922 as from 1.8.00.

<sup>5</sup>Defn. of "personal independence payment" inserted by para. 16(2)(a) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Defn. of "preserved rights" omitted by reg. 2(2) of, & para. 1(a) of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>7</sup>Defn. of "public authority" inserted by reg. 4(2) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

<sup>8</sup>Defn. of "qualifying age for ..." inserted in reg. 1(3) by reg. 10(2) of S.I. 2009/1488 as from 6.4.10.

<sup>9</sup>Words substituted in defn. of "qualifying person" by reg. 2(a) of S.I. 2004/1141 as from 12.5.04.

<sup>10</sup>Words inserted in defn. of "qualifying person" by reg. 4(3)(a) of S.I. 2010/641 as from 6.4.10.

<sup>11</sup>Words substituted in defn. of "qualifying person" by reg. 5(2)(b) of S.I. 2005/3391 as from 12.12.05.

<sup>12</sup>Words inserted in defn. of "qualifying person" by reg. 10(2)(b) of S.I. 2011/2425 as from 31.10.11.

▶<sup>1</sup>but in so far as this definition applies to a member of a joint-claim couple, it shall only apply to such a member specified in regulation 3E(2).◀

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

▶<sup>2</sup>"paternity leave" means a period of absence from work on ▶<sup>3</sup>◀ paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996▶<sup>3</sup>◀;◀

"payment" includes a part of a payment;

"pay period" means 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;

"period of study" except in Parts II, IV and V means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—

▶<sup>4</sup>(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or◀

(ii) in any other case the day before that start of the normal summer vacation appropriate to his course;

(c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

▶<sup>5</sup>"personal independence payment" means personal independence payment under Part 4 of the 2012 Act;◀

"policy of life insurance" means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

"polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

▶<sup>6</sup>◀

▶<sup>7</sup>"public authority" includes any person certain of whose functions are functions of a public nature;◀

▶<sup>8</sup>"qualifying age for state pension credit" means—

(a) in the case of a woman, pensionable age; or

(b) 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;◀

"qualifying person" means a person in respect of whom payment has been made from the Fund▶<sup>9</sup>, the Eileen Trust▶<sup>10</sup>, MFET Limited◀▶<sup>11</sup>, the Skipton Fund▶<sup>12</sup>, the Caxton Foundation◀ or the London Bombings Relief Charitable Fund◀◀

"relative" means close relative, grand-parent, grand-child, uncle, aunt, nephew or niece;

“relevant enactment” has the meaning prescribed in ►<sup>1</sup>regulation 78(9)(a)◄;

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

►<sup>2</sup>◄

►<sup>3</sup>◄

►<sup>2</sup>◄

►<sup>4</sup>“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;

*\*See reg. 13(3) of S.I. 2010/1222 at page 11.7185 for details of the modification of this defn. in certain situations as from 22.11.10.*

\*►<sup>5</sup>“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in–

(a) an employment zone programme; ►<sup>6</sup>◄

(b) a programme provided or other arrangements made pursuant to section 2 of the Employment and Training Act 1973(a) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) (functions in relation to training for employment etc.);◄►<sup>7</sup>; or

(c) a scheme prescribed in regulation 3 of the Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;◄

►<sup>8</sup>◄

►<sup>9</sup>“shared parental leave” means leave under section 75E to 75G of the Employment Rights Act 1996;◄

“single claimant” means a claimant who neither has a partner nor is a lone parent;

►<sup>10</sup>“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;◄

►<sup>11</sup>“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(c) out of sums allocated to it for distribution under that section;◄

►<sup>12</sup>◄

►<sup>13</sup>“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;◄

“terminal date” in respect of a claimant means the terminal date in his case for the purposes of regulation 7 of the Child Benefit (General) Regulations 1976;

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

<sup>1</sup>Words substituted in defn. of “relevant enactment” by Pt. 11 of the Sch. to S.I. 1996/1516 as from 7.10.96.

<sup>2</sup>Defn. of “residential accommodation” & “residential care home” omitted by para. 1(a)(i) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Defn. of “residential allowance” omitted from reg. 1(3) by para. 1 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

<sup>4</sup>Defn. of “sandwich course” substituted by reg. 4(2)(c) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Defn. of “self-employment route” substituted by reg. 2 of S.I. 2004/963 as from 4.5.04.

<sup>6</sup>In reg. 1(3), defn. of “self-employment route”, word deleted in para. (a) by reg. 11(3)(a) of S.I. 2011/917 as from 20.5.11.

<sup>7</sup>Para. (c) & preceding word substituted by reg. 8(2) of S.I. 2013/276 from 6.45pm on 12.2.13.

<sup>8</sup>Defn. of “service user group” omitted by reg. 4(2)(a) of S.I. 2014/591 as from 28.4.14.

<sup>9</sup>Defn. of “shared parental leave” inserted by art. 7(2)(c) of S.I. 2014/3255 as from 31.12.14.

<sup>10</sup>Defn. of “the Skipton Fund” inserted by reg. 2(b) of S.I. 2004/1141 as from 12.5.04.

<sup>11</sup>Defn. of “sports award” added by reg. 2(2)(f) of S.I. 1999/2165 as from 23.8.99.

<sup>12</sup>Defn. of “starting rate” omitted by reg. 4(2) of S.I. 2009/583 as from 6.4.09.

<sup>13</sup>Defn. of “subsistence allowance” inserted by reg. 2 of S.I. 2000/724 as from 3.4.00.

(a) 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19). It was amended by section 29(4) of, and Schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35. Section 2 applies to Scotland only. It was amended by sections 47(2) and (4) and 51 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c. 19) and by S.I. 1999/1820.

(c) 1993 c. 39.

## Reg. 1

<sup>1</sup>Words in defn. of "training allowance" omitted by reg. 4(2)(c) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid.*

<sup>2</sup>Words inserted in paras. (a) & (c) of defn. of "training allowance" by reg. 4(3)(a) of S.I. 2009/583 as from 6.4.09.

<sup>3</sup>Words inserted in defn. of "training allowance" by reg. 2(b)(ii) of S.I. 2001/652 as from 26.3.01.

<sup>4</sup>Words substituted in defn. of "training allowance" by reg. 5(2)(c) of S.I. 2010/1941 as from 1.9.10.

<sup>5</sup>Words omitted in defn. of "training allowance" by regulation 5(2)(c) of S.I. 2012/956 as from 1.5.12.

<sup>6</sup>Words substituted in defn. of "training allowance" by reg. 3(2)(e) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Words inserted in defn. of "training allowance" by reg. 2(4) of S.I. 1996/1517 as from 7.10.96.

<sup>8</sup>Defn. of "universal credit" inserted by reg. 30(2)(ii) of S.I. 2013/630 as from 29.4.13.

<sup>9</sup>Defn. of "the Universal Credit etc. Claims and Payments Regulations" inserted by para. 16(2)(a) of Sch. to S.I. 2013/388 as from 8.4.13.

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State <sup>1</sup>◀, <sup>2</sup>Skills Development Scotland, <sup>3</sup>◀ Scottish Enterprise or Highlands and Islands Enterprise <sup>3</sup>▶<sup>4</sup>▶<sup>5</sup>◀, the Chief Executive of Skills Funding◀ or the <sup>6</sup>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 <sup>1</sup>◀, <sup>2</sup>Skills Development Scotland, <sup>3</sup>◀ Scottish Enterprise or Highlands and Islands Enterprise <sup>3</sup>▶or the <sup>6</sup>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(a) <sup>7</sup>▶or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b)◀ or is training as a teacher;

▶<sup>8</sup>"universal credit" means universal credit under Part 1 of the 2012 Act;◀

▶<sup>9</sup>"the Universal Credit etc. Claims and Payments Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013;◀

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

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(a) 1973 c. 50.

(b) 1990 c. 35.

**Reg. 1**

▶<sup>1</sup>“war disablement pension” 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(a);

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;◀

“water charges” means—

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part V of the Water Industry Act 1991(b);

(b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992(c);

in so far as such charges are in respect of the dwelling which a person occupies as his home;

“week” in ▶<sup>2</sup>the definitions of “full-time course of advanced education” and of “full-time student” and◀▶<sup>3</sup>Parts III, VI, VII, VIII, IX, X, XII and XIII◀ means a period of 7 days;

▶<sup>4</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;◀

▶<sup>5</sup>“welfare to work beneficiary” means a person—

(a) to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies; and

(b) who again becomes incapable of work for the purposes of Part XIIA of the Contributions and Benefits Act 1992;◀

▶<sup>6</sup>“Work Experience” means the employment programme specified in regulation 75(1)(a)(vi);◀

▶<sup>7</sup>“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;◀

▶<sup>7</sup>◀

“year of assessment” has the meaning prescribed in section 832(1) of the Income and Corporation Taxes Act 1988(d);

“young person” except in Part IV has the meaning prescribed in regulation 76.

▶<sup>8</sup>(3A) For the purposes of the definition of “full-time student” in paragraph (3) but subject to paragraph (3D), 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 (3B), 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—

<sup>1</sup>Defns. of “war disablement pension”, “war widow’s pension” and “war widower’s pension” substituted & defn. of “war pension” inserted by reg. 3(2)(g) of S.I. 2008/3157 as from 5.1.09.

<sup>2</sup>Words inserted in defn. of “week” by reg. 2(2) of S.I. 1997/454 as from 7.4.97.

<sup>3</sup>Words substituted in defn. of “week” by reg. 2(3) of S.I. 1996/1517 as from 7.10.96.

<sup>4</sup>Defn. of “the Welfare Reform Act” inserted by reg. 3(2)(b) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Defn. of “welfare to work beneficiary” added by reg. 14(2) of S.I. 1998/2231 from 5.10.98.

<sup>6</sup>Defn. of “Work Experience” inserted in reg. 1(3) by reg. 2(2) of S.I. 2011/789 as from 5.4.11.

<sup>7</sup>Defn. of “working tax credit” inserted & defn. of “working families tax credit” omitted in reg. 1(3) by Sch. 2, para. 1(b) & (c) of S.I. 2002/2402 as from 6.4.03.

<sup>8</sup>Paras. (3A)-(3E) inserted in reg. 1 by reg. 6(2)(b) of S.I. 2000/1981 as from 31.7.00.

(a) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

(b) 1991 c. 56.

(c) 1992 c. 15.

(d) 1988 c. 1.

- (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.
- (3B) For the purpose of sub-paragraph (a) of paragraph (3A), 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.
- (3C) In paragraph (3A), “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.
- (3D) 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 (3E) 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;

- (c) 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
- (d) he is not eligible for a grant or a student loan (as defined in regulation 130) in respect of the period specified in paragraph (3E).

(3E) The period specified for the purposes of paragraph (3D) is the period ►<sup>1</sup>, 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
- <sup>1</sup>(b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,◀

<sup>1</sup>Words inserted & sub-para. (b) substituted in reg. 1(3E) by reg. 2(1) of S.I. 2002/1763 as from 1.8.02.

whichever shall first occur.◀

►<sup>2</sup>(3F) For the purposes of these Regulations, where a person's principal place of residence is a ►<sup>3</sup>care home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital◀—

- (a) where he is absent because he is a patient, for the first ►<sup>4</sup>52◀ weeks of any such period of absence and for this purpose—
  - (i) "patient" has the meaning it has in Schedule 5 by virtue of regulation 85; and
  - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
- (b) for the first three weeks of any other period of absence.◀

<sup>2</sup>Reg. 1(3F) inserted by reg. 2(2) of, and para. 1(b) of Part II of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>3</sup>Words in para. 1(3F) inserted by para. (1)(b) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>4</sup>Words in reg. 1(3F) substituted by reg. 6 of 2003/1195. For the coming into force date see reg. 1 of S.I. 2003/1195.

►<sup>5</sup>(3G) References in these Regulations to a claimant participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
  - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
  - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

<sup>5</sup>Reg. 1(3G) inserted by reg. 4(2)(b) of S.I. 2014/591 as from 28.4.14.

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

- <sup>6</sup>(ab) a person who is being consulted by or on half of—
  - (i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973(a); or
  - (ii) a body which conducts research or undertakes monitoring for the purposes of planning or improving such functions,

<sup>6</sup>Reg. 1(3G)(ab) inserted & words in sub-para. (b) substituted by reg. 2(1)(b) & (2)(a) & (b) of S.I. 2015/67 as from 23.2.15.

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person;◀

- (b) the carer of a person consulted under ►<sup>6</sup>sub-paragraph (a) or (ab).◀

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered section is to the section of the Act bearing that number;
- (b) to a numbered Part is to the Part of these Regulations bearing that number;
- (c) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(a) 1973 c. 50. Section 20 was substituted by section 25(1) of the Employment Act 1988.

## Regs. 1-2

(5) 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.

<sup>1</sup>Para. (6) inserted into reg. 1 by reg. 3(2) of S.I. 2011/1498 as from 20.6.11.

►<sup>1</sup>(6) In such cases and subject to such conditions or requirement 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.)◄

**Definition of non-dependent**

**2.—**(1) In these Regulations, “non-dependent” means any person, except a person to whom paragraph (2), (3) or (4) applies, who normally resides with the claimant or with whom the claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant's family;
- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household);
- (c) a person who lives with the claimant in order to care for him or for the claimant's partner and who is engaged for that purpose by a charitable or voluntary organisation (other than a public or local authority) which makes a charge to the claimant or the claimant's partner for the care provided by that person;
- (d) the partner of a person to whom sub-paragraph (c) applies.

(3) This paragraph applies to a person, other than a close relative of the claimant or the claimant's partner,—

- (a) who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of his occupation of the claimant's dwelling;
- (b) to whom the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of his occupation of that person's dwelling;
- (c) who is a member of the household of a person to whom sub-paragraph (a) or (b) applies.

(4) Subject to paragraph (5), this paragraph applies to—

- (a) a person who jointly occupies the claimant's dwelling and who is either—
  - (i) a co-owner of that dwelling with the claimant or the claimant's partner (whether or not there are other co-owners); or
  - (ii) jointly liable with the claimant or the claimant's partner to make payments to a landlord in respect of his occupation of that dwelling; or
- (b) a partner of a person to whom sub-paragraph (a) applies.

(5) Where a person is a close relative of the claimant or the claimant's partner, paragraph (4) shall apply to him only if the claimant's, or the claimant's partner's, co-ownership, or joint liability to make payments to a landlord in respect of his occupation, of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant's partner first occupied the dwelling in question.

(6) For the purposes of this regulation a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.

(7) In this regulation “communal area” means any area (other than rooms) of common



access (including halls and passageways) and rooms of common use in sheltered accommodation.

**►<sup>1</sup>Disapplication of section 1(1A) of the Administration Act**

**2A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

(a) ►<sup>2</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

(a) to a child or young person in respect of whom jobseeker's allowance is claimed;

(b) to any claim for jobseeker's allowance made or treated as made before 5th October 1998.◀

►<sup>3</sup>(c) to a person who—

(i) is a person in respect of whom a claim for jobseeker's allowance is made;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

(iii) is not entitled to any jobseeker's allowance for the purposes of section 1 of the Act; and

(iv) has not previously been allocated a national insurance number.◀

<sup>1</sup>Reg. 2A inserted by reg. 12 of S.I. 1997/2676 as from 1.12.97.

<sup>2</sup>Para. (a) omitted from reg. 2A by para. 1 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>3</sup>Sub-para. (c) inserted in reg. 2A by reg. 7 of S.I. 2009/471 as from 6.4.09.

**Meanings of certain expressions used in the Jobseekers Act 1995**

**3.** For the purposes of the Act and of these Regulations—

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

►<sup>4</sup>“employment” except as provided in regulation 4 and 75, includes any trade, business, profession, office or vocation;◀

“pensionable age” has the meaning it has in Parts I to VI of the Benefits Act by virtue of section 122(1) of that Act.

<sup>4</sup>Defn. of “employment” substituted by reg. 2 of S.I. 1997/2863 as from 5.1.98.

**►<sup>5</sup>PART IA**

**JOINT-CLAIM COUPLES**

<sup>5</sup>Part IA inserted by reg. 2(2) of S.I. 2000/1978 as from 19.3.01.

**Prescribed description of a joint-claim couple for the purposes of section 1(4)**

**3A.—(1)** For the purposes of section 1(4), a joint-claim couple shall include any joint-claim couple within the meaning given in section 1(4) of the Act where at least one member ►<sup>6</sup>is aged 18 or over and◀ was born after ►<sup>7</sup>28th October ►<sup>8</sup>1947◀◀, unless a member of the couple is treated as responsible for a child or young person under regulation 77(3), or the couple has care of a child or young person in one or more of the circumstances mentioned in regulation 78(4), or a child or young person is living with either member of the couple in the circumstances mentioned in regulation 78(8).

<sup>6</sup>Words inserted in reg. 3A(1) by reg. 2(2) of S.I. 2001/518 as from 19.3.01.

<sup>7</sup>Words substituted in reg. 3A(1) by reg. 2(a) of S.I. 2002/1701 as from 28.10.02.

<sup>8</sup>Words in reg. 3A(1) substituted by reg. 2(2) of S.I. 2008/13 as from 25.2.08.

(2) In a case where a person would (but for these Regulations) be a member of more than one joint-claim couple, a joint-claim couple means the couple of which he is a member which that person nominates (or in default of such nomination, which the Secretary of State nominates), to the exclusion of any other couple of which he is a member.

**Entitlement of a former joint-claim couple to a jobseeker's allowance**

**3B.—(1)** Where a joint-claim couple cease to be a joint-claim couple because they become, or are treated as, responsible for one or more children—

(a) any claim made by both members of that couple for a jobseeker's allowance may be treated as a claim for a jobseeker's allowance made by either member of that couple;

(b) any award of a joint-claim jobseeker's allowance in respect of that couple may be terminated and may be replaced by a replacement award,

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where the conditions specified in paragraph (2) have been complied with.

- (2) The conditions specified in this paragraph are that a member of the couple—
- (a) provides such evidence as the Secretary of State may require confirming that the couple are responsible for one or more children; and
  - (b) advises the Secretary of State as to which member of the couple is to be the claimant.

(3) The claim by a member of the couple for a jobseeker's allowance referred to in paragraph (1)(a) shall be treated as made on the date on which he and his partner were treated as having claimed a jobseeker's allowance as a joint-claim couple as determined in accordance with regulation 6 of the Claims and Payments Regulations.

(4) In this regulation, "replacement award" shall have the meaning ascribed to it by paragraph 9A of Schedule 1 to the Act.

#### Entitlement of a new joint-claim couple to a jobseeker's allowance

**3C.**—(1) Paragraph (2) shall apply where a couple become a joint-claim couple because the child, or all the children, for which they were responsible have—

- (a) died;
- (b) ceased to be a child or children for whom they are responsible; or
- (c) reached the age of 16 and are <sup>1</sup>not qualifying young persons within the meaning of section 142 of the Benefits Act (child and qualifying young person).<sup>◀</sup>

(2) In a case to which this paragraph applies—

- (a) any claim made by either member of that couple for a jobseeker's allowance may be treated as a claim made by both members of the couple;
- (b) any award of an income-based jobseeker's allowance, or a replacement award, in respect of either member of that couple may be terminated and may be replaced by a new award in respect of the couple,

where the conditions specified in paragraph (3) have been complied with.

(3) The conditions specified in this paragraph are that the Secretary of State—

- (a) has sufficient evidence to decide whether a new award should be made; and
- (b) is informed as to which member of the couple is to be the nominated member for the purposes of section 3B.

(4) The claim by both members of the joint-claim couple for a jobseeker's allowance referred to in paragraph (2)(a) shall be treated as made on the date on which the claim by a member of that couple was treated as made in accordance with regulation 6 of the Claims and Payments Regulations.

(5) For the purposes of paragraphs 6 and 7 of Schedule 2 (housing costs), any award of an income-based jobseeker's allowance which related to the day before the day on which the relevant event specified in paragraph (1) occurred and any new award referred to in paragraph (2)(b) shall be treated as a continuous award of an income-based jobseeker's allowance.

(6) In this regulation, "new award" shall have the meaning ascribed to it by paragraph 9C of Schedule 1 to the Act.

#### Further circumstances in which a joint-claim couple may be entitled to a joint-claim jobseeker's allowance

**3D.**—(1) Subject to paragraph (2), a joint-claim couple are entitled to a joint-claim jobseeker's allowance where—

- (a) the members of that couple claim a jobseeker's allowance jointly;
- (b) one member satisfies the conditions set out in section 1(2)(a) to (c) and (e) to (i); and

<sup>1</sup>Words inserted in reg. 3C(1)(c) by reg. 3(2) of S.I. 2006/718 as from 10.4.06.

- ▶<sup>1</sup>(c) the other member satisfies the condition in section 1(2)(e) and (h) but is not required to satisfy the other conditions in section 1(2B)(b)(a) because, subject to paragraph (3), he is a person to whom any paragraph in Schedule A1 applies; and◀
- (d) the conditions set out in section 3A are satisfied in relation to the couple.

<sup>1</sup>Reg. 3D(1)(c) substituted by reg. 2(3) of S.I. 2001/518 as from 19.3.01.

(2) A member of a joint-claim couple who falls within any paragraph in Schedule A1 for the purposes of this regulation for any day in a benefit week shall fall within that category for the whole of that week.

(3) Subject to paragraph (4), paragraph 2 of Schedule A1 (students) may only apply to a member of a joint-claim couple in respect of one claim for a jobseeker's allowance made jointly by that couple in respect of a jobseeking period applying to the other member of that couple.

(4) Notwithstanding paragraph (3), paragraph 2 of Schedule A1 may apply to a member of a joint-claim couple in respect of a further claim for a jobseeker's allowance made jointly by the couple where the couple's previous entitlement to a joint-claim jobseeker's allowance ceased because one member of the couple—

- (a) was engaged in remunerative work;
- (b) had been summoned to jury service; or
- (c) was within a linked period as prescribed in regulation 48(2).

**Entitlement of a member of a joint-claim couple to a jobseeker's allowance without a claim being made jointly by the couple**

**3E.**—(1) A member of a joint-claim couple is entitled to a jobseeker's allowance if, without making a claim jointly for that allowance with the other member of the couple—

- (a) he satisfies the conditions set out in section 1(2) (a) to (c) and (e) to (i);
- (b) he satisfies the conditions set out in section 3; and
- (c) the other member of that couple fails to meet the conditions of entitlement set out in section 1(2B)(b) and is a person to whom paragraph (2) applies.

(2) This paragraph applies to a member of a joint-claim couple—

- (a) who has failed to attend at the time and place specified by the employment officer for the purposes of regulation 6 of the Claims and Payments Regulations;
- (b) in respect of whom it has been determined by the Secretary of State that the conditions in section 1(2)(a) to (c) have not been satisfied but only for so long as it has been so determined in respect of that member;
- (c) who is temporarily absent from Great Britain;
- (d) who is a person from abroad as defined for the purposes of regulation ▶<sup>2</sup>85A◀ and Schedule 5;
- (e) who is subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act;
- (f) who is over pensionable age;
- (g) who is engaged, or has agreed to be engaged, in remunerative work for ▶<sup>3</sup>16 hours or more◀ per week but less than 24 hours per week;
- (h) who has claimed a maternity allowance payable in accordance with section 35 ▶<sup>4</sup>or 35B◀ of the Benefits Act or who has claimed statutory maternity pay payable in accordance with Part XII of that Act;
- (i) who is or has been pregnant and to whom sub-paragraph (h) does not apply but only for the period commencing 11 weeks before the expected week of confinement and ending ▶<sup>5</sup>twenty eight weeks after the date on which the pregnancy ends◀;

<sup>2</sup>Words substituted in reg. 3E(2)(d) by reg. 3(3) of S.I. 2007/719 as from 2.4.07.

<sup>3</sup>Words substituted in reg. 3E(2)(g) by reg. 2(4) of S.I. 2001/518 as from 19.3.01.

<sup>4</sup>Words inserted in reg. 3E(2)(h) by reg. 4(2) of S.I. 2014/884 as from 18.5.14.

<sup>5</sup>Words substituted in reg. 3E(2)(i) by reg. 4(4) of S.I. 2010/641 as from 1.4.10.

(a) Section 1(2B) was inserted by section 59 of, and Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30), paragraph 2(3).

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<sup>1</sup>Word "or" omitted from para. (j) by reg. 2(b)(i) of S.I. 2002/1701 as from 28.10.02.

<sup>2</sup>Words substituted in reg. 3E(k) by reg. 2(4) of S.I. 2001/518 as from 19.3.01.

<sup>3</sup>Word "or" added to para. (k) and para. (l) added by reg. 2(b)(ii) of S.I. 2002/1701 as from 28.10.02.

<sup>4</sup>Words in reg. 3E(2)(1) substituted by reg. 2(3) of S.I. 2008/13 as from 25.2.08.

<sup>5</sup>Reg. 3F omitted by reg. 2(4) of S.I. 2008/13 as from 25.2.08.

<sup>6</sup>Words in defn. of "appropriate office" substituted by reg. 4(3) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid*.

<sup>7</sup>Words inserted into reg. 4 by reg. 3 of S.I. 1998/1274 as from 1.6.98.

<sup>8</sup>Words inserted in defn. of "close relative" by reg. 2(3) of S.I. 1996/2538 as from 28.10.96.

<sup>9</sup>Words substituted in defn. of "close relative" by para. 26(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>10</sup>Words deleted & substituted in defn. of "employment" by reg. 3 of S.I. 1997/2863 as from 5.1.98.

<sup>11</sup>Defn. of "employment officer" omitted by reg. 5(2) of S.I. 2012/2568 as from 22.10.12.

<sup>12</sup>Defns. of "examination", & "made a claim for a jobseeker's allowance", inserted by reg. 3 of S.I. 1998/1274 as from 1.6.98.

- (j) in respect of whom there is an Order in Council under section 179 of the Administration Act giving effect to a reciprocal agreement which, for the purposes of jobseeker's allowance, has effect as if a payment made by another country is to be treated as a payment of a jobseeker's allowance; <sup>1</sup>◀
- (k) who is in receipt of statutory sick pay and who, immediately before he became incapable of work, was engaged in remunerative work for <sup>2</sup>16 hours or more <sup>3</sup>◀ per week. <sup>3</sup>or
- (l) where the other member was entitled to an income-based jobseeker's allowance on <sup>4</sup>24th February 2008 <sup>4</sup>◀, save that this sub-paragraph shall apply only until the day on which he is required to attend at a place specified by an employment officer in a notification given or sent to him. <sup>5</sup>◀

3F. <sup>5</sup>◀**Supply of information**

**3G.** Where a claim for a jobseeker's allowance has been made jointly by a joint-claim couple, information relating to that claim may be supplied by the Secretary of State to either or both members of that couple for any purpose connected with that claim. <sup>5</sup>◀

## PART II

*Jobseeking*

## CHAPTER I

*Interpretation***Interpretation of Parts II, IV and V**

**4.** In parts II, IV and V and, as provided below, the Act—

"appropriate office" means the office of the Department for <sup>6</sup>Work and Pensions <sup>6</sup>◀ which the claimant is required to attend in accordance with a notice under regulation 23, or any other place which he is so required to attend;

"caring responsibilities" means responsibility for caring for a child or for an elderly person or for a person whose physical or mental condition requires him to be cared for, who is either in the same household or a close relative;

"casual employment" means employment from which the employee can be released without his giving any notice <sup>7</sup>◀ except where otherwise provided <sup>7</sup>◀;

"close relative" means <sup>8</sup>◀, except in Part IV, <sup>9</sup>◀ <sup>9</sup>a member of a couple <sup>9</sup>◀, parent, step-parent, grandparent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, sister, grandchild <sup>9</sup>◀ or if any of the preceding persons is one member of a couple, the other member of that couple <sup>9</sup>◀;

"elderly person" means a person of or over pensionable age;

"employment" in sections 1, 3, 6, 8, 14, <sup>10</sup>◀ and 20 and paragraph 8 of Schedule 1 to the Act and in <sup>10</sup>Parts II and IV <sup>10</sup>◀ means employed earner's employment except where otherwise provided;

<sup>11</sup>◀

<sup>12</sup>◀ "examination" in relation to a qualifying course means an examination which is specified as an examination related to the qualifying course in a document signed on behalf of the establishment at which the qualifying course is being undertaken;

"made a claim for a jobseeker's allowance" includes treated as having made a claim for the allowance and treated as having an award of the allowance in accordance with regulation 5, 6 or 7 of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996(a); <sup>12</sup>◀

(a) S.I. 1996/2567.

“Outward Bound course” means any course or programme for personal development which is made available to persons who are not in employment by the charitable trust known as the Outward Bound Trust Limited;

▶<sup>1</sup>“part-time member of a fire brigade” means a person who is part-time fire-fighter employed by a fire and rescue authority under the Fire and Rescue Services Act 2004 or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005; ◀

<sup>1</sup>Defn. of “part-time member of a fire brigade” substituted by reg. 6(3) of S.I. 2013/2536 as from 29.10.13.

“pattern of availability” has the meaning given in regulation 7;

▶<sup>2</sup>“period of study” means—

- (a) the period during which a 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; ◀

<sup>2</sup>Defn. of “period of study” substituted by reg. 6(3) of S.I. 2000/1981 as from 31.7.00.

“a person who is kept on short-time” means a person whose hours of employment have been reduced owing to temporary adverse industrial conditions;

“a person who is laid off” means a person whose employment has been suspended owing to temporary adverse industrial conditions;

▶<sup>3</sup>“qualifying course” has the meaning given in regulation 17A;

<sup>3</sup>Defns. of “qualifying course” “term-time” and “vacation” inserted by reg. 3(c) of S.I. 1998/1274 as from 1.6.00.

“term-time” in relation to a qualifying course means the period specified as term-time in relation to a person to whom regulation 17A(2) applies in a document signed on behalf of the establishment at which the qualifying course is being undertaken;

“vacation” in relation to a qualifying course means any period falling within the period of study, which is not term-time; ◀

“voluntary work” means work for an organization 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;

“week” in sections 6 and 7 and in Parts II and IV means benefit week except where provided otherwise in Parts II and IV;

“work camp” means any place in Great Britain where people come together under the auspices of a charity, a local authority or a voluntary organization to provide a service of benefit to the community or the environment.

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## CHAPTER II

## AVAILABILITY FOR EMPLOYMENT

**Exceptions to requirement to be available immediately: carers, voluntary workers, persons providing a service and persons under an obligation to provide notice**

*See reg. 12(2) of S.I. 2010/1222 at page 11.7185 for details of the modification of reg. 5 in certain situations as from 22.11.10.*

<sup>1</sup>In reg. 5(1) substituted by reg. 3 of S.I. 2002/3072 as from 1.1.03.

<sup>2</sup>Words inserted in reg. 5(1) & paras. (1A) & (1B) added by reg. 11(2)(a) & (b) of S.I. 2008/3051 as from 24.11.08.

<sup>3</sup>Reg. 5(1)(a) omitted and words added to para. (1)(b) by reg. 2(2)(a) & (b) of S.I. 2006/1402 as from 30.5.06.

**5.—**<sup>1</sup>(1) <sup>2</sup>Subject to paragraph (1A), <sup>3</sup>in order to be regarded as available for employment—

(a) <sup>3</sup>

(b) a person who is engaged in voluntary work <sup>3</sup>or who has caring responsibilities <sup>3</sup>is not required to be able to take up employment immediately, providing he is willing and able—

(i) to take up employment on being given one week's notice; and

(ii) to attend for interview in connection with the opportunity of any such employment on being given 48 hour notice. <sup>3</sup>

<sup>2</sup>(1A) In order to be regarded as available for employment, a person who has caring responsibilities in relation to a child is not required to take up employment or attend for interview within the periods referred to in paragraph (1) if those responsibilities make it unreasonable for him to do so, providing he is willing and able—

(a) to take up employment on being given 28 days notice; and

(b) to attend for interview in connection with the opportunity of any such employment on being given 7 days notice.

(1B) For the purposes of paragraph (1A), it is for the claimant to show that it is unreasonable for him to take up employment or attend for interview within the periods referred to in paragraph (1). <sup>3</sup>

(2) In order to be regarded as available for employment, a person who is engaged, whether by contract or otherwise, in providing a service with or without remuneration, other than a person who has caring responsibilities or who is engaged in voluntary work, is not required to be able to take up employment immediately, providing he is willing and able to take employment on being given 24 hours' notice.

(3) In order to be regarded as available for employment, a person who is in employed earner's employment and is not engaged in remunerative work and who is required by <sup>4</sup>section 86 of the Employment Rights Act 1996 <sup>4</sup>to give notice to terminate his contract is not required to be able to take up employment immediately, providing he is willing and able to take up employment immediately he is able to do so in accordance with his statutory obligations.

(4) Where in accordance with regulation 7, 13 <sup>5</sup>, 13A <sup>5</sup> or 17 a person is only available for employment at certain times, he is not required to be able to take up employment at a time at which he is not available, but he must be willing and able to take up employment immediately he is available.

(5) Where in accordance with paragraph <sup>6</sup>(1), (1A) or (2) <sup>6</sup>a person is not required to be able to take up employment immediately, the <sup>6</sup>periods referred to in those paragraphs include periods when in accordance with regulation 7 <sup>5</sup>, 13 or 13A <sup>5</sup> he is not available.

<sup>7</sup>(6) In this regulation "week" means any period of seven consecutive days. <sup>6</sup>

<sup>4</sup>Words in reg. 5(3) substituted by reg. 8(3) of S.I. 2007/2618 as from 22.10.07.

<sup>5</sup>Words inserted in regs. 5(4) & 8 & words substituted in regs. 5(5), 6(1)-(2) & 7(1) by reg. 2(2)-(5) of S.I. 2010/837 as from 26.4.10.

<sup>6</sup>Words substituted and omitted in regs. 5(5), 6(1), (2) & 8 by regs. 11(2)(c)(i), (ii) & (3) & (4) of S.I. 2008/3051 as from 24.11.08.

<sup>7</sup>Para. (6) inserted by reg. 3 of S.I. 2002/3072 as from 1.1.03.

**Employment of at least 40 hours per week**

6.—(1) In order to be regarded as available for employment, a person must be willing and able to take up employment of at least 40 hours per week, unless he has restricted his availability in accordance with paragraph ►<sup>1</sup>(3), (3A) or (4)◄ of regulation ►<sup>2</sup>13, regulation 13A or◄ paragraph (2) of regulation 17 or two or more of those provisions.

<sup>1</sup>Words substituted and omitted in regs. 5(5), 6(1), (2) & 8 by regs. 11(2)(c)(i), (ii) & (3) & (4) of S.I. 2008/3051 as from 24.11.08.

(2) In order to be regarded as available for employment, a person must be willing and able to take up employment of less than 40 hours per week but not for a greater number of hours per week than the number for which he is available in accordance with paragraph ►<sup>1</sup>(3), (3A) or (4)◄ of regulation ►<sup>2</sup>13, regulation 13A or◄ paragraph (2) of regulation 17 or two or more of those provisions.

<sup>2</sup>Words inserted in regs. 5(4) & 8 & words substituted in regs. 5(5), 6(1)-(2) & 7(1) by reg. 2(2)-(5) of S.I. 2010/837 as from 26.4.10.

**Restriction of hours for which a person is available to 40 hours per week**

7.—(1) Except as provided in ►<sup>2</sup>regulations 13, 13A and 17(2)◄, a person may not restrict the total number of hours for which he is available for employment to less than 40 hours in any week.

(2) A person may restrict the total number of hours for which he is available for employment in any week to 40 hours or more providing

- (a) the times at which he is available to take up employment (his “pattern of availability”) are such as to afford him reasonable prospects of securing employment;
- (b) his pattern of availability is recorded in his jobseeker’s agreement and any variations in that pattern are recorded in a varied agreement and
- (c) his prospects of securing employment are not reduced considerably by the restriction imposed by his pattern of availability.

(3) A person who has restricted the total number of hours for which he is available in accordance with paragraph (2) and who is not available for employment, and is not to be treated as available for employment in accordance with regulation 14, for one day or more in a week in accordance with his pattern of availability shall not be regarded as available for employment even if he was available for employment for a total of 40 hours or more during that week.

**Other restrictions on availability**

8. Subject to regulations 6, 7 and 9, any person may restrict his availability for employment by placing restrictions on the nature of the employment for which he is available, the terms or conditions of employment for which he is available, (including the rate of remuneration) and the locality or localities within which he is available, providing he can show that he has reasonable prospects of securing employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulations 7(2), ►<sup>1</sup>13(2), (3), (3A) or (4)◄►<sup>2</sup>, 13A◄ or 17 (2).

**No restrictions on pay after six months**

9. After the expiry of the six month period beginning with the date of claim, a person may not restrict his availability for employment by placing restrictions on the level of remuneration in employment for which he is available.

**Reasonable prospects of employment**

10.—(1) For the purposes of regulations 7 and 8 and paragraphs (2) and (4) of regulation 13, in deciding whether a person has reasonable prospects of securing employment, regard shall be had, in particular, to the following matters—

- (a) his skills, qualifications and experience;
- (b) the type and number of vacancies within daily travelling distance from his home;
- (c) the length of time for which he has been unemployed;
- (d) the job applications which he has made and their outcome;

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- (e) if he wishes to place restrictions on the nature of the employment for which he is available, whether he is willing to move home to take up employment.

(2) It shall be for the claimant to show that he has reasonable prospects of securing employment if he wishes to restrict his availability in accordance with regulation 7 or 8 or paragraph (2) or (4) of regulation 13.

**Part-time students**

**11.—(1)** If in any week a person is a part-time student and

- (a) he falls within paragraph (2)  
 (b) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), <sup>1</sup>13(3), (3A) or (4) <sup>2</sup>, 13A <sup>1</sup> or 17(2); and  
 (c) the hours of his course of study fall in whole or in part within his pattern of availability,

<sup>1</sup>Words substituted in reg. 11(1) by reg. 11(5)(a) & (b) of S.I. 2008/3051 as from 24.11.08.

<sup>2</sup>Word inserted in reg. 11(1)(b) by reg. 2(6) of S.I. 2010/837 as from 26.4.10.

in determining whether he is available for employment no matter relating to his course of study shall be relevant providing he is willing and able to re-arrange the hours of his course in order to take up employment at times falling within his pattern of availability, to take up such employment immediately or, if he falls within paragraph <sup>1</sup>(1), (1A), (2) or (3) <sup>1</sup> of regulation 5, at the time specified in that paragraph and providing he complies with the requirements of regulation 6.

(2) A person falls within this paragraph if

- (a) for a continuous period of not less than 3 months falling immediately before the date now which he first attended the course of study he was in receipt of jobseeker's allowance <sup>3</sup>, incapacity benefit or employment and support allowance <sup>1</sup> was on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations <sup>(a)</sup> or  
 (b) during the period of 6 months falling immediately before the date on which he first attended the course of study he was  
 (i) for a period, or periods in the aggregate, of not less than 3 months in receipt of jobseeker's allowance <sup>3</sup>, incapacity benefit or employment and support allowance <sup>1</sup> or on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations and  
 (ii) after the period referred to in (i), or in the case of periods in the aggregate, after the first such period and throughout the remainder of the 6 months for which that sub-paragraph did not apply to him, engaged in remunerative work or other work the emoluments of which are such as to disentitle him from receipt of jobseeker's allowance <sup>3</sup>, incapacity benefit or employment and support allowance <sup>1</sup> or from receipt of income support which would have been payable because he fell within paragraph 7 of Schedule 1B to the Income Support Regulations

<sup>3</sup>Words in reg. 11(2)(a), (b)(i) & (ii) substituted by reg. 3(3) of S.I. 2008/1554 as from 27.10.08.

and the period of 3 months referred to in sub-paragraph (i) or, as the case may be, the period of 6 months referred to in sub-paragraph (ii), fell wholly after the terminal date.

(3) In this regulation, "training" means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible <sup>4</sup><sup>5</sup> secured in England by the <sup>6</sup>Secretary of State <sup>1</sup> or Chief Executive of Skills Funding and in Wales by the Welsh Ministers, <sup>1</sup> and, in Scotland, provided <sup>1</sup>, directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, <sup>7</sup>Skills Development Scotland, <sup>1</sup> Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

<sup>4</sup>Words substituted in reg. 11(3) by reg. 2(3) of S.I. 2001/1434 as from 1.4.01.

<sup>5</sup>Words substituted in reg. 11(3) by reg. 5(3) of S.I. 2010/1941 as from 1.9.10.

<sup>6</sup>Words substituted in reg. 11(3) by reg. 5(3) of S.I. 2012/956 as from 1.5.12.

<sup>7</sup>Words inserted in reg. 11(3) by reg. 4(3)(b) of S.I. 2009/583 as from 6.4.09.

(a) Schedule 1B was inserted by regulation 3 of and Schedule 1 to the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996, S.I. 1996/206.



**Volunteers**

►<sup>1</sup>12.—(1) Paragraph (2) applies if in any week a person is engaged in voluntary work and—

- (a) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), ►<sup>2</sup>13(3), (3A) or (4)◄ ►<sup>3</sup>, 13A◄ or 17(2); and
- (b) the hours in which he is engaged in voluntary work fall in whole or in part within his pattern of availability.

(2) In determining whether a person to whom this paragraph applies is available for employment no matter relating to his voluntary work shall be relevant providing—

- (a) on being given one week's notice, he is willing and able to re-arrange the hours in which he is engaged in voluntary work in order to take up employment at times falling within his pattern of availability; and
- (b) on being given 48 hours' notice, he is willing and able to re-arrange the hours in which he is engaged in voluntary work in order to attend for interview at times falling within his pattern of availability in connection with the opportunity of any such employment; and
- (c) he complies with the requirements of regulation 6.

(3) In paragraph (2) “week” means any period of seven consecutive days.◄

**Additional restrictions on availability for certain groups**

13.—(1) In any week a person may restrict his availability for employment in the following ways, if the circumstances set out apply.

(2) Subject to regulations 6, 7 and 9, a person may impose restrictions on the nature of the employment for which he is available by reason of a sincerely held religious belief, or a sincerely held conscientious objection providing he can show that he has reasonable prospects of employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulation 7(2), 8, paragraph ►<sup>2</sup>(3), (3A) or (4)◄ of this regulation ►<sup>3</sup>, regulation 13A or ◄ or regulation 17(1) or (2).

(3) A person may restrict his availability in any way providing the restrictions are reasonable in the light of his physical or mental condition.

►<sup>2</sup>(3A) A person who has caring responsibilities in relation to a child and who—

- (a) is the subject of a parenting order concerning that child under section 8 of the Crime and Disorder Act 1998(a), section 20 of the Anti-social Behaviour Act 2003(b) (“the 2003 Act”), or in relation to Scotland, under section 102 of the Antisocial Behaviour etc. (Scotland) Act 2004(c), or
- (b) has entered into a parenting contract concerning that child under section 19 of the 2003 Act,

may restrict his availability in any way providing the restrictions are reasonable in the light of the terms of the order or contract.◄

(4) A person with caring responsibilities may restrict the total number of hours for which he is available for employment to less than 40 hours in any week providing

- (a) in that week he is available for employment for as many hours as his caring responsibilities allow and for the specific hours that those responsibilities allow and
- (b) he has reasonable prospects of securing employment notwithstanding that restriction and
- (c) he is available for employment of at least 16 hours in that week.

<sup>1</sup>Reg. 12 substituted by reg. 4 of S.I. 2002/3072 as from 1.1.03.

<sup>2</sup>Words substituted in reg. 12(1)(a) & 13(2), & sub-para. (3A) inserted by regs. 11(6), (7)(a) & (7)(b) of S.I. 2008/3051 as from 24.11.08.

<sup>3</sup>Words inserted in regs. 12(1)(a) & 13(2) by reg. 2(7) & (8) of S.I. 2010/837 as from 26.4.10.

(a) 1998 c. 37.  
 (b) 2003 c. 38.  
 (c) 2004 asp 8.

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(5) In deciding whether a person satisfies the conditions in paragraph (4)(a), regard shall be had, in particular, to the following matters—

- (a) the particular hours and days spent in caring;
- (b) whether the caring responsibilities are shared with another person;
- (c) the age and physical and mental condition of the person being cared for.

<sup>1</sup>Reg. 13(6) & (7) inserted by reg. 11(7)(c) of S.I. 2008/3051 as from 24.11.08.

▶<sup>1</sup>(6) This paragraph applies to a person who has caring responsibilities in relation to a child if an employment officer determines that, due to the type and number of employment vacancies within daily travelling distance of the person's home, he would not satisfy the condition in paragraph (4)(b).

(7) Paragraph (4) has effect in relation to a person to whom paragraph (6) applies as if sub-paragraph (b) were omitted. ◀

<sup>2</sup>Reg. 13A inserted by reg. 2(9) of S.I. 2010/837 as from 26.4.10.

▶<sup>2</sup>Additional restrictions on availability for lone parents

**13A.** A lone parent who in any week is responsible for, and a member of the same household as, a child under the age of 13 may restrict his availability for employment to the child's normal school hours. ◀

## Circumstances in which a person is to be treated as available

<sup>3</sup>Words added to reg. 14(1) by reg. 2 of S.I. 1997/563 as from 11.3.97.

<sup>4</sup>In reg. 14(1) references to reg. 15(a) substituted for reg. 15(1)(a) by reg. 3(5) of S.I. 2008/1826 as from 9.7.08

<sup>5</sup>Words inserted in reg. 14(1) by reg. 2(3)(a)(i) & (ii) of S.I. 2006/1402 as from 30.6.06.

**14.—(1)** A person, other than one ▶<sup>3</sup>to whom regulation ▶<sup>4</sup>15(1)(a)◀, (b) ▶<sup>5</sup>, (bc)◀ or (c) applies,◀ shall be treated as available for employment in the following circumstances for as long as those circumstances apply, subject to ▶<sup>5</sup>paragraph (2B) and to◀ any maximum period specified in this paragraph—

- (a) notwithstanding regulation ▶<sup>4</sup>15(1)(a)◀, if he is participating as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;
- (b) if he is attending a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) if he is temporarily absent from Great Britain because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;
- (d) if he is engaged in the manning or launching of a lifeboat or in the performance duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple and is looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course and is attending, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) if he is temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) if he has been discharged from detention in a prison, remand centre or youth custody institution ▶<sup>6</sup>and he is not given notice to participate in ▶<sup>7</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013◀◀, for one week commencing with the date of his discharge;
- ▶<sup>8</sup>(i) if the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days and the circumstances in paragraph (2A) apply, for any part of that period when he is not treated as available for employment under any other provision of this regulation;◀
- (j) ▶<sup>9</sup>if the award is terminated other than on the last day of a week, for the period beginning with the beginning of the week in which the award is terminated and ending on the day on which the award is terminated;◀

<sup>6</sup>Words inserted in reg. 14(1)(h) by reg. 2 of S.I. 2012/397 as from 1.3.12.

<sup>7</sup>Words substituted in reg. 14(i)(h) by reg. 14(a) of S.I. 2013/276 from 6.45pm on 12.2.13.

<sup>8</sup>Sub-para. (i) replaced by reg. 2(3) of S.I. 1997/563 as from 11.3.97.

<sup>9</sup>Reg. 14(1)(j) substituted by reg. 5(3) of S.I. 1996/1517 as from 7.10.96.

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- (k) notwithstanding regulation ▶<sup>1</sup>15(1)(a)◀, if he is participating in a programme provided by the Venture Trust in pursuance of an arrangement made by ▶<sup>2</sup>the Scottish Ministers◀, for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) if he is treated as capable of work ▶<sup>3</sup>or as not having limited capability for work◀ in accordance with regulation 55, ▶<sup>4</sup>55ZA or 55A◀ for the period determined in accordance with that regulation;
- (ll) ▶<sup>4</sup>◀
- (m) if he is temporarily absent from Great Britain to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment office, that he will be so absent for a maximum of one week;
- (n) if he is a member of a couple ▶<sup>5</sup>other than a joint-claim couple◀ and he and his partner are both absent from Great Britain and a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks.
- ▶<sup>5</sup>(nn) if he is a member of a joint-claim couple and he and his partner are both absent from Great Britain and a premium referred to in paragraph 20E, 20F or 20I of Schedule 1(a) (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;◀
- ▶<sup>6</sup>(o) if–
  - (i) he is available for employment, or is treated as such, on the day he makes his claim for a jobseeker's allowance; and
  - (ii) the Secretary of State has directed that the prescribed time for claiming a jobseeker's allowance be extended under regulation 19(6) of the Claims and Payments Regulations(b) where the circumstances specified in regulation 19(7)(d) of those Regulations applied in relation to an entitlement to incapacity benefit▶<sup>7</sup>, employment and support allowance◀ or an entitlement to income support by virtue of paragraph 7 of Schedule 1B to the Income Support Regulations(c),  
for the period of that extension.◀
- ▶<sup>5</sup>(p) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c)(d), for the period of any such temporary absence;◀
- ▶<sup>8</sup>(q) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6AA) or, as the case may be, (6C).◀
- ▶<sup>9</sup>(r) if he is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
  - (s) if, for a maximum of 96 hours before being released, he is in–
    - (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation)(e), or
    - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland)(f) but is not a prisoner as defined by regulation 85(4) (special cases)(g).◀
- ▶<sup>10</sup>(t) he is looking after a child for whom he has caring responsibilities during the child's school holidays or another similar vacation period and it would be unreasonable for him to make other arrangements for the care of that child;
- (u) he is looking after a child for whom he has caring responsibilities at a time when the child–

<sup>1</sup>In reg. 14(1) references to reg. 15(a) substituted for reg. 15(1)(a) by reg. 3(5) of S.I. 2008/1826 as from 9.7.08.

<sup>2</sup>Words in reg. 14(1)(k) substituted by reg. 4(4) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid*.

<sup>3</sup>Words inserted in reg. 14(1)(l) by reg. 3(4)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Words in reg. 14(1)(ll) inserted & sub-para. (ll) omitted by reg. 2(2)(a)-(b) of S.I. 2015/339 as from 30.3.15.

<sup>5</sup>Sub-para. (nn) & (p) & words in sub-para. (n) inserted by reg. 2 of S.I. 2000/3336 as from 19.3.01.

<sup>6</sup>Reg. 14(1)(o) inserted by reg. 3 of S.I. 1999/3087 as from 30.11.99.

<sup>7</sup>Words in reg. 14(1)(o)(ii) inserted by reg. 3(4)(b) of S.I. 2008/1554 as from 27.10.08.

<sup>8</sup>Reg. 14(q) added by reg. 3(2) of S.I. 2004/1869 as from 4.10.04.

<sup>9</sup>Reg. 14(1)(r) & (s) inserted by reg. 2(3)(b) of S.I. 2006/1402 as from 30.5.08.

<sup>10</sup>Reg. 14(1)(t) & (u) inserted & words added to para. (2) by reg. 11(8)(a) & (b) of S.I. 2008/3051 as from 24.11.08.

(a) Paragraphs 20E, 20F, 20G and 20I were inserted by the Jobseeker's Allowance (Joint Claims) Regulations 2000 (S.I. 2000/1978).

(b) The Social Security (Claims and Payments) Regulations 1987, S.I. 1987/1968; regulation 19 was substituted by S.I. 1997/793.

(c) The Income Support (General) Regulations 1987, S.I. 1987/1967; Schedule 1B was inserted by S.I. 1996/206.

(d) Paragraphs (6A) and (6B) were inserted by regulations 2(5) of and paragraphs 13 of Schedule 2 to the Jobseeker's Allowance (Joint-claims) Regulations 2000 (S.I. 2000/1978).

(e) 1984 c. 60. Section 118(2) was amended by paragraph 5(12) of Schedule 15 to the Terrorism Act 2000 (c. 11) and paragraph 9(9) of Schedule 7 to the Police Reform Act 2002 (c. 30).

(f) 1995 c. 46. Section 295 was amended by section 24(2) of the Criminal Justice (Scotland) Act 2003 (asp. 7).

(g) The definition of "prisoner" was amended by S.I. 1998/563 and 2005/2078.

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- (i) is excluded from school or another educational establishment, and
- (ii) is not receiving education pursuant to arrangements made by a local education authority or (in Scotland) an education authority, and there are no other arrangements for the care of that child it would be reasonable for him to make.◀

<sup>1</sup>Reg. 14(1)(v) substituted by reg. 3(3) of S.I. 2015/389 as from 6.4.15.

- ▶<sup>1</sup>(v) if he is a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations(a), either–
  - (i) if he is engaged in his first year of training for a maximum of 43 days in that year; or
  - (ii) if he is engaged in annual continuous training, for a maximum of 15 days in any calendar year.◀

<sup>2</sup>Words added to para. (2) by reg. 11(8)(a) & (b) of S.I. 2008/3051 as from 24.11.08.

<sup>3</sup>Words in reg. 14(2), para. (2ZC) & (2ZD) substituted and inserted by reg. 2(2) & (3) of S.I. 2014/1623 as from 21.7.14.

(2) ▶<sup>2</sup>Subject to ▶<sup>3</sup>paragraphs (2ZB), (2ZC) and (2ZD)◀,◀ a person, other than one to whom regulation 15 applies, shall be treated as available for employment in the following circumstances–

- (a) if there is a death or serious illness of a close relative or close friend of his;
- (b) if there is a domestic emergency affecting him or a close relative or close friend of his;
- (c) if there is a funeral of a close relative or close friend of his;
- (d) if he has caring responsibilities and the person being cared for has died;

for the time required to deal with the emergency or other circumstance and for a maximum of one week on the occurrence of any of the circumstances set out in subparagraphs (a) to (d), or any combination of those circumstances, and on no more than 4 such periods in any period of 12 months.

<sup>4</sup>Paras. (2ZA) & (2ZB) inserted in reg. 14(2) by reg. 11(8)(c) of S.I. 2008/3051 as from 24.11.08.

▶<sup>4</sup>(2ZA) A person who has caring responsibilities in relation to a child may be treated as available for employment for more than one week, but for no more than 8 weeks, on the occurrence of any of the circumstances set out in paragraph (2)(a) or (b), or any combination of those circumstances, but on no more than one occasion in any period of 12 months.

(2ZB) Where a claimant has been treated as available for employment under paragraph (2ZA) in any period of 12 months, the first week in which he is so treated shall count towards the 4 periods allowable under paragraph (2).◀

▶<sup>3</sup>(2ZC) A person who has recently become homeless shall be treated as available for employment under paragraph (2)(b) only where he takes such steps as are reasonable for him to take to find living accommodation.

(2ZD) A person to whom paragraph (2ZC) applies may be treated as available for employment under paragraph (2)(b) for periods of longer than one week and on more than 4 occasions in any 12 months.◀

<sup>5</sup>Para. (2A) inserted by reg. 2(4) of S.I. 1997/563 as from 11.3.97.

▶<sup>5</sup>(2A) A person shall be treated as available for employment under paragraph (1)(i) only if–

<sup>6</sup>Words substituted in reg. 14(2A)(a) by reg. 11(8)(d) of S.I. 2008/3051 as from 24.11.08.

<sup>7</sup>Word inserted in reg. 14(2A)(a) by reg. 2(10) of S.I. 2010/837 as from 26.4.10.

- (a) where a pattern of availability is recorded in his jobseeker's agreement, or where he has restricted the hours for which he is available in accordance with regulations ▶<sup>6</sup>13(3), (3A) or (4)◀▶<sup>7</sup>, 13A◀ or 17(2) and that restriction has been agreed with an employment officer, he is available for employment during such of the period referred to in paragraph (1)(i) as he is not treated as available for employment under any other provision of this regulation, in accordance with–

- (i) his pattern of availability or, as the case may be, the hours to which he has restricted his availability in accordance with regulations ▶<sup>6</sup>13(3), (3A) or (4)◀▶<sup>7</sup>, 13A◀ or 17(2), and
- (ii) any other restrictions he has placed on his availability for employment which will apply in the first week after the date of claim, provided those restrictions have been agreed with an employment officer, and
- (iii) if he falls within regulation 5, that regulation;

- (b) where no pattern of availability is recorded in his jobseeker's agreement, he is available for employment during such of the period referred to in paragraph (1)(i) as he is not treated as available for employment under any other provision of this regulation–

(a) S.I. 2001/1004.

- (i) in accordance with any restrictions he has placed on his availability for employment which will apply in the first week after the date of claim, provided those restrictions have been agreed with an employment officer, and
- (ii) for 8 hours on each day falling within that period on which he is not treated as available for employment to any extent under any other provision of this regulation, and
- (iii) if he falls within regulation 5, in accordance with that regulation.◀

▶<sup>1</sup>(2B) A person shall not be treated as available for employment under paragraph (1)(r)–

- (a) for more than eight weeks,
- (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
- (c) where he is a prisoner as defined by regulation 85(4) (special cases).◀

<sup>1</sup>Para. (2B) inserted in reg. 14 by reg. 2(3)(c) of S.I. 2006/1402 as from 30.5.06.

(3) If any of the circumstances set out in paragraph (1), except those in sub-paragraphs (i) and (j), or any of those set out in paragraph (2) apply to a person for part of a week, he shall for the purposes of regulation 7(1) be treated as available for 8 hours on any day on which those circumstances applied subject to the maximum specified in paragraph (1) or (2), unless he has restricted the total number of hours for which is available in a week in accordance with regulation 7(2), ▶<sup>2</sup>13(4)◀ or 17(2). If he has so restricted the total number of hours for which he is available, he shall, for the purposes of regulation ▶<sup>2</sup>7(1), 13(4) or 17(2)◀, be treated as available for the number of hours for which he would be available on that day in accordance with his pattern of availability recorded in his jobseeker's agreement, if any of the circumstances set out in paragraph (1) except those in sub-paragraphs (i) and (j) or any of those set out in paragraph (2) applied on that day, subject to the maximum specified in paragraph (1) or (2).

<sup>2</sup>Words substituted in reg. 14(3) by reg. 5(4) of S.I. 1996/1517 as from 7.10.96.

(4) In paragraph (1)(c), “treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

(5) For the purposes of paragraph (1)(d),

- (a) a person is engaged in duties for the benefit of others while–
  - (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
  - (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
  - (iii) assisting in measures being taken to prevent a serious threat to the health of the people,

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;

- (b) events which may give rise to an emergency include–
  - (i) a fire, a flood or an explosion,
  - (ii) a natural catastrophe,
  - (iii) a railway or other transport accident,
  - (iv) a cave or mountain accident,
  - (v) an accident at sea,
  - (vi) a person being reported missing and the organization of a search for that person.

(6) In paragraph (1), except in sub-paragraphs (i) and (j), and in paragraph (2), “week” means any period of 7 consecutive days.

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<sup>1</sup>Para. (7) inserted in reg. 14 by reg. 2(3)(d) of S.I. 2006/1402 as from 30.5.06.

<sup>2</sup>Reg. 14A inserted by reg. 2(2) of S.I. 2012/853 as from 23.4.12.

►<sup>1</sup>(7) In this regulation, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992(a).◀

►<sup>2</sup>14A.—(1) Paragraph (2) applies where a person (V) notifies the Secretary of State, in such manner as the Secretary of State specifies, that—

- (a) domestic violence has been inflicted on or threatened against V by V’s partner or former partner or a family member, during the period of 26 weeks ending on the date of the notification; and
- (b) at the time of the notification, V is not living at the same address as the person who inflicted domestic violence on or threatened it against V.

(2) Where this paragraph applies V is to be treated as being available for employment for a period of 4 weeks (“the 4 week exemption period”) beginning on the date of V’s notification to the Secretary of State under paragraph (1).

(3) V is to be treated as available for employment under paragraph (2)—

- (a) whether or not V is entitled to a jobseeker’s allowance for the whole or part of the 4 week exemption period; and
- (b) on only one occasion in any 12 month period.

(4) Paragraph (6) applies where domestic violence has been inflicted on or threatened against V by V’s partner or former partner or a family member.

(5) Domestic violence is only to be regarded as having been inflicted on or threatened against V for the purpose of paragraph (4) if V provides relevant evidence to the Secretary of State during the 4 week exemption period.

(6) Where this paragraph applies, V is to be treated as being available for employment for a period of 13 weeks (“the 13 week exemption period”) beginning on the date of V’s notification to the Secretary of State under paragraph (1).

(7) Subject to paragraphs (8) and (9), the 13 week exemption period shall apply for 13 consecutive weeks, whether or not V is entitled to a jobseeker’s allowance for the whole or part of that period.

(8) After the first 4 weeks of the 13 week exemption period, V may notify the Secretary of State that V no longer wishes to be treated as available for employment by virtue of paragraph (6).

(9) Where V gives such a notification to the Secretary of State, the 13 week exemption period—

- (a) shall be suspended from the date of the notification until the date on which V gives a further notification to the Secretary of State that V wishes again to be treated as available for employment by virtue of paragraph (6); and
- (b) shall not apply at any time after the expiry of 12 months from the date of the notification referred to in paragraph (1).

(10) For the purpose of this regulation—

►<sup>3</sup>“coercive behaviour” means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten V;

“controlling behaviour” means an act designed to make V subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour;

“domestic violence” means any incident or pattern of incidents of controlling behaviour, coercive behaviour, violence or abuse including but not limited to—

- (a) psychological abuse;
- (b) physical abuse;
- (c) sexual abuse;
- (d) financial abuse; and
- (e) emotional abuse;

regardless of the gender or sexuality of V;◀

<sup>3</sup>Defn. of “domestic violence” substituted by reg. 2 of S.I. 2013/2722 as from 29.10.13.

(a) 1992 c. 53 as amended.

“family member” means the following members of the family of V, V’s partner or V’s former partner – 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, sister-in-law, or, if any of the preceding persons is a member of a couple, the other member of that couple,

“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(a),

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

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

- ▶<sup>1</sup>(a) the Health and Care Professions Council,◀
- (b) the Care Council for Wales,
- (c) the Scottish Social Services Council, or
- (d) the Northern Ireland Social Care Council,

<sup>1</sup>Words in defn. of “registered social worker” substituted by reg. 70 of S.I. 2012/1479 as from 1.8.12

“relevant evidence” means written evidence from a person acting in an official capacity showing that–

- (a) V’s circumstances are consistent with those of a person who has had domestic violence inflicted on or threatened against them during the period of 26 weeks ending on the date of the notification referred to in paragraph (1); or
- (b) V has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.◀

**Circumstances in which a person is not to be regarded as available**

**15.** ▶<sup>2</sup>—(1)◀ A person shall not be regarded as available for employment in the following circumstances–

- ▶<sup>2</sup>(a) subject to paragraph (2), if he is full-time student during the period of study;◀
- (b) if he is a prisoner on temporary release in accordance with the provisions of the Prison Act 1952(b) or rules made under section 39(6) of the Prisons (Scotland) Act 1989(c);
- ▶<sup>3</sup>(bb) if the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days, for that period, unless he is treated as available for employment for that period in accordance with regulation 14;◀
- ▶<sup>4</sup>(bc) if he is on paternity leave or ordinary ▶<sup>5</sup>or additional◀ adoption leave▶<sup>6</sup>, shared parental leave◀ by virtue of section 75A ▶<sup>5</sup>or 75B◀ of the Employment Rights Act 1996(d).◀
- ▶<sup>7</sup>(c) if she is in receipt of maternity allowance under section 35 or 35B of the Benefits Act or maternity pay in accordance with sections 164 - 171 of the Act.◀

<sup>2</sup>Reg. 15 renumbered to 15(1), reg. 15(a) substituted and reg. 15(2) inserted by reg. 3(2)-(4) of S.I. 2008/1826 as from 9.7.08.

<sup>3</sup>Sub-para. (bb) added to reg. 15 by reg. 3 of S.I. 1997/563 as from 11.3.97.

<sup>4</sup>Para. (bc) inserted into reg. 15(1) by reg. 5 of S.I. 2002/3072 as from 1.10.03.

<sup>5</sup>Words in reg. 15(1)(bc) inserted by reg. 4(5)(a) & (b) of S.I. 2008/698 on or after 7.4.08

subject to reg. 1(2) *ibid.*  
<sup>6</sup>Words inserted in reg. 15(1)(bc) by art. 7(3) of S.I. 2014/3255 as from 31.12.14.

<sup>7</sup>Reg. 15(1)(c) substituted by reg. 4(3) of S.I. 2014/884 as from 18.5.14.

▶<sup>2</sup>(2) Notwithstanding paragraph (1)(a), a full-time student shall be regarded as available for employment during the period of the summer vacation appropriate to his course, but only if the first and second conditions are satisfied.

- (3) The first condition is satisfied if–
  - (a) in the case of a student with a partner, the partner is also a full-time student and either of them is treated as responsible for a child or a young person; or

(a) 2002 c. 17. Subsection (3) of section 25 was amended by S.I. 2010/231 and by the Health and Social Care Act 2008 (c. 14).

(b) 1952 c. 52.

(c) 1989 c. 45.

(d) 1996 c. 18. Section 75A was inserted by section 3 of the Employment Act 2002 (c. 22).

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- (b) in any other case, the student is treated as responsible for a child or young person.
- (4) The second condition is satisfied if the student is—
  - (a) available for employment in accordance with this Chapter; or
  - (b) treated as available for employment in accordance with regulation 14(1)(a) or (k).◀

**Further circumstances in which a person is to be treated as available: permitted period**

- 16.—**(1) A person who is available for employment—
- (a) only in his usual occupation;
  - (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
  - (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive

may be treated for a permitted period as available for employment in that period.

(2) Whether a person should be treated as available for a permitted period and if so, the length of that permitted period shall be determined having regard to the following factors—

- (a) the person's usual occupation and any relevant skills or qualifications which he has;
- (b) the length of any period during which he has undergone training relevant to that occupation;
- (c) the length of the period during which he has been employed in that occupation and the period since he was so employed;
- (d) the availability and location of employment in that occupation.

(3) A permitted period shall be for a minimum of one week and a maximum of 13 weeks and shall start on the date of claim and in this paragraph "week" means any period of 7 consecutive days.

**Laid off and short-time workers**

**17.—**(1) A person who is laid off shall be treated as available for employment providing he is willing and able to resume immediately the employment from which he has been laid off and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph ▶<sup>1</sup>(1), (1A) or (2)◀ of regulation 5, at the time specified in that regulation.

(2)

▶<sup>2</sup>(a)◀ A person who is kept on short-time shall be treated as available for employment, providing he is willing and able to resume immediately the employment in which he is being kept on short-time and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph (1) or (2) of regulation 5, at the time specified in that regulation in the hours in which he is not working short-time but the total number of hours for which he works and is available for casual employment must be at least 40 in any week ▶<sup>2</sup>unless paragraph (b) or (c) applies.

- (b) the total number of hours for which a person kept on short-time works and is available for casual employment may be less than 40 in any week if that person has imposed restrictions on his availability which are reasonable in the light of his physical or mental condition;
- (c) the total number of hours for which a person kept on short-time works and is available for casual employment may be less than 40 in any week if he has caring responsibilities providing the total number of hours for which he works and is available for casual employment is as many as his caring responsibilities allow and for the specific hours those responsibilities allow and is at least 16 in any week.◀

<sup>1</sup>Words substituted in reg. 17(1) by reg. 11(9) of S.I. 2008/3051 as from 24.11.09.

<sup>2</sup>Designator "(a)" and sub-paras. (b) and (c) inserted in reg. 17(2) by reg. 6 of S.I. 1996/1517 as from 7.10.96.



(3) A person shall not be treated as available for employment in accordance with this regulation for more than 13 weeks, starting with the day after the day he was laid off or first kept on short-time.

(4) A person who is laid off or kept on short-time may not be treated as available for employment for a permitted period in accordance with regulation 16, unless he ceases to be laid off or kept on short-time within 13 weeks of the day on which he was laid off or first kept on short time, in which case he may be treated as available for employment for a permitted period ending a maximum of 13 weeks after the date of claim.

(5) In paragraph (3) and (4), "week" means any period of 7 consecutive days.

**►<sup>1</sup>Further circumstances in which a person is to be treated as available: full-time students participating in a qualifying course**

<sup>1</sup>Reg. 17A inserted by reg. 4 of S.I. 1998/1274 as from 1.6.98.

**17A.**—(1) A person to whom paragraph (2) applies shall, notwithstanding regulation ►<sup>2</sup>15(1)(a)◄, be treated as available for employment in accordance with paragraph (3).

<sup>2</sup>In reg. 17A(1) reference to reg. 15(a) substituted by reg. 15(1)(a) by reg. 3(5) of S.I. 2008/1826 as from 9.7.08.

(2) This paragraph applies to a person—

(a) who is aged 25 years or over; and

(b) ►<sup>3</sup>Subject to paragraph (2A)◄ who has made a claim for a jobseeker's allowance and has been receiving benefit within a jobseeking period for not less than 2 years as at the date he started, or is due to start, the qualifying course and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

<sup>3</sup>Words inserted in para (2)(b) by reg. 2(2) of S.I. 1998/2874 as from 24.11.98.

►<sup>4</sup>(2A) A person who has been receiving benefit in accordance with paragraph (b) of the definition of "receiving benefit" in paragraphs (7) shall, for the purposes of paragraph (2)(b), be treated as having received benefit within a jobseeking period.◄

<sup>4</sup>Para (2A) inserted by reg. 2(3) of S.I. 1998/2874 as from 24.11.98.

(3) Subject to paragraph (4), where an employment officer has determined, having regard to the factors specified in paragraph (5), that a person to whom paragraph (2) applies may undertake a qualifying course, that person shall be treated as available for employment in any week in which he is undertaking the qualifying course as a full-time student and—

(a) which falls wholly or partly in term-time, providing he—

(i) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is attending the establishment when required to attend, in such form as may be required by the employment officer; and

(ii) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is making satisfactory progress on the course, in such form as may be required by the employment officer;

(b) in which he is taking examinations relating to the qualifying course; or

(c) which falls wholly in a vacation from the qualifying course, if he is willing and able to take up immediately any casual employment.

(4) In a case where the combined duration of—

(a) any qualifying course, other than one falling within paragraph (6), which a person to whom paragraph (2) applies has previously undertaken in respect of which he was, for any part of such qualifying course, treated as available for employment in accordance with paragraph (3); and

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- (b) the qualifying course which he is currently undertaking

is more than 1 year, the person shall only be treated as available for employment in accordance with paragraph (3) if he has been receiving benefit within a jobseeking period for not less than 2 years since the last day of the most recent such qualifying course in respect of which he was, for any part, treated as available in accordance with paragraph (3), and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

(5) The factors which an employment officer must take into account when determining whether a person may undertake a qualifying course are—

- (a) the skills, qualifications and abilities of that person;
- (b) whether the course would assist him to acquire new skills and qualifications;
- (c) whether he would have to give up a course of study in order to undertake this course;
- (d) any needs arising from his physical or mental condition;
- (e) the time which has elapsed since he was last engaged in employment as an employed earner or as a self-employed earner;
- (f) his work experience;
- (g) the number of jobs in the labour market and, if relevant, the local labour market, which require the skills and qualifications which he would acquire on the course; and
- (h) any evidence about whether this course or this type of course has facilitated the obtaining by persons of work.

<sup>1</sup>Words in reg. 17A substituted by reg. 5(3) of S.I. 2012/2568 as from 22.10.12.

(6) A qualifying course falls within this paragraph if the person had ►<sup>1</sup>a good reason◄ for any act or omission for the purposes of section ►<sup>1</sup>19A(2)(d), (e) or (f)◄ in relation to that course.

(7) In this regulation—

►<sup>2</sup>“benefit” means—

- (a) income support, unemployment benefit, a jobseeker's allowance or any earnings credited to a person in accordance with regulation 8A or 9A of the Social Security (Credits) Regulations 1975(a) or which would be credited to a person in accordance with paragraph (1) of that regulation 9A but are not so credited by reason only of the fact that no further earnings are in his case required for the purpose mentioned in that paragraph; or
- (b) any earnings credited to a person for unemployment in accordance with regulation 9 of the Social Security (Credits) Regulations 1975(b) as it applies before 7th October 1996 and◄

<sup>2</sup>Defn. of “benefit” substituted & words inserted in defn. of “receiving benefit” by reg. 2(2) of S.I. 1999/3083 as from 30.11.99.

“receiving benefit” means ►<sup>3</sup>receiving—

- (a) benefit which that person has claimed and received as an unemployed person or in accordance with Part I of the Act ►<sup>2</sup>or in accordance with regulation 9A of the Social Security (Credits) Regulations 1975◄; or
- (b) income support which that person has claimed and received as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations but only to the extent that—
  - (i) any periods in respect of which he was in receipt of income support as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations link with the jobseeking period which includes the date on which he started, or is due to start, the qualifying course and for this

<sup>3</sup>Words substituted in defn. of benefit by reg. 2(4) of S.I. 1998/2874 as from 24.11.98.

(a) S.I. 1975/556; regulation 8A was inserted by S.I. 1996/2367, and regulation 9A was substituted by S.I.1994/1837 and amended by S.I. 1996/2367.

(b) S.I. 1975/556; regulation 9 was substituted by S.I. 1996/2367. By virtue of regulation 4(1) of S.I. 1996/2367 for the purposes of determining whether a person is entitled to be credited with earnings in respect of any period before 7th October 1996, regulation 9(1) to (8) of S.I. 1975/556 continues to have effect as if the amendments made by S.I. 1996/2367 had not come into force.

purpose, such periods shall link where they are separated by a period of 12 weeks or less in respect of which he was not in receipt of income support; and

- (ii) he is, at the date he started, or is due to start, the qualifying course, a person to whom paragraph (7A) applies,◀

“casual employment” means employment from which the employee can be released without his giving any notice or, if he is required to give notice, employment from which he can be released before the end of the vacation;

“duration” in relation to a qualifying course means the period beginning with the start of the course and ending with the last day of the course;

“jobseeking period” means the period described in regulation 47 and any period treated as a jobseeking period pursuant to regulation 47A;

“last day” in relation to a qualifying course means the date on which the last day of the course falls, or the date on which the final examination relating to that course is completed, whichever is the later;

“qualifying course” means a course which—

- (a) is an employment-related course;
- (b) lasts no more than 12 consecutive months; and
- (c) except where it falls within paragraph (8), is either—
  - (i) a course of a description falling within Schedule 2 to the Further and Higher Education Act 1992(a); or
  - (ii) a programme of learning falling within section 6 of the Further and Higher Education (Scotland) Act 1992(b)

▶<sup>1</sup>(7A) Subject to paragraph (7B), this paragraph shall apply in the case of a person—

- (a) who—
  - (i) is a refugee within the definition of Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(c), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(d); or
  - (ii) has been granted exceptional leave(e)—
    - (aa) to enter the United Kingdom by an immigration officer appointed for the purposes of the Immigration Act 1971(f); or
    - (bb) to remain in the United Kingdom by the Secretary of State; and
- (b) who was in receipt of income support as an asylum seeker pursuant to regulation 70(3A) of the Income Support Regulations at any time during the period of 12 weeks immediately preceding the beginning of the jobseeking period which includes the date on which he started, or is due to start, the qualifying course.

<sup>1</sup>Paras.(7A) & (7B) inserted into reg. 17 by reg. 2(5) of S.I. 1998/2874 as from 24.11.98.

(7B) Paragraph (7A) shall include a person who has been recorded as a refugee by the Secretary of State within the definition in sub-paragraph (a) of that paragraph and whose claim for income support was determined in accordance with regulation 21ZA(2) or (3) of the Income Support Regulations (treatment of refugees).◀

(8) A course or a programme of learning which is of a standard above that of a course or programme of learning falling within paragraph (c) of the definition of “qualifying course” falls within this paragraph if an employment officer so determines in a particular case.◀

(a) 1992 c. 13.

(b) 1992 c. 37.

(c) Cmd. 9171.

(d) Cmnd. 3906.

(e) For a description of “ exceptional leave”, see Home Office evidence to the House of Commons Home Affairs Committee. Sub-Committee on Race Relations and Immigration (SCORRI) 1984-5 Session; 17th December 1984, paragraphs 44 to 47.

(f) 1971 c. 77 as amended by the British Nationality Act 1981 (c. 61).

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<sup>1</sup>Reg. 17B inserted by reg. 3(2) of S.I. 2012/874 as from 21.5.12.

►<sup>1</sup>**Further circumstances in which a person is to be treated as available: lone parents with children aged 5 not in full-time education**

- 17B.** A lone parent shall be treated as available for employment in any week where—
- (a) the lone parent is responsible for, and a member of the same household as, a child who is aged 5;
  - (b) the child—
    - (i) is not receiving full-time education by regular attendance at school or otherwise; and
    - (ii) is not required by law to receive full-time education; and
  - (c) it would be unreasonable for the lone parent to make other arrangements for the care of that child.◀

## CHAPTER III

## ACTIVELY SEEKING EMPLOYMENT

**Steps to be taken by persons actively seeking employment**

<sup>2</sup>Para. (1) of reg. 18 substituted by reg. 2 of S.I. 2004/1008 as from 19.4.04.

**18.**—►<sup>2</sup>(1) For the purposes of section 7(1) (actively seeking employment) a person shall be expected to have to take more than two steps in any week unless taking one or two steps is all that is reasonable for that person to do in that week.◀

(2) Steps which it is reasonable for a person to be expected to have to take in any week include—

- (a) oral or written applications (or both) for employment made to persons—
  - (i) who have advertised the availability of employment; or
  - (ii) who appear to be in a position to offer employment;
- (b) seeking information on the availability of employment from—
  - (i) advertisements;
  - (ii) persons who have placed advertisements which indicate the availability of employment;
  - (iii) employment agencies and employment businesses;
  - (iv) employers;
- (c) registration with an employment agency or employment business;
- (d) appointment of a third party to assist the person in question in finding employment;
- (e) seeking specialist advice, following referral by an employment officer, on how to improve the prospects of securing employment having regard to that person's needs and in particular in relation to any mental or physical limitations of that person;
- (f) drawing up a curriculum vitae;
- (g) seeking a reference or testimonial from a previous employer;
- (h) drawing up a list of employers who may be able to offer employment to him with a view to seeking information from them on the availability of employment;
- (i) seeking information about employers who may be able to offer employment to him;
- (j) seeking information on an occupation with a view to securing employment in that occupation.

(3) In determining whether, in relation to any steps taken by a person the requirements of section 7(1) are satisfied in any week, regard shall be had to all the circumstances of the case, including—

- (a) his skills, qualifications and abilities;
- (b) his physical or mental limitations;
- (c) the time which has elapsed since he was last in employment and his work experience;
- (d) the steps which he has taken in previous weeks and the effectiveness of those steps in improving his prospects of securing employment;
- (e) the availability and location of vacancies in employment;
- (f) any time during which he was—
  - (i) engaged in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others,
  - (ii) attending an Outward Bound course,
  - (iii) in the case of a blind person, participating in a course of training in the use of guide dogs,
  - (iv) participating in training in the use of aids to overcome any physical or mental limitations of his in order to improve his prospects of securing employment,
  - (v) engaged in duties as a member of any <sup>1</sup> reserve force prescribed in Part I of <sup>2</sup>Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>4</sup>,
  - (vi) participating as a part-time student in an employment-related course,
  - (vii) participating for less than 3 days in an employment or training programme for which a training allowance is not payable;
- (g) any time during which he was engaged in voluntary work and the extent to which it may have improved his prospects of securing employment;
- (h) whether he is treated as available for employment under regulation 14;
- (i) whether he has applied for, or accepted, a place on, or participated in, a course or programme the cost of which is met in whole or in part out of central funds or by the European Community and the purpose of which is to assist persons to select, train for, obtain or retain employed earner's employment or self-employed earner's employment; and
- (j) where he had no living accommodation in that week the fact that he had no such accommodation and the steps which he needed to take and has in fact taken to seek such accommodation.

<sup>1</sup>Words in reg. 18(3)(f)(v) omitted by reg. 3(7)(a) of S.I. 2015/389 as from 6.4.15.

<sup>2</sup>Words in reg. 18(3)(f)(v) substituted by reg. 13(3)(a) of S.I. 2006/2378 as from 2.10.06.

(4) Any act of a person which would otherwise be relevant for purposes of section 7 shall be disregarded in the following circumstances—

- (a) where in taking the act, he acted in a violent or abusive manner,
- (b) where the act comprised the completion of an application for employment and he spoiled the application,
- (c) where by his behaviour or appearance he otherwise undermined his prospects of securing the employment in question,

unless those circumstances were due to reasons beyond his control.

(5) In this regulation—

“employment agency” and “employment business” mean an employment agency or (as the case may be) employment business within the meaning of the Employment Agencies Act 1973(a);

“employment or training programme” means a course or programme the person's participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(b) for the purpose of assisting persons to select, train for, obtain or retain employed earner's employment.

(a) 1973 c. 35

(b) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

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<sup>1</sup>Reg. 18A added by reg. 4 of S.I. 1997/563 as from 11.3.97.

<sup>2</sup>Words substituted in reg. 18A(1) by reg. 4 of S.I. 1999/3087 as from 30.11.99.

<sup>3</sup>Words substituted in reg. 19(1) by reg. 2(4)(a) of S.I. 2006/1402 as from 30.5.06.

<sup>4</sup>Sub-para. (i) inserted in reg. 19(1) by reg. 5(2) of S.I. 1999/3087 as from 30.11.99.

<sup>5</sup>Reg. 19(1)(j) substituted by reg. 7(3) of S.I. 1996/1517 as from 7.10.96.

<sup>6</sup>Words in reg. 19(1)(k) substituted by reg. 4(6) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid.*

<sup>7</sup>Words inserted in reg. 19(1)(l) by reg. 3(5) of S.I. 2008/1554 as from 27.10.08.

▶<sup>1</sup>Actively seeking employment in the period at the beginning of a claim

**18A.**—(1) Paragraph (2) applies in any case ▶<sup>2</sup>, other than a case which falls within regulation 19(1)(i) or (s), ◀ where the period beginning on the date of claim and ending on the day before the beginning of the first week after the date of claim is less than 7 days.

(2) Where this paragraph applies, a person is actively seeking employment in the period referred to in paragraph (1) if he takes in that period such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment and in determining whether a person has taken such steps—

- (a) the steps which it is reasonable for him to be expected to have to take include those referred to in regulation 18(2); and
- (b) regard shall be had to all the circumstances of the case, including those matters referred to in regulation 18(3). ◀

## Circumstances in which a person is to be treated as actively seeking employment

**19.**—(1) A person shall be treated as actively seeking employment in the following circumstances, subject to ▶<sup>3</sup>paragraphs (2) and (2A)◀ and to any maximum period specified in this paragraph—

- (a) in any week during which he is participating for not less than 3 days as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;
- (b) in any week during which he is attending for not less than 3 days a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) in any week during which he is temporarily absent from Great Britain for not less than 3 days because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;
- (d) in any week during which he is engaged for not less than 3 days in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple, in any week during which he is for not less than 3 days looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course, in any week during which he is attending for not less than 3 days, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) in any week during which he is for not less than 3 days temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) in the first week after the date of claim if he is treated as available for employment to any extent in that week under regulation 14(1)(h);
- ▶<sup>4</sup>(i) for any period if he is treated as available for employment to any extent in that period under regulation 14(1)(h); ◀
- (j) ▶<sup>5</sup>if the award is terminated other than on the last day of a week, for the period beginning with the beginning of the week in which the award is terminated and ending on the day on which the award is terminated; ◀
- (k) in any week during which he is participating for not less than 3 days in a programme provided by the Venture Trust in pursuance of an arrangement made by ▶<sup>6</sup>the Scottish Ministers◀, for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) in any week during which he is for not less than 3 days treated as capable of work ▶<sup>7</sup>or as not having limited capability for work◀ in accordance with regulation 55;

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- ▶<sup>1</sup>(lz) in any week during which he is treated as capable of work or as not having limited capability for work under regulation 55ZA unless it would be reasonable for him to take steps in that week to seek employment and he has not taken such steps;◀
- ▶<sup>2</sup>(ll) in any week during which he is for not less than 3 days treated as capable of work ▶<sup>3</sup>or as not having limited capability for work◀ in accordance with regulation 55A;◀
  - (m) in any week during which he is temporarily absent from Great Britain for not less than 3 days in order to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment officer, that he will be so absent, for a maximum of 1 week;
  - (n) if he is a member of a couple ▶<sup>4</sup>other than a joint-claim couple◀ in any week during which he and his partner are both absent from Great Britain for not less than 3 days and in which a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;
  - ▶<sup>4</sup>(nn) if he is a member of a joint-claim couple, in any week during which he and his partner are both absent from Great Britain for not less than 3 days and in which a premium referred to in paragraph 20E, 20F, 20G and 20I of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;◀
    - (o) in any week during which he is treated as available for employment on not less than 3 days under regulation ▶<sup>5</sup>14(2) or (2ZA)◀;
    - (p) in any week in respect of which he has given notice to an employment officer, in writing if so required by the employment officer, that—
      - (i) he does not intend to be actively seeking employment, but
      - (ii) he does intend to reside at a place other than his usual place of residence for at least one day;
    - (q) in any week during which he is participating for not less than 3 days in an employment or training programme ▶<sup>6</sup>(other than Work Experience)◀ for which a training allowance is not payable;
  - ▶<sup>7</sup>(r) in any week, being part of a single period not exceeding 8 weeks falling within a period of continuous entitlement to a jobseeker's allowance, during which he is taking active steps to establish himself in self-employed earner's employment under any scheme for assisting persons to become so employed—
    - (i) where, in Wales, his participation under the scheme is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(a),
    - (ii) where, in Scotland, the scheme—
      - (aa) is established by virtue of arrangements made by ▶<sup>8</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990(b) or
      - (bb) is directly or indirectly provided by, or with financial assistance from, the Secretary of State,
    - (iii) where, in England, the scheme is directly or indirectly provided by, or with financial assistance from, the Secretary of State, the ▶<sup>9</sup>Homes and Communities Agency◀, an urban development corporation or a housing action trust,
 

and the single period referred to above shall begin with the week in which he is accepted on a place under the scheme.◀
  - ▶<sup>10</sup>(s) for any period if he is treated as available for employment to any extent in that period under regulation 14(1)(o).◀

<sup>1</sup>Reg. 19(lz) inserted by reg. 2(3) of S.I. 2015/339 as from 30.3.15.

<sup>2</sup>Sub-para. (ll) inserted in reg. 19 by reg. 3(3) of S.I. 2004/1869 as from 4.10.04.

<sup>3</sup>Words inserted in reg. 19(1)(ll) by reg. 3(5) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Words in sub-para. (n) & sub-para. (nn) inserted by reg. 2 of S.I. 2000/3336 as from 19.3.01.

<sup>5</sup>Words substituted in reg. 19(1)(o) by reg. 11(10) of S.I. 2008/3051 as from 24.11.08.

<sup>6</sup>Words inserted in reg. 19(1)(q) by reg. 2(3) of S.I. 2011/789 as from 5.4.11.

<sup>7</sup>Reg. 19(1)(r) substituted by reg. 5 of S.I. 1998/1274 as from 1.6.98.

<sup>8</sup>Words inserted in reg. 19(1)(r)(ii)(aa) by reg. 4(3)(c) of S.I. 2009/583 as from 6.4.09.

<sup>9</sup>Words substituted in reg. 19(1)(r)(iii) by Sch. 1, para. 7(2) of S.I. 2008/2831 as from 1.12.08.

<sup>10</sup>Sub-para. (s) inserted by reg. 5(3) of S.I. 1999/3087 as from 30.11.99.

(a) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35; section 2(3) was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(4)(a) and Schedule 10.

**Reg. 19**

<sup>1</sup>Sub-para. (t) inserted by reg. 2(7) of S.I. 2000/3336 as from 19.3.01.

<sup>2</sup>Sub-para. (u) added to reg. 19 by reg. 3(3)(b) of S.I. 2004/1869 as from 4.10.04.

<sup>3</sup>Sub-paras. (v) & (w) inserted in reg. 19 by reg. 2(4)(b) of S.I. 2006/1402 as from 30.5.06.

<sup>4</sup>Reg. 19(1)(x) inserted by reg. 2(3) of S.I. 2012/853 as from 23.4.12.

<sup>5</sup>Reg. 19(1)(y) substituted by reg. 3(4) of S.I. 2015/389 as from 6.4.15.

<sup>6</sup>Para. (2A) inserted in reg. 19 by reg. 2(4)(c) of S.I. 2006/1402 as from 30.5.06.

<sup>7</sup>Defn. of "tribunal" inserted by reg. 2(d) of S.I. 2006/1402 as from 30.5.06.

- ▶<sup>1</sup>(t) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c), for the period of any such temporary absence◀
- ▶<sup>2</sup>(u) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6AA) or, as the case may be (6C)◀
- ▶<sup>3</sup>(v) in any week during which he is, for not less than three days, required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
  - (w) if, for a maximum of 96 hours before being released, he is in—
    - (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation), or
    - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland) but is not a prisoner as defined by regulation 85(4) (special cases).◀
- ▶<sup>4</sup>(x) in any week during which he is treated as available for employment under regulation 14A.◀
- ▶<sup>5</sup>(y) in any week during which he is engaged for not less than 3 days in training as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations, either—
  - (i) if he is engaged in his first year of training, for a maximum of 43 days in that year; or
  - (ii) if he is engaged in annual continuous training, for a maximum of 15 days in any calendar year.◀

(2) In any period of 12 months a person shall be treated as actively seeking employment under paragraph (1)(p) only for the number of weeks specified in one of the following sub-paragraphs—

- (a) a maximum of 2 weeks; or
- (b) a maximum of 3 weeks during which he is attending for at least 3 days in each such week an Outward Bound course; or
- (c) if he is a blind person, a maximum of 6 weeks during which, apart from a period of no more than 2 weeks, he participates for a maximum period of 4 weeks in a course of training in the use of guide dogs of which at least 3 days in each such week is spent in that training.

▶<sup>6</sup>(2A) A person shall not be treated as actively seeking employment under paragraph (1)(v)—

- (a) for more than eight weeks,
- (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
- (c) where he is a prisoner as defined by regulation 85(4) (special cases).◀

(3) In this regulation—

“employment or training programme” means a course or programme the person’s participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973 for the purpose of assisting persons to select, train for, obtain or retain employment;

“housing action trust” means a corporation established by an order of the Secretary of State pursuant to section 62(1) of the Housing Act 1988(a);

“treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

▶<sup>7</sup>“tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992;◀

(a) 1988 c. 50.



“urban development corporation” means a corporation established by an order of the Secretary of State pursuant to section 135(1) of the Local Government, Planning and Land Act 1980(a);

▶<sup>1</sup>◀

**Further circumstances in which a person is to be treated as actively seeking employment: permitted period**

20.—(1) A person to whom paragraph (2) does not apply shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment in that week—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive.

(2) A person to whom this paragraph applies shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment, self-employed earner's employment, or employment and self-employed earner's employment in that week—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive.

(3) Paragraph (2) applies to a person who has, at any time during the period of 12 months immediately preceding the date of claim, been engaged in his usual occupation in self-employed earner's employment.

**Further circumstances in which a person is to be treated as actively seeking employment: laid off and short-time workers**

21. A person who has restricted his availability for employment in accordance with regulation 17(1) or, as the case may be, regulation 17(2), shall in any week in which he has so restricted his availability for not less than 3 days be treated as actively seeking employment in that week if he takes such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment for which he is available under regulation 17.

**▶<sup>2</sup>Further circumstances in which a qualifying person is to be treated as actively seeking employment: full-time students participating in a qualifying course**

21A. A person who is treated as available for employment in accordance with regulation 17A(3) shall be treated as actively seeking employment in any week—

- (a) which, in relation to the qualifying course, falls wholly or partly in term-time;
- (b) in which he is taking examinations relating to the qualifying course; or
- (c) which falls wholly in a vacation from the qualifying course, if in that week he takes such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment for which he is available under regulation 17A(3)(c).◀

**▶<sup>3</sup>Further circumstances in which a person is to be treated as actively seeking employment: lone parents with children aged 5 not in full-time education**

21B. A lone parent who is treated for any period as being available for employment under regulation 17B shall be treated as actively seeking employment for the same period.◀

<sup>1</sup>In reg. 19(3), defn. of “Urban Regeneration Agency” deleted by Sch. 1, para. 7(3) of S.I. 2008/2831 as from 1.12.08.

<sup>2</sup>Reg. 21A inserted by reg. 6 of S.I. 1998/1274 as from 1.6.98.

<sup>3</sup>Reg. 21B inserted by reg. 3(3) of S.I. 2012/874 as from 21.5.12.

(a) 1980 c. 65.



**Interpretation of certain expressions for the purposes of regulations 18(3)(f)(i) and 19(1)(d)**

**22.** For the purposes of regulations 18(3)(f)(i) and 19(1)(d)–

- (a) a person is engaged in duties for the benefit of others while–
  - (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
  - (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
  - (iii) assisting in measures being taken to prevent a serious threat to the health of the people,

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;

- (b) events which may give rise to an emergency include–
  - (i) a fire, a flood or an explosion,
  - (ii) a natural catastrophe,
  - (iii) a railway or other transport accident,
  - (iv) a cave or mountain accident,
  - (v) an accident at sea,
  - (vi) a person being reported missing and the organisation of a search for that person.

**CHAPTER IV**

**ATTENDANCE, INFORMATION AND EVIDENCE**

**Attendance**

**23.** ▶<sup>1</sup>A claimant shall ▶<sup>2</sup>participate in an interview in such manner, time and place◀ as an employment officer may specify by a notification which is given or sent to the claimant and which may be in writing, by telephone or by electronic means.◀

<sup>1</sup>Reg. 23 substituted by reg. 2(2) of S.I. 2000/2194 as from 11.9.00.

<sup>2</sup>Words in reg. 23 and 23A substituted by reg. 5(4) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Reg. 23A inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

**▶<sup>3</sup>Attendance by members of a joint-claim couple**

**23A.** Each member of a joint-claim couple shall ▶<sup>2</sup>participate in an interview in such manner, time and place◀ as the employment officer may specify by a notification which is given or sent to that member and which may be in writing, by telephone or by electronic means.◀

**Provision of information and evidence**

**24.—(1)** A claimant shall provide such information as to his circumstances, his availability for employment and the extent to which he is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the claimant to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount.

▶<sup>4</sup>(1A) A member of a joint-claim couple shall provide such information as to the circumstances of each or either member of a couple, the availability for employment of each or either member of the couple and the extent to which each or either member of the couple is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the couple to a jobseeker's allowance, whether that allowance is payable to the couple and, if so, in what amount.◀

<sup>4</sup>Reg. 24(1A) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

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

## Reg. 24

## (3) Where—

- (a) a jobseeker's allowance may be claimed by either member of a couple, or
- (b) entitlement to a jobseeker's allowance or whether that allowance is payable and, if so, in what amount, is or may be affected by the circumstances of either member of a couple or any member of a polygamous marriage,

the Secretary of State may require the member of the couple other than the claimant to certify in writing whether he agrees to the claimant's making the claim, or that he, or any member of a polygamous marriage, confirms the information given about his circumstances ►<sup>1</sup>, and in this paragraph "couple" does not include a joint-claim couple.◄

<sup>1</sup>Words inserted in reg. 24(3) & reg. 24(3A) & (5A) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

►<sup>1</sup>(3A) Where entitlement to a joint-claim jobseeker's allowance or whether that allowance is payable and, if so, in what amount, is or may be affected by the circumstances of any member of a polygamous marriage, the Secretary of State may require either member of the joint-claim couple to certify in writing that any member of the polygamous marriage confirms the information given about that member's circumstances.◄

(4) 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.

(5) 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.

►<sup>1</sup>(5A) A member of a joint-claim couple shall furnish such certificates, documents and other evidence affecting the continuing entitlement of the couple to a jobseeker's allowance, whether that allowance is payable to the couple and, if so, in what amount as the Secretary of State may require.◄

(6) A claimant shall, if the Secretary of State requires him to do so, provide a signed declaration to the effect that—

- <sup>2</sup>(a) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph he has either been available for employment or satisfied the circumstances to be treated as available for employment, save as he has otherwise notified the Secretary of State,◄
- (b) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph he has either been actively seeking employment to the extent necessary to give him his best prospects of securing employment or he has satisfied the circumstances to be treated as actively seeking employment, save as he has otherwise notified the Secretary of State, and
- (c) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph there has been no change to his circumstances which might affect his entitlement to a jobseeker's allowance or the ►<sup>2</sup>◄ amount of such an allowance, save as he has notified the Secretary of State.

(7) 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 ►<sup>3</sup>or, in the case of a joint-claim couple, the entitlement of the couple to a joint-claim 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,

and shall do so as soon as reasonably practicable after its occurrence or, as the case may be, after he becomes so aware, by giving notice ►<sup>4</sup>of the change to an office of the Department for Work and Pensions specified by the Secretary of State—

<sup>2</sup>Reg. 24(6)(a) substituted and words deleted in reg. 24(6)(c) by reg. 8(2) & (3) of S.I. 1996/1517 as from 7.10.96.

<sup>3</sup>Words inserted in reg. 24(7)(a), by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>4</sup>Words in reg. 24(7) substituted by reg. 4 of S.I. 2006/832 as from 10.4.06.

- (i) 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
- (ii) 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)◀

(8) Where, pursuant to paragraph (1)▶<sup>1</sup>, (1A)◀ or (2), a claimant is required to provide information he shall do so ▶<sup>2</sup>at the time he is required to participate in an interview◀ in accordance with a ▶<sup>3</sup>notification◀ under regulation 23 ▶<sup>1</sup>or 23A◀, if so required by the Secretary of State, or within such period as the Secretary of State may require.

<sup>1</sup>Words inserted in reg. 24(8) & (10) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words in reg. 24(8) & (10) substituted by reg. 5(5) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Words substituted in reg. 24(8) and (10) by reg. 2(3) of S.I. 2000/2194 as from 11.9.00.

<sup>4</sup>Words in reg. 24(9) omitted & para. (9A) inserted by reg. 3(a) & (b) of S.I. 2012/824 as from 17.4.12.

(9) Where, pursuant to paragraph (4) ▶<sup>4</sup>◀, 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.

▶<sup>4</sup>(9A) Where, pursuant to paragraph (5) or (5A), a claimant is required to provide certificates, documents or other evidence, he shall do so within the period applicable under regulation 17(4) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999.◀

(10) Where, pursuant to paragraph (6), a claimant is required to provide a signed declaration he shall provide it ▶<sup>2</sup>at the time he is required to participate in an interview◀ in accordance with a ▶<sup>3</sup>notification◀ under regulation 23 ▶<sup>1</sup>or 23A◀ or on such other day as the Secretary of State may require.

▶<sup>5</sup>(11) In this regulation, references to the “Secretary of State” include a reference to persons designated as employment officers by an Order made by the Secretary of State under section 8(3) of the Jobseekers Act 1995(a).◀

<sup>5</sup>Reg. 24(11) added by Sch. 3, para. 1(3) to S.I. 1999/3108 as from 29.11.99.

**▶<sup>6</sup>Alternative means of notifying changes of circumstances**

**24A.**—(1) In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 24(7) to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

<sup>6</sup>Reg. 24A inserted by reg. 3 of S.I. 2010/444 as from 5.4.10.

- (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 ▶<sup>7</sup>◀.◀

<sup>7</sup>Words in reg. 24A(2) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

**▶<sup>8</sup>Information given electronically**

**24B.**—(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 24 by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC to the Claims and Payments Regulations.

<sup>8</sup>Reg. 24B inserted by reg. 3(3) of S.I. 2011/1498 as from 20.6.11.

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

(a) Section 8(3) was added by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8, paragraph 29(3).

## Regs. 25-26

## Entitlement ceasing on a failure to comply

<sup>1</sup>Words in reg. 25(1) & para. (1)(a) substituted by reg. 2(2), of S.I. 2010/509 as from 6.4.10.

<sup>2</sup>Words in reg. 25(1)(a), (b)(i)(ii) & (iii) & reg. 26(b) substituted by reg. 4(3) & (4) of S.I. 2013/443 as from 2.4.13.

<sup>3</sup>Reg. 25(1)(b)(i) substituted by reg. 2 of S.I. 1999/530 as from 25.3.99.

<sup>4</sup>Words substituted in reg. 25(1) & 26 by reg. 2(4) of S.I. 2000/2194 as from 11.9.00.

<sup>5</sup>Words in reg. 25(1)(b)(i)-(ii) & (c) substituted, inserted & omitted & para. (1)(b)(iii) added by reg. 2(2) & (3)(a)-(f) of S.I. 2010/509 as from 6.4.10.

<sup>6</sup>Words in reg. 25(1)(c) substituted and inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>7</sup>Reg. 25(1A) inserted by reg. 2(3)(g) of S.I. 2010/509 as from 6.4.10.

<sup>8</sup>Words substituted to reg. 25(1A) by reg. 14(b) of S.I. 2013/276 from 6.45pm on 12.2.13.

<sup>9</sup>Words in reg. 25(1A) inserted by reg. 19 of S.I. 2014/3117 as from 25.11.14.

<sup>10</sup>Words inserted in reg. 25(1A) by reg. 15 of S.I. 2014/1913 as from 18.7.14.

<sup>11</sup>Words added to reg. 25(1A) by reg. 16(a) of S.I. 2011/688 as from 25.4.11.

<sup>12</sup>Words inserted in reg. 25(1A) by reg. 16(a) of S.I. 2011/197 as from 20.5.11.

<sup>13</sup>Words substituted in reg. 26 by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>14</sup>Words substituted in reg. 26(a) by reg. 9 of S.I. 1996/1517 as from 7.10.96.

<sup>15</sup>Words substituted in reg. 26(b) & (c) by Pt. I of the Sch. to S.I. 1996/1516 as from 7.10.96.

**25.—(1)** Entitlement to a jobseeker's allowance shall cease in the following circumstances—

(a) if a claimant fails to participate in an interview on the day specified in a relevant notification, and fails to make contact with an employment officer in the manner set out in that notification before the end of the period of five working days beginning with the first working day after the day on which the claimant failed to participate in an interview;

(b) if—

(i) that claimant makes contact with an employment officer on the day specified in the relevant notification but fails to participate in an interview at the time specified in that notification, and the Secretary of State has informed that claimant in writing that a failure to participate in an interview, on the next occasion on which he is required to participate in an interview, at the time specified in such a notification may result in his entitlement to a jobseeker's allowance ceasing, or the benefit not being payable for a period; and

(ii) he fails to participate at the time specified in such a notification on the next occasion;

(iii) that claimant fails to make contact with an employment officer in the manner set out in such a notification before the end of the period of five working days beginning with the first working day after the day on which that claimant failed to participate at the time specified;

(c) subject to regulation 27, if that claimant was required to provide a signed declaration as referred to in regulation 24(6) and he fails to provide it on the day on which he ought to do so in accordance with regulation 24(10).

(2) In this regulation, “an employment programme” and “a training scheme” have the meaning given in regulation 75.

*\*See reg. 18(a) of S.I. 2010/1222 at page 11.7185 for details of the modifications of this reg. in certain situations as from 22.11.10.*

<sup>7</sup>(1A) In this regulation and in regulations 27A, 28 and 30—

“relevant notification” means a notification under regulation 23 or 23A, other than a notification requiring attendance under an employment programme or a training scheme<sup>8</sup>, under a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013<sup>9</sup>, under a scheme prescribed in regulation 3 of the Jobseeker's Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014<sup>10</sup>, under a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014<sup>11</sup> or under the Mandatory Work Activity Scheme<sup>12</sup>; <sup>12</sup>under the Employment, Skills and Enterprise Scheme;

“working day” means any day on which the appropriate office is not closed.

**Time at which entitlement is to cease**

**26.** Entitlement to a jobseeker's allowance shall cease in accordance with regulation 25 on whichever is the earlier of—

- the day after the last day in respect of which that claimant has provided information or evidence which shows that he continues to be entitled to a jobseeker's allowance,
- if regulation 25(1)(a) or (b) applies, the day on which he was required to participate in an interview, and
- if regulation 25(1)(c) applies, the day on which he ought to have provided the signed declaration,

provided that it shall not cease earlier than the day after he last participated in an interview in compliance with a notification under regulation 23 or 23A.

**►<sup>1</sup>Where entitlement is not to cease under regulation 25(1)(c)**

**27.** Entitlement to a jobseeker's allowance is not to cease by virtue of regulation 25(1)(c) if, before the end of the period of five working days beginning with the first working day after the day on which a claimant ("C") failed to provide a signed declaration in accordance with regulation 24(10), C makes contact with an employment officer in the manner set out in a notification under regulation 23 or 23A and shows that C had ►<sup>2</sup>a good reason◄ for the failure.

[Regulations 27A to 30 are revoked by reg. 5(7) of S.I. 2012/2568.]

<sup>1</sup>Reg. 27 substituted for regs. 27-27B by reg. 2(3)-(5) of S.I. 2010/509 as from 6.4.10.

<sup>2</sup>Words in reg. 27 substituted by reg. 5(6) of S.I. 2012/2568 as from 22.10.12.

**CHAPTER V**

**JOBSEEKER'S AGREEMENT**

**Contents of Jobseeker's Agreement**

**31.** The prescribed requirements for a jobseeker's agreement are that it shall contain the following information—

- (a) the claimant's name;
- (b) where the hours for which the claimant is available for employment are restricted in accordance with regulation 7, the total number of hours for which he is available and any pattern of availability;
- (c) any restrictions on the claimant's availability for employment, including restrictions on the location or type of employment, in accordance with regulations 5, 8, 13 ►<sup>3</sup>, 13A◄ and 17;
- (d) a description of the type of employment which the claimant is seeking;
- (e) the action which the claimant will take—
  - (i) to seek employment; and
  - (ii) to improve his prospects of finding employment;
- (f) the dates of the start and of the finish of any permitted period in his case for the purposes of sections 6(5) and 7(5);
- (g) a statement of the claimant's right—
  - (i) to have a proposed jobseeker's agreement referred to ►<sup>4</sup>the Secretary of State◄
  - (ii) to seek a ►<sup>4</sup>revision or supersession◄ of any determination of, or direction given by, ►<sup>4</sup>the Secretary of State◄; and
  - (iii) to appeal to ►<sup>4</sup>an appeal tribunal◄ against any determination of, or direction given by, ►<sup>4</sup>the Secretary of State◄ following a ►<sup>4</sup>revision or supersession◄;
- (h) the date of the agreement.

<sup>3</sup>Word inserted in reg. 31(c) by reg. 2(11) of S.I. 2010/837 as from 26.4.10.

<sup>4</sup>Words substituted in reg. 31(g) by para. 1 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.





**Back-dating of a Jobseeker's Agreement** ▶<sup>1</sup>◀

**32.** In giving a direction under section 9(7)(c), ▶<sup>1</sup>the Secretary of State◀ shall take into account all relevant matters including—

- (a) where the claimant refused to accept the agreement proposed by the employment officer, whether he was reasonable in so refusing;
- (b) where the claimant has signified to the employment officer or to ▶<sup>1</sup>the Secretary of State◀ that the claimant is prepared to accept an agreement which differs from the agreement proposed by the employment officer, whether the terms of the agreement which he is prepared to accept are reasonable;
- (c) where the claimant has signified to the employment officer or to ▶<sup>1</sup>the Secretary of State◀ that the claimant is prepared to accept the agreement proposed by the employment officer, that fact;
- (d) the date on which, in all the circumstances, he considers that the claimant was first prepared to enter into an agreement which ▶<sup>1</sup>the Secretary of State◀ considers reasonable; and
- (e) where the date on which the claimant first had an opportunity to sign a jobseeker's agreement was later than the date on which he made a claim, that fact.

<sup>1</sup>Words deleted and substituted in reg. 32 & 33 by paras. 2 and 3 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

**Notification of Determinations and Directions under Section 9**

**33.** The claimant shall be notified of—

- (a) any determination of ▶<sup>1</sup>the Secretary of State◀ under section 9;
- (b) any direction given by ▶<sup>1</sup>the Secretary of State◀ under section 9.

**Jobseeker's Agreement treated as having been made**

**34.** A claimant is to be treated as having satisfied the condition mentioned in section 1(2)(b)—

- (a) where he is permitted to make a claim for a jobseeker's allowance without attending at an office of the ▶<sup>2</sup>Department for Work and Pensions◀, for the period beginning with the date of claim and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (b) where, after the date of claim, the claim is terminated before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (c) as long as he is treated as available for employment in accordance with regulation 14 where the circumstances set out in that regulation arise after the date of claim and before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (d) as long as there are circumstances not peculiar to the claimant which make impracticable or unduly difficult the normal operation of the provisions governing, or the practice relating to, the claiming, awarding or payment of jobseeker's allowance;
- ▶<sup>3</sup>(e) where the claimant was in receipt of a training allowance and was, in accordance with regulation 170, entitled to an income-based jobseeker's allowance without being available for employment, having entered into a jobseeker's agreement or actively seeking employment, for the period beginning with the date on which regulation 170 ceased to apply to him and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement.◀
- ▶<sup>4</sup>(f) if he is temporarily absent from Great Britain in the circumstances prescribed in regulation 50(6B)(a) or (c), for the period of any such temporary absence.◀
- ▶<sup>5</sup>(g) in any period during which he is treated as available for employment under regulation 14A if the claimant has not entered into a jobseeker's agreement before that period begins.◀

<sup>2</sup>Words in reg. 34(a) substituted by para. 26 of the Sch. to S.I. 2002/1397 as from 27.6.02.

<sup>3</sup>Reg. 34(e) inserted by reg. 3 of S.I. 1996/1516 as from 7.10.96.

<sup>4</sup>Reg. 34(f) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>5</sup>Reg. 34(g) inserted by reg. 2(4) of S.I. 2012/853 as from 23.4.12.

## Regs. 35-36

**Automatic Back-dating of Jobseeker's Agreement**

**35.** Where a jobseeker's agreement is signed on a date later than the date of claim and there is no reference of that agreement to ►<sup>1</sup>the Secretary of State◄ under section 9(6), the agreement shall be treated as having effect on the date of claim.

<sup>1</sup>Words substituted in reg. 35 by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

**Jobseeker's Agreement to remain in effect**

**36.** A jobseeker's agreement entered into by a claimant shall not cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him—

- (a) where a further claim for a jobseeker's allowance is made within a period not exceeding 14 days; or
- <sup>2</sup>(b) in respect of any part of a period of suspension, where—
  - (i) the Secretary of State has directed under regulation 37(1A) of the Claims and Payments Regulations(a) that payment under an award be suspended for a definite or indefinite period on the ground that a question arises whether the conditions for entitlement to that allowance are or were fulfilled or the award ought to be revised,
  - (ii) subsequently that suspension expires or is cancelled in respect of a part only of the period for which it has been in force, and
  - (iii) it is then determined that the award should be revised to the effect that there was no entitlement to the allowance in respect of all or any part of the period between the start of the period over which the award has been suspended and the date when the suspension expires or is cancelled; or◄
- (c) for as long as the claimant satisfies the conditions of entitlement to national insurance credits, other than any condition relating to the existence of a jobseeker's agreement, in accordance with the Social Security (Credits) Regulations 1975(b).

<sup>2</sup>Reg. 36(b) substituted by reg. 10 of S.I. 1996/1517 as from 7.10.96.

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(a) Paragraph (1A) was inserted by S.I. 1996/1460.

(b) S.I. 1975/556; relevant amending instruments are S.I. 1976/1736; 1977/788; 1978/409; 1981/1501; 1982/96; 1983/197; 1987/414; 1987/687; 1988/516; 1988/1545; 1989/1627; 1992/726; 1994/1837 and 1995/829.

**Variation of Jobseeker's Agreement**

37. The prescribed manner for varying a jobseeker's agreement shall be in writing and signed by both parties in accordance with section 10(2) on the proposal of the claimant or the employment officer.

**Direction to vary Agreement: time for compliance**

38. The prescribed period for the purposes of section 10(6)(c) shall be the period of 21 days beginning with the date on which the direction was issued.

**Variation of Agreement: matters to be taken into account**

39. In giving a direction under section 10(6)(b) or (d) ►<sup>1</sup>the Secretary of State◄ shall take into account the preference of the claimant if he considers that both the claimant's proposals and those of employment officer satisfy the requirements of section 10(5).

<sup>1</sup>Words substituted in regs. 39 & 40 by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

**Notification of Determinations and Directions under Section 10**

40. The claimant shall be notified of—

- (a) any determination of ►<sup>1</sup>the Secretary of State◄ under section 10;
- (b) any direction of ►<sup>1</sup>the Secretary of State◄ under section 10.

41–45. ►<sup>2</sup>◄

<sup>2</sup>Reg. 41 to 45 revoked by para. 4 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

►<sup>3</sup>**The contribution-based conditions and relevant earnings**

45A.—(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.

<sup>3</sup>Reg. 45A inserted by reg. 2 of S.I. 2010/2446 as from 1.11.10.

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

►<sup>4</sup>**Relaxation of the first set of conditions**

45B.—(1) A claimant who ►<sup>5</sup>◄ satisfies the condition in paragraph (2) is to be taken to satisfy the first set of conditions (a) if the claimant has—

<sup>4</sup>Reg. 45B inserted by reg. 2 of S.I. 2011/2862 as from 1.1.12.

- (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.

<sup>5</sup>Word omitted in reg. 45B(1) by reg. 6(4) of S.I. 2013/2536 as from 29.10.13.

(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(b) (credits for certain spouses and civil partners of members of Her Majesty's forces).◄

(a) "The first set of conditions" is defined for the purpose of section 2(3B) of the Jobseekers Act 1995 (the enabling power) in section 2(3C) of that Act, which was also inserted by section 12(5) of the 2009 Act.

(b) S.I. 1975/556. Regulation 9E was inserted by regulation 2(3) of S.I. 2010/385.

## OTHER CONDITIONS OF ENTITLEMENT

**Waiting Days**

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

<sup>1</sup>Words inserted in reg. 46(1)(a) & (d) by reg. 3(6)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Words in reg. 46(1)(a) & (d) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>3</sup>Words inserted in reg. 46(1)(b) & 47(2)(b) & regs. 46(1)(c), (d) & (e) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

- (a) a person's entitlement to a jobseeker's allowance commences within 12 weeks of an entitlement of his to income support, incapacity benefit <sup>1</sup>, employment and support allowance <sup>2</sup> or <sup>2</sup>carer's allowance <sup>2</sup> 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) <sup>3</sup>; or
- <sup>3</sup>(c) a joint-claim couple are entitled to a joint-claim jobseeker's allowance in respect of themselves and that paragraph of that Schedule has already applied to one member of that couple in respect of a jobseeker's period which is linked to a jobseeking period relating to that member which has commenced by virtue of his having claimed a jobseeker's allowance as a member of that couple;
- (d) a joint-claim couple have claimed a jobseeker's allowance jointly within 12 weeks of either member of that couple being entitled to a jobseeker's allowance, income support, incapacity benefit <sup>1</sup>, employment and support allowance <sup>2</sup> or <sup>2</sup>carer's allowance <sup>2</sup>;
- (e) a member of a joint-claim couple is both in receipt of a training allowance and the nominated member for the purposes of section 3B. <sup>4</sup>

(2) In the case of a person to whom paragraph 4 of Schedule 1 to the Act applies, the number of days is <sup>4</sup>7 <sup>4</sup>.

<sup>4</sup>Word in reg. 46(2) substituted by reg. 2(1) of S.I. 2014/2309 as from 27.10.14. (See reg. 4(1) for transitional provisions before this date).

**Jobseeking Period**

**47.—**(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 (a) to (c) and (e) to (i) of subsection (2) of section 1 (conditions of entitlement to a jobseeker's allowance).

*See art. 13 of S.I. 2013/983 (c. 41) at page 14.3231 for details of the modifications to this reg. in certain situations (continuity of jobseeking periods in case of transition from new style JSA)*

(2) Any period in which—

- (a) a claimant does not satisfy any of the requirements in section 1(2)(a) to (c), and
- (b) a jobseeker's allowance is payable to him in accordance with Part IX (Hardship) <sup>5</sup> or, where the claimant is a member of a joint-claim couple, a jobseeker's allowance is payable in accordance with Part IXA (hardship) <sup>4</sup>,

shall, for the purposes of paragraph (1), be treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1.

<sup>5</sup>Reg. 47(2A) inserted by reg. 2(4) of S.I. 1996/2538 as from 28.10.96.

<sup>5</sup>(2A) 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(a) shall, for the purposes of paragraph (1), be treated as a period in which he satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1. <sup>4</sup>

(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; <sup>6</sup> <sup>4</sup>
- (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

<sup>6</sup>Words deleted from reg. 47(3)(b) by reg. 2(1) of S.I. 1999/714 as from 6.4.99.

(a) S.I. 1995/3276; relevant amending instrument is S.I. 1996/1515.

claim by virtue of section 1(2) of the Administration Act (limits for backdating entitlement), that period;

- (d) where—
  - (i) a claimant satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1; and
  - (ii) entitlement to a jobseeker's allowance ceases in accordance with regulation 25 (entitlement ceasing on a failure to comply), the period beginning with the date in respect of which, in accordance with regulation 26, entitlement ceases and ending with the day before the date in respect of which the claimant again becomes entitled to a jobseeker's allowance; or
- (e) any week in which a claimant is not entitled to a jobseeker's allowance in accordance with section 14 (trade disputes).
- ▶<sup>1</sup>(f) subject to regulation 2A(a), any period in respect of which the claimant is not entitled to a jobseeker's allowance because section 1(1A) of the Administration Act(b) (requirement to state national insurance number) applies.◀

<sup>1</sup>Reg. 47(3)(f) inserted by reg. 3 of S.I. 1999/2226 as from 6.9.99.

*See reg. 18(b) of S.I. 2010/1222 at page 11.7185 for details of the modification of this reg. in certain situations.*

(4) For the purposes of section 5 (duration of a contribution-based jobseeker's allowance) any day—

- (a) which fall within a jobseeking period ▶<sup>2</sup>and either◀;
- ▶<sup>2</sup>(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 contribution-based jobseeker's allowance is not payable to the claimant by virtue of ▶<sup>3</sup>section 19 or 19A or regulation 69B◀▶<sup>4</sup>or on which the claimant is a member of a joint-claim couple and a joint-claim jobseeker's allowance is not payable or is reduced because he is subject to sanctions by virtue of ▶<sup>3</sup>section 19 or 19A or regulation 69B◀◀▶<sup>5</sup>or by virtue of a restriction imposed pursuant to ▶<sup>6</sup>◀▶<sup>7</sup>section ▶<sup>8</sup>6B,◀ 7, 8 or 9 of the Social Security Fraud Act 2001◀ (loss of benefit provisions)◀; or
- (c) which all within a period which is treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1, in accordance with paragraph (2)◀.

<sup>2</sup>Words added to reg. 47(4)(a) & reg. 47(4)(b) & (c) substituted by reg. 14(3) of S.I. 1996/1517 as from 7.10.96.

<sup>3</sup>Words in reg. 47 substituted by reg. 5(8) of S.I. 2012/2568 as from 22.10.12.

<sup>4</sup>Words inserted in reg. 47(4)(b)(ii) by reg. 2(5) of S.I. 2001/518 as from 19.3.01.

<sup>5</sup>Words added to reg. 47(4)(b)(ii) by reg. 2(4)(a) of S.I. 2001/1711 as from 15.10.01.

<sup>6</sup>Words in reg. 47(4)(b)(ii) omitted by reg. 3(2) of S.I. 2010/424 for effective commencement date, see reg. 1(3) of S.I. 2010/424.

<sup>7</sup>Words in reg. 47(4)(b)(ii) inserted by reg. 7 of S.I. 2002/490 as from 1.4.02.

<sup>8</sup>Words inserted in reg. 47(4)(b)(ii) by reg. 11(2) of S.I. 2010/1160 as from 1.4.10.

<sup>9</sup>Reg. 47A inserted by reg. 2(5) of S.I. 1996/2538 as from 28.10.96.

<sup>10</sup>Reg. 47A renumbered & words in para. (1)(za) deleted by reg. 16(1) of S.I. 1998/563 as from 1.4.98.

<sup>11</sup>Reg. 47A(1)(za) inserted by reg. 2(a) of S.I. 1997/2677 as from 1.12.97.

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

▶<sup>9</sup>**Jobseeking periods: periods of interruption of employment**

**47A.**—▶<sup>10</sup>(1)◀ For the purposes of section 2(4)(b)(i) and for determining any waiting days—

- ▶<sup>11</sup>(za) where a linked period commenced before 7th October 1996 ▶<sup>10</sup>◀, 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◀; or
- (a) 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
- (b) 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,

(a) Regulation 2A was inserted by S.I. 1997/2676.

(b) 1992 c. 5. Section 1(1A) was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 19.

**Regs. 47A-48**

<sup>1</sup>Words inserted in reg. 47A(1) by reg. 2(b) of S.I. 1997/2677 as from 1.12.97.

<sup>2</sup>Reg. 47A(2) inserted by reg. 16(2) of S.I. 1998/563 as from 6.4.98.

<sup>3</sup>Reg. 48(1)(d) substituted by reg. 15 of S.I. 1996/1517 as from 7.10.96.

<sup>4</sup>Words in reg. 48(2)(a) substituted by reg. 3(4) of S.I. 2003/511 as from 1.4.03.

<sup>5</sup>Reg. 48(2)(bb) added by reg. 3(7) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Words in reg. 48(2)(c) inserted by reg. 4(4) of S.I. 2014/884 as from 18.5.14.

<sup>7</sup>Reg. 48(2)(e) inserted by reg. 2(6)(a) of S.I. 1996/2538 as from 28.10.96.

<sup>8</sup>Year inserted in reg. 48(2)(e) by reg. 2(4) of S.I. 1997/454 as from 7.4.97.

<sup>9</sup>Reg. 48(2)(f) inserted by reg. 4 of S.I. 1997/2863 as from 5.1.98.

<sup>10</sup>Words inserted in reg. 48(2)(f)(i) by reg. 2(3) of S.I. 2002/2314 as from 14.10.02.

<sup>11</sup>Reg. 48(2)(f)(ii) substituted by reg. 3 of S.I. 2001/1029 as from 9.4.01.

<sup>12</sup>Words in reg. 48(2)(f)(ii) substituted by reg. 4(7) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid.*

<sup>13</sup>Reg. 48(2)(g) added by reg. 4(4)(a) of S.I. 2000/724 as from 3.4.00.

shall be treated as a jobseeking period <sup>1</sup>and, for the purposes of paragraph (za), 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(a) and with any regulations made under that section, as in force on 6th October 1996<sup>2</sup>

<sup>2</sup>(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) (b) as in force on 6th October 1996.

**Linking Periods**

**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;

<sup>3</sup>(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 (3), any period throughout which the claimant is entitled to <sup>4</sup>a carer's allowance<sup>4</sup> 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 XIIIA of the Benefits Act(c);

<sup>5</sup>(bb) 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;<sup>5</sup>

(c) any period throughout which the claimant was entitled to a maternity allowance under section 35 <sup>6</sup>or 35B<sup>6</sup> of the Benefits Act;

(d) any period throughout which the claimant was engaged in training for which a training allowance is payable;

<sup>7</sup>(e) a period which includes 6th October <sup>8</sup>1996<sup>8</sup> 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.<sup>7</sup>

<sup>9</sup>(f) any period throughout which the claimant was participating—

(i) in the <sup>10</sup>Self-Employed<sup>10</sup> Employment Option of the New Deal as specified in regulation 75(1)(a)(ii)(aa);

<sup>11</sup>(ii) in the Voluntary Sector Option of the New Deal specified in regulation 75(1)(a)(ii)(bb), in the Environment Task Force Option of the New Deal specified in regulation 75(1)(a)(ii)(cc) <sup>12</sup>or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)<sup>12</sup> and was not entitled to a jobseeker's allowance because, as a consequence of his participation, the claimant was engaged in remunerative work or failed to satisfy the condition specified either in section 2(1)(c) or in section 3 (1)(a).<sup>11</sup>

<sup>13</sup>(g) any period throughout which the claimant was participating in an employment zone programme and was not entitled to a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).<sup>13</sup>

(a) 1992 c. 4; section 25A was inserted by paragraph 5 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

(b) Section 25A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), Schedule 1 and repealed by the Jobseekers Act 1995 (c. 18), Schedule 3 paragraphs 5.

(c) Part XIIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.

**Regs. 48-49**

▶<sup>1</sup>(2A) 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.◀

<sup>1</sup>Reg. 48(2A) inserted by reg. 2(6)(b) of S.I. 1996/2538 as from 28.10.96.

(3) A period of entitlement to ▶<sup>2</sup>carer's allowance◀ shall be a linked period only where it enables the claimant to satisfy contribution conditions for entitlement to a contribution-based jobseeker's allowance which he would otherwise be unable to satisfy.

<sup>2</sup>Words in reg. 48(3) substituted by reg. 3(5) of S.I. 2003/511 as from 1.4.03.

**Persons approaching Retirement and the Jobseeking Period**

**49.—**(1) ▶<sup>3</sup>Subject to paragraph (5),◀ the provisions of this regulation apply only to days which fall—

<sup>3</sup>Words in reg. 49(1) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

- (a) after 6th October 1996; and
- (b) within a tax year in which the claimant has attained ▶<sup>4</sup>the qualifying age for state pension credit◀ but is under pensionable age,

<sup>4</sup>Words substituted in reg. 49(1)(b) by reg. 11(2) of S.I. 2009/1488 as from 6.4.10.

and 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 contribution-based 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 contribution-based jobseeker's allowance but the amount payable is reduced to Nil by virtue of deductions made in accordance with regulation 81 for pension payments.

▶<sup>5</sup>(2) For the purposes of paragraph (1) of regulation 47 (jobseeking period) but subject to paragraph ▶<sup>6</sup>(3), (4) and (4A)◀ any days to which paragraph (1) applies and in respect of which the person does not satisfy or is not treated in accordance with regulation 14, 16, 17, 19, 20, 21 or 34 as satisfying the conditions specified in paragraphs (a) to (c) 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 paragraph (a) to (c) and (e) to (i) of subsection (2) of section (1).◀

<sup>5</sup>Reg. 49(2) substituted and reg. 49(3)(a) deleted by reg. 16 of S.I. 1996/1517 as from 7.10.96.

(3) Where a person—

<sup>6</sup>Words substituted in reg. 49(2) and para. (4A) inserted by reg. 3(8)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

- (a) ▶<sup>5</sup>◀
- (b) is employed as an employed earner or 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), 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).

▶<sup>6</sup>(4A) 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).◀

▶<sup>7</sup>(5) This regulation shall not apply in respect of any days in respect of which a joint-claim jobseeker's allowance has been claimed.◀

<sup>7</sup>Reg. 49(5) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

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(a) Section 30C was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 3.

**Persons temporarily absent from Great Britain**

**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 paragraphs (2), (3) and (4);
- (b) not exceeding 8 weeks in the circumstances specified in paragraph (5).

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

- (a) the claimant is in Northern Ireland and satisfied 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) while absent from Great Britain, the claimant continues to satisfy, or be treated as satisfying, the other conditions of entitlement to a jobseeker's allowance; and
- (d) is one of a couple, both of whom are absent from Great Britain, where a premium referred to in paragraphs 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of the claimant's partner.

(4) The circumstances of this paragraph are that—

- (a) while absent from Great Britain the person is in respect of a training allowance; and
- (b) regulation 170 (person in receipt of training allowance) applies in his case; and
- (c) immediately preceding his absence from Great Britain, he was entitled to a jobseeker's allowance.

(5) 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.

(6) 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 employment officer before departure, and is given in writing if so required by the officer; and
- (d) on his return to Great Britain the person satisfies the employment officer that he attended for the interview in accordance with his notice.

▶<sup>1</sup>(6AA) 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

▶<sup>2</sup>(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 Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);
- (ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or
- (iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.◀◀

▶<sup>3</sup>(6A) A member of a joint-claim couple shall be treated, for the purposes of the Act, as being in Great Britain where he is a member of a transitional case couple as defined for the purposes of paragraph 8A(2) of Schedule 1 to the Act and, as at the date on which Schedule 7 to the Welfare Reform and Pensions Act 1999 comes into force—

- (a) he is temporarily absent from Great Britain; or
- (b) he has made definite arrangements to be temporarily absent from Great Britain from some future date,

and that member shall be so treated during any such period of temporary absence from Great Britain—

(6B) A member of a joint-claim couple shall be treated, for the purposes of the Act, as being in Great Britain during any period of temporary absence from Great Britain—

- (a) not exceeding 4 weeks where he is in Northern Ireland and the period of absence is unlikely to exceed 52 weeks;
- (b) not exceeding 4 weeks where he is in receipt of a training allowance during the period of absence and regulation 170 applies in his case; or
- (c) not exceeding 7 days where the absence is for the purposes of attending an interview for employment,

where that member is so temporarily absent as at the date of claim by the other member of that couple.◀

<sup>1</sup>Reg. 50(6AA) inserted by reg. 4(a) of S.I. 2004/1869 as from 4.10.04.

<sup>2</sup>Reg. 50(6AA)(b) substituted by reg. 4(3) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>Regs. 50(6A) & (6B) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

## Regs. 50-51

<sup>1</sup>Reg. 50(6C) inserted by reg. 4(b) of S.I. 2004/1869 as from 4.10.04.

<sup>2</sup>Reg. 50(6C)(b) substituted by reg. 4(3) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>Reg. 50(6D) inserted by reg. 3(2) of S.I. 2012/2575 as from 5.11.12.

<sup>4</sup>Words in reg. 50(6D)(a) omitted by reg. 3(7)(b) of S.I. 2015/389 as from 6.4.15.

<sup>5</sup>Words substituted in regs. 51(1) & (2) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>6</sup>Reg. 51(1)(c) added by reg. 9(2) of S.I. 1996/1516 as from 7.10.96.

<sup>7</sup>Words substituted in reg. 51(1) by reg. 2(5) of S.I. 1997/454 as from 7.4.97.

►<sup>1</sup>(6C) For the purposes of the Act a member of a joint-claim couple (“the first member”) shall be treated as being in Great Britain during any period of temporary absence if—

(a) he and the other member of that couple were entitled to a joint-claim jobseeker's allowance immediately before the beginning of that period of temporary absence; and

►<sup>2</sup>(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 Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);

(ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or

(iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.◀◀

►<sup>3</sup>(6D) For the purposes of the Act, a person (“P”) shall be treated as being in Great Britain during any period of temporary absence from Great Britain not exceeding 15 days where—

(a) P's absence is for the purpose of taking part in annual continuous training as a member of any ►<sup>4</sup>◀ reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations; and

(b) P or P's partner was entitled to a jobseeker's allowance immediately before the period of absence began.◀

(7) 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;

“employment officer” means a person who is an employment officer for the purposes of sections 9 and 10.

### Remunerative Work

51.—(1) For the purposes of the Act “remunerative work” means—

(a) in the case of ►<sup>5</sup>a claimant◀, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; and

(b) in the case of any partner of the claimant, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 24 hours per week; ►<sup>6</sup>and

(c) in the case of a non-dependant, or of a child or young person to whom paragraph 18 of Schedule 6 refers, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week;◀

and for those purposes, ►<sup>7</sup>“work” is work◀ for which payment is made or which is done in expectation of payment.

(2) For the purposes of paragraph (1), the number of hours which ►<sup>5</sup>a claimant◀ or his partner 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, and sub-paragraph (c) does not apply, 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 <sup>1</sup>supersession<sup>◀</sup>, 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;

(c) <sup>2</sup>▶◀

(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 (h) 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 <sup>3</sup>▶◀<sup>4</sup>, the care component of disability living allowance at the highest or middle rate<sup>5</sup>, armed forces independence payment<sup>◀</sup> or the daily living component of personal independence payment at the standard or enhanced rate<sup>◀</sup>; or
  - (ii) a person who has claimed an attendance allowance <sup>3</sup>▶◀<sup>4</sup>, a disability living allowance<sup>5</sup>, armed forces independence payment<sup>◀</sup> or personal independence payment<sup>◀</sup>, 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 <sup>3</sup>▶◀ is in receipt of a <sup>6</sup>carer's allowance<sup>◀</sup> under Section 70 of the Benefits Act<sup>◀◀3</sup>; or
  - (iv) a person who has claimed either attendance allowance or disability living allowance and has an award of attendance 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,<sup>◀◀4</sup> or
  - (v) a person who has claimed personal independence payment and has an award of the daily living component at the standard or enhanced rate under section 78 of the 2012 Act for a period commencing after the date on which that claim was made<sup>◀◀5</sup>; or
  - (vi) a person who has claimed and has an award of armed forces independence payment for a period commencing after the date on which that claim was made.<sup>◀</sup>

(4)-(5) <sup>7</sup>▶◀

**Persons treated as engaged in remunerative work**

52.—(1) Except in the case of a person on maternity leave<sup>8</sup>, paternity leave, adoption leave<sup>9</sup>, shared parental leave<sup>◀◀</sup> 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 <sup>10</sup>a good reason<sup>◀</sup> or by reason of a recognised customary or other holiday.

(2) For the purposes of an income-based jobseeker's allowance <sup>11</sup>▶ but not a joint-claim jobseeker's allowance<sup>◀</sup>, the partner of a claimant shall be treated as engaged in remunerative work where—

- (a) the partner is or was involved in a trade dispute; and
- (b) had the partner claimed a jobseeker's allowance, section 14 (trade disputes) would have applied in his case; and
- (c) the claimant was not entitled to an income-based jobseeker's allowance when the partner became involved in the trade dispute;

and shall be so treated for a period of 7 days beginning on the date the stoppage of work at the partner's place of employment commenced, or if there was no stoppage of work, the date on which the partner first withdrew his labour in furtherance of the trade dispute.

<sup>1</sup>Words substituted in reg. 51(2)(b)(ii) by para. 5 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>2</sup>Reg. 51(2)(c) omitted by reg. 4(4) of S.I. 2009/583 as from 6.4.09.

<sup>3</sup>Words deleted in reg. 51(3)(c)(i) & (ii), words inserted in para. (c)(iii) and head (iv) added by reg. 9(3) & (4) of S.I. 1996/1516 as from 7.10.96.

<sup>4</sup>Words substituted & inserted in reg. 51(3) by para. 16(3) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>5</sup>Words in reg. 51(3)(c) (i), (ii), (v) & head (vi) inserted by para. 10(3) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>6</sup>Words in reg. 51(3)(c)(iii) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>7</sup>Paragraphs (4) and (5) of reg. 51 deleted by reg. 10(3) of Part 3 of S.I. 2011/2425 as from 31.10.11.

<sup>8</sup>Words in reg. 52(1) inserted by reg. 3(4) of S.I. 2002/2689 as from 8.12.02.

<sup>9</sup>Words in reg. 52(1) inserted by art. 7(4) of S.I. 2014/3255 as from 31.12.14.

<sup>10</sup>Words in reg. 52(1) substituted by reg. 5(9) of S.I. 2012/2568 as from 22.10.12.

<sup>11</sup>Words inserted in reg. 52(2) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

## Regs. 52-53

<sup>1</sup>Words inserted in reg. 52(2A) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

►<sup>1</sup>(2A) For the purposes of a joint-claim jobseeker's allowance, a member of a joint-claim couple shall be treated as engaged in remunerative work where—

- (a) he is or was involved in a trade dispute;
- (b) had the joint-claim couple of which he is a member claimed a jobseeker's allowance jointly, section 14 (trade disputes) would have applied in the case of one or both members of that couple; and
- (c) the joint-claim couple were not entitled to a joint-claim jobseeker's allowance when that member of the joint-claim couple became involved in the trade dispute,

and shall be so treated for a period of 7 days beginning on the date the stoppage of work commenced at that member's place of employment or, if there was no stoppage of work, the date on which that member first withdrew his labour in furtherance of the trade dispute.◀

<sup>2</sup>Words substituted in reg. 52(3) and para. (3A) added by reg. 8(4)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

(3) ►<sup>2</sup>Subject to paragraph (3A), a person◀ who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which ►<sup>3</sup>regulation ►<sup>4</sup>98(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 VIII.

<sup>3</sup>Words substituted in reg. 52(3) by Sch., Pt. II to S.I. 1996/1516 as from 7.10.96.

►<sup>2</sup>(3A) Paragraph (3) shall not apply to earnings disregarded under paragraph 1 of Schedule 6 to these regulations.◀

<sup>4</sup>Words in reg. 52(3) substituted by reg. 4(8) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid.*

(4)-(6) ►<sup>5</sup>◀

<sup>5</sup>Paras. (4) to (6) deleted from reg. 52 by reg. 12(a) of S.I. 2001/488 as from 9.4.01.

### Persons treated as not engaged in remunerative work

**53.** 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 which is to be disregarded under regulation 103(2) and paragraph 2 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings); ►<sup>6</sup>and in this paragraph "volunteer" means a person who is engaged in voluntary work, otherwise than for a relative, 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.◀

<sup>6</sup>Words inserted in reg. 53(a) by reg. 4(5) of S.I. 2010/641 as from 1.4.10.

- (b) he is engaged on a scheme for which a training allowance is being paid;

►<sup>7</sup>(bb) he is receiving assistance ►<sup>8</sup>under the self-employment route◀;◀

►<sup>9</sup>◀

<sup>7</sup>Reg. 53(bb) inserted by reg. 3 of S.I. 2000/2910 as from 27.11.00.

*Reg. 53(c) continues to be reproduced below as it remains in force for certain cases. See reg. 4 of S.I. 2009/3228 for details.*

<sup>8</sup>Words substituted in reg. 53(bb) by reg. 4 of S.I. 2004/963 as from 4.5.04.

►<sup>10</sup>(c) a person who—

<sup>9</sup>Reg. 53(c) revoked by reg. 4(1)(b)(i) of S.I. 2009/3228 as from 25.1.10.

(i) is in employment;

(ii) lives in, or is temporarily absent from a care home, an Abbeyfield Home or an independent hospital; and

<sup>10</sup>Para. (c) of reg. 53 substituted by para. 2 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(iii) requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness;◀

- (d) he is engaged in employment as—

(i), (ia), (ib) ►<sup>11</sup>◀

►<sup>11</sup>(i) a part-time fire-fighter employed by a fire and rescue authority under the Fire and Rescue Services Act 2004 or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;◀

(ii) an auxiliary coastguard in respect of coastal rescue activities;

(iii) a person engaged part-time in the manning or launching of a lifeboat;

<sup>11</sup>In reg. 53(d) sub-paras. (i), (ia), (ib) omitted & sub-para. (i) inserted by reg. 6(a)-(d) of S.I. 2013/2536 as from 29.10.13.

**Reg. 53**

- (iv) a member of any <sup>1</sup> reserve force prescribed in Part I of <sup>2</sup> Schedule 6 to the Social Security (Contributions) Regulations 2001;
- (e) 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(a);
- (f) 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 paragraph 27 or 28 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings), and is in receipt of any payment specified in that paragraph;
- (g) he is—
  - (i) the partner of the claimant; and
  - (ii) involved in a trade dispute; and
  - (iii) not a person to whom regulation 52(2) applies,

<sup>1</sup>Words in reg. 53(d)(iv) omitted by reg. 3(7)(c) of S.I. 2015/389 as from 6.4.15.

<sup>2</sup>Words substituted in reg. 53(d)(iv) by reg. 13(3) of S.I. 2006/2378 as from 2.10.06.

and had he claimed a jobseeker's allowance, section 14 (trade disputes) would have applied in his case;

- <sup>3</sup>(gg) he is—
  - (i) a member of a joint-claim couple; and
  - (ii) involved in a trade dispute; and
  - (iii) not a person to whom regulation 52(2A) applies,

<sup>3</sup>Reg. 53(gg) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

and had the joint-claim couple of which he is a member claimed a jobseeker's allowance jointly, section 14 (trade disputes) would have applied in the case of one or both members of that couple;

<sup>4</sup>

*Reg. 53(h) continues to be reproduced below as it remains in force for certain cases. See reg. 4 of S.I. 2009/3228 for details.*

<sup>4</sup>Reg. 53(h) revoked by reg. 4(b)(i) of S.I. 2009/3228 as from 25.1.10.

- (h) he is mentally or physically disabled, and by reason of that disability—
  - (i) his earnings are reduced to 75 per cent. or less of what a person without that disability and working the same number of hours would reasonably be expected to earn in that employment or in comparable employment in the area; or
  - (ii) his number of hours <sup>5</sup>of work are 75 per cent. or less of what a person without that disability would reasonably be expected to undertake in that employment or in comparable employment in the area.

<sup>5</sup>Word inserted in reg. 53(h)(ii) by the Sch., Pt. II to S.I. 1996/1516 as from 7.10.96.

- <sup>6</sup>(i) 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.

<sup>6</sup>Reg. 53(i) added by reg. 7(2) of S.I. 1999/2165 as from 23.8.99.

*The text below modifies regulation 53 from 28.11.00 to 27.11.01 unless revoked earlier, by adding para. (j). Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

- (j) he is participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.

- <sup>7</sup>(k) he is engaged in the programme known as Work Experience.
- <sup>8</sup>(l) he is participating in the Mandatory Work Activity Scheme.
- <sup>9</sup>(m) he is participating in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013.

<sup>7</sup>Reg. 53(k) inserted by reg. 2(4) of S.I. 2011/789 as from 5.4.11.

<sup>8</sup>Reg. 53(l) inserted by reg. 16(c) of S.I. 2011/688 as from 25.4.11.

<sup>9</sup>Reg. 53(m) substituted by reg. 14(c) of S.I. 2013/276 from 6.45pm on 12.2.13.

(a) Section 171F was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 8), section 6(1).

## Regs. 54-55

## Relevant education

**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.

<sup>1</sup>Reg. 54(2) substituted by reg. 3(4) of S.I. 2006/718 as from 10.4.06.

▶<sup>1</sup>(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) before he became a part-time student fulfilled the requirements specified for a person falling within paragraph (2) of regulation 11 (part-time students); and
- (c) is undertaking a course of study, other than a course of advanced education or a course of study of a kind specified in head (i), (ii) or (iii) of the definition of “full-time student” in regulation 1(3),

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.

<sup>2</sup>Reg. 54(5) inserted by reg. 5 of S.I. 1997/2863 as from 5.1.98.

▶<sup>2</sup>(5) A young person who is participating in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii) shall not be treated as receiving relevant education.◀

## Short periods of sickness

*See reg. 18(c) of S.I. 2010/1222 at page 11.7185 for details of the modification of this reg. in certain situations as from 22.11.10.*

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

- (a) ▶<sup>3</sup>has been awarded a jobseeker's allowance◀▶<sup>4</sup>◀; and
- (b) proves to the satisfaction of ▶<sup>5</sup>the Secretary of State◀ that he is unable to work on account of some specific disease or disablement; and
- (c) ▶<sup>6</sup>during the period of his disease or disablement, satisfied◀ the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(a), (c) and (f) (available for and actively seeking employment, ▶<sup>6</sup>universal credit◀ and capable of work ▶<sup>7</sup>or not having limited capability for work◀),

<sup>3</sup>Words substituted in reg. 55(1)(a) by reg. 17 of S.I. 1996/1517 as from 7.10.96.

<sup>4</sup>Words in reg. 55 omitted by reg. 5(10) of S.I. 2012/2568 as from 22.10.12.

<sup>5</sup>Words substituted in reg. 55(1)(b) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>6</sup>Words in reg. 55(1)(c) substituted & inserted by reg. 2(4)(a)(i) & (ii) of S.I. 2015/339 as from 30.3.15.

<sup>7</sup>Words inserted in reg. 55(1)(c) by reg. 3(9)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>8</sup>Words inserted in regs. 55(1) by reg. 3(9)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>9</sup>Words in reg. 55(3) substituted by reg. 2(4) of S.I. 2015/339 as from 30.3.15.

shall be treated for a period of not more than 2 weeks as capable of work ▶<sup>8</sup>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▶<sup>8</sup>, 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) ▶<sup>9</sup>Paragraph (1) does◀ 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.

▶<sup>1</sup>(4) ▶<sup>2</sup>Paragraph (1) does not apply to any person where the first day in respect of which they are unable to work falls within eight weeks beginning with the day the person ceased to be entitled to statutory sick pay.◀

<sup>1</sup>Reg. 55(4) substituted by reg. 6(6) of S.I. 2013/2536 as from 29.10.13.

▶<sup>3</sup>(5) ▶<sup>2</sup>Paragraph (1) does not apply to a claimant who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(6AA) or, as the case may be, (6C).◀

<sup>2</sup>Words in reg. 55(4), (5) substituted, para. (6) & reg. 55ZA inserted by reg. 2(4) & (5) of S.I. 2015/339 as from 30.3.15.

▶<sup>2</sup>(6) Paragraph (1) does not apply to any person—

<sup>3</sup>Regs. 55(5) inserted by reg. 3(5) of S.I. 2004/1869 as from 4.10.04.

- (a) during any period where the person is treated as capable of work or as not having limited capability for work under regulation 55ZA (extended period of sickness); or
- (b) where the first day in respect of which that person would, apart from this subparagraph, have been treated as capable of work or as not having limited capability for work under this regulation falls immediately after the last day on which the person is so treated under regulation 55ZA.◀

**▶<sup>2</sup>Extended period of sickness**

55ZA.—(1) This regulation applies to a person who—

- (a) has been awarded a jobseeker's allowance;
- (b) proves to the satisfaction of the Secretary of State that he is unable to work on account of some specific disease or disablement;
- (c) either—
  - (i) declares that he has been unable to work, or expect to be unable to work, on account of that disease or disablement for more than 2 weeks but he does not expect to be unable to work on account of that disease or disablement for more than 13 weeks; or
  - (ii) is not a person to whom regulation 55(1) (short periods of sickness) applies by virtue of paragraph (3) of that regulation;
- (d) during the period of his disease or disablement, satisfies the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(a), (c) and (f) (availability for and actively seeking employment and capable of work or not having limited capability for work); and
- (e) has not stated in writing that for the period of his disease or disablement he proposes to claim or has claimed an employment and support allowance or universal credit.

(2) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(i) applies is—

- (a) evidence of incapacity for work or limited capability for work in accordance with the Social Security (Medical Evidence) Regulations 1976(a) (which prescribe the form of a doctor's statement or other evidence required in each case); and
- (b) any such additional information as the Secretary of State may request.

(3) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(ii) applies is a declaration made by the person in writing, in a form approved for the purposes by the Secretary of State, that the person has been unfit for work from a date or for a period specified in the declaration.

(4) Subject to the following paragraphs, a person to whom this regulation applies is to be treated as capable of work or as not having limited capability for work for the continuous period beginning on the first day on which he is unable to work on account of the disease or disablement ("the first day") and ending on—

- (a) the last such day; or
- (b) if that period would otherwise exceed 13 weeks, the day which is 13 weeks after the first day.

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(a) S.I. 1997/615.

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(5) This regulation does not apply to a person on more than one occasion in any one period of 12 months starting on the first day applying for the purpose of paragraph (4).

(6) Paragraphs (4) and (5) of regulation 55 apply for the purposes of this regulation as they apply for the purposes of paragraph (1) of regulation 55. ◀

<sup>1</sup>Reg. 55A inserted by reg. 3(6) of S.I. 2004/1869 as from 4.10.04.

▶<sup>1</sup>Periods of sickness and persons receiving treatment outside Great Britain

*\*See reg. 18(d) of S.I. 2010/1222 at page 11.7185 for details of the modification of this reg. in certain situations as from 22.11.10.*

## 55A.—(1) A person—

- \*(a) who has been awarded a jobseeker's allowance, a joint-claim jobseeker's allowance ▶<sup>2</sup>◀; and
- (b) who is temporarily absent from Great Britain in the circumstances prescribed by regulation 50(6AA) or, as the case may be, (6C); 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)(a), (c) and (f) (available for and actively seeking employment and capable of work ▶<sup>3</sup>or not having limited capability for work◀),

<sup>2</sup>Words in reg. 55A omitted by reg. 5(11) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Words inserted in reg. 55A(1) by reg. 3(9)(b) of S.I. 2008/1554 as from 27.10.08.

shall be treated during that period of temporary absence abroad as capable of work ▶<sup>3</sup> 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 ▶<sup>4</sup>◀▶<sup>3</sup>, employment and support allowance◀, ▶<sup>4</sup>◀.

<sup>4</sup>Words omitted in reg. 55A(1) by reg. 19(2) of S.I. 2010/2430 as from 31.1.11.

(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**

56.—(1) 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 99(2) (calculation of net earnings of employed earners) or regulation 101(2) (calculation of net profit of self-employed earners) and Schedule 6.

(2) For the avoidance of doubt in calculating the amount of earnings in accordance with paragraph (1), only the claimant's earnings shall be taken into account.

PART IV

YOUNG PERSONS

**Interpretation of Part IV**

57.—(1) In this Part—

▶<sup>1</sup>◀

▶<sup>2</sup>“child benefit extension period” means the extension period within the meaning of regulation 5(3) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 years olds)(a)◀

“chronically sick or mentally or physically disabled” has the same meaning as in regulation 13(3)(b) of the Income Support Regulations (circumstances in which persons in relevant education may be entitled to income support);

▶<sup>1</sup>◀

“full-time education” has the same meaning as in regulation 1 of the Child Benefit (General) Regulations 1976(b);

“suitable training” means training which is suitable for that young person in vocationally relevant respects, namely his personal capacity, aptitude, his preference, the preference of the training provider, the level of approved qualification aimed at, duration of the training, proximity and prompt availability of the training;

“training” in section 3, 16 and 17 and in this Part except in regulation 65 read with section 7 and except in the phrase “suitable training”, means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible ▶<sup>3</sup>secured by the ▶<sup>4</sup>▶<sup>5</sup>Secretary of State◀, the Chief Executive of Skills Funding◀ or by the ▶<sup>6</sup>Welsh Ministers◀ and, in Scotland, provided◀, directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, ▶<sup>7</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name);

<sup>1</sup>Defns. of “Careers Service” and “Connections Service” deleted by reg. 10(4) of Part 3 of S.I. 2011/2425 as from 31.10.11.  
<sup>2</sup>Defn. of “child benefit extension period” substituted by reg. 3(5) of S.I. 2006/718 as from 10.4.06.

<sup>3</sup>Words substituted in defn. of “training” by reg. 5(c) of S.I. 2001/652 as from 26.3.01.  
<sup>4</sup>Words substituted in defn. of “training” by reg. 5(4) of S.I. 2010/1941 as from 1.9.10.  
<sup>5</sup>Words substituted in regulation 57(1) by regulation 5(4) of S.I. 2012/956 as from 1.5.12.

<sup>6</sup>Words in Defn. of “training” substituted by reg. 3(4) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Words inserted in defn. of “training” by reg. 4(3)(d) of S.I. 2009/583 as from 6.4.09.

(a) S.I. 2006/223.  
 (b) S.I. 1976/965.

## Reg. 57

“treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

<sup>1</sup>Defn. of “young person” substituted by Sch. 4, para. (a) of S.I. 2001/3070 as from 1.10.01.

▶<sup>1</sup>“young person”(a) means a person—

- (a) who has reached the age of 16 but not the age of 18;
- (b) who does not satisfy the conditions in section 2 or whose entitlement to a contribution-based jobseeker's allowance has ceased as a result of section 5(1); and
- (c) who is not a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.◀

<sup>2</sup>Words inserted in para. (2)(a) of reg. 57 by para. 26(4) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(2) A young person falls within this paragraph if he is—

- (a) a member of a married couple ▶<sup>2</sup>or of a civil partnership◀ where the other member of that couple ▶<sup>2</sup>or civil partnership◀—
  - (i) has reached the age of 18 or
  - (ii) is a young person who has registered for employment and training in accordance with regulation 62 or
  - (iii) is a young person to whom paragraph (4) applies;
- (b) a person who has no parent nor any person acting in the place of his parents;
- (c) a person who—
  - (i) is not living with his parents nor any person acting in the place of his parents; and
  - (ii) immediately before he attained the age of 16 was
    - (aa) ▶<sup>3</sup> in England and Wales◀ being looked after by a local authority pursuant to a relevant enactment which placed him with some person other than a close relative of his ▶<sup>3</sup>◀
    - (bb) in custody in any institution to which the Prison Act 1952(b) applies or under ▶<sup>3</sup>the Prisons (Scotland) Act 1989 (c)◀; ▶<sup>3</sup>or◀
- ▶<sup>3</sup>(cc) in Scotland, in the care of a local authority under a relevant enactment and whilst in that care was not living with his parents or any close relative◀;
- (d) a person who is in accommodation which is other than his parental home and which is other than the home of a person acting in the place of his parents, who entered that accommodation—
  - (i) as part of a programme of rehabilitation or resettlement, that programme being under the supervision of the probation service or a local authority; or
  - (ii) in order to avoid physical or sexual abuse; or
  - (iii) because of a mental or physical handicap or illness and he needs such accommodation because of his handicap or illness;
- (e) a person who is living away from his parents and any person who is acting in the place of his parents in a case where his parents are or, as the case may be, that person is, unable financially to support him and his parents are, or that person is—
  - (i) chronically sick or mentally or physically disabled; or
  - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (iii) prohibited from entering or re-entering Great Britain;
- (f) a person who of necessity has to live away from his parents and any person acting in the place of his parents because—
  - (i) he is estranged from his parents and that person; or
  - (ii) he is in physical or moral danger; or
  - (iii) there is a serious risk to his physical or mental health.

<sup>3</sup>Words inserted, substituted and deleted in reg. 57(2)(c)(ii)(aa) and (bb), and reg. 57(2)(c)(ii)(cc) inserted by reg. 11(2) of S.I. 1996/1517 as from 7.10.96.

(a) The definition of “young person” was substituted by S.I. 1996/1516.

(b) 1952 c. 52.

(c) 1989 c. 45.

**Reg. 57**

▶<sup>1</sup>(3)(a) in England and Wales, any reference in this regulation to a person acting in place of a person's parents includes a reference to—

<sup>1</sup>Reg. 57(3) substituted by reg. 11(3) of S.I. 1996/1517 as from 7.10.96.

- (i) where the person is being looked after by a local authority or voluntary organisation which places him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement; or
  - (ii) in any other case, any person with parental responsibility for the child, and for this purpose "parental responsibility" has the meaning it has in the Children Act 1989<sup>(a)</sup> by virtue of section 3 of that Act; and
- (b) in Scotland, any reference in this regulation to a person acting in place of a person's parents includes a reference to a local authority or voluntary organisation where the person is in its care under a relevant enactment, or to a person with whom the person is boarded out by a local authority or voluntary organisation whether or not any payment is made by it. ◀

(4) This paragraph applies to

- (a) a person who falls under any of the following paragraphs of Schedule 1B to the Income Support Regulations<sup>(b)</sup>

- Paragraph 1 (lone parents)
- Paragraph 2 (single person looking after foster children)
- Paragraph 3 (persons temporarily looking after another person)
- Paragraph 4 (persons caring for another person)

▶◀

*Reg. 57(4)(a) continues to be reproduced below as it remains in force for certain cases. See reg. 4(14) of S.I. 2010/641 for details.*

<sup>2</sup>Words in reg. 57(4)(a) omitted subject to reg. 4(14) of S.I. 2010/641 as from 1.4.10.

Paragraph 10 (disabled students)

Paragraph 11

▶◀  
▶◀

*Reg. 57(4)(a) continues to be reproduced below as it remains in force for certain cases. See reg. 4(14) of S.I. 2010/641 for details.*

Paragraph 12

Paragraph 13 (blind persons)

- Paragraph 14 (pregnancy)
- Paragraph 15 (persons in education)
- Paragraph 18 (refugees)
- Paragraph 21 (persons from abroad)
- Paragraph 23 (member of couple looking after children while other member temporarily board)
- Paragraph 28 (persons in receipt of a training allowance);

- (b) a person who is a member of a couple and is treated as responsible for a child who is a member of his household;
- (c) a person who is laid off or kept on short-time, who is available for employment in accordance with section 6 and Chapter II of Part II read with regulation 64 and who has not been laid off or kept on short-time for more than 13 weeks;
- (d) a person who is temporarily absent from Great Britain because he is taking a member of his family who is a child or young person abroad for treatment, and who is treated as being in Great Britain in accordance with regulation

(a) 1989 c. 41.

(b) S.I. 1987/1967; Schedule 1B is inserted by Regulation 3 of and Schedule 1 to the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996, S.I. 1996/206.

## Regs. 57-60

50(1)(b) or whose entitlement to income support is to continue in accordance with regulation 4(3) of the Income Support Regulations and who is not claiming a jobseeker's allowance or income support;

- (e) a person who is incapable of work and training by reason of some disease or bodily or mental disablement if, in the opinion of a medical practitioner, that incapacity is unlikely to end within 12 months because of the severity of that disease or disablement.

<sup>1</sup>Reg. 58 substituted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

►<sup>1</sup>**Young persons to whom section 3(1)(f)(iii) or 3A(1)(e)(ii) applies**

**58.** For the period specified in relation to him, a young person to whom regulation 59, 60 or 61 applies shall be regarded as a person within prescribed circumstances for the purposes of section 3(1)(f)(iii) or section 3A(1)(e)(ii) (conditions of entitlement for certain persons under the age of 18).◄

**Young persons in the child benefit extension period**

**59.**—(1) For the period specified in paragraph (2), this regulation applies to a young person who falls within paragraph (2) of regulation 57.

(2) The period in the case of any person falling within paragraph (1) is the child benefit extension period, except where regulation 61(1)(d) or (e) applies.

**Young persons at the end of the child benefit extension period**

**60.**—(1) For the period specified in relation to him in paragraph (2), this regulation applies to a young person who is

- (a) a person who has ceased to live in accommodation provided for him by a local authority under Part III of the Children Act 1989<sup>(a)</sup> (local authority support for children and families) and is of necessity living away from his parents and any person acting in place of his parents;
- (b) a person who has been discharged from any institution to which the Prison Act 1952<sup>(b)</sup> applies or from custody under the Criminal Procedure (Scotland) Act 1975<sup>(c)</sup> after the child benefit extension period and who is a person falling within paragraph (2) of regulation 57.
- (2)(a) Except where regulation 61(1)(d) or (e) applies, the period in the case of a person falling within paragraph (1)(a) is the period which begins on the day on which that paragraph first applies to that person and ends on the day before the day on which that person attains the age of 18 or the day at the end of a period of 8 weeks immediately following the day on which paragraph (1)(a) first had effect in relation to him, whichever is the earlier; and this period may include any week in which regulation 7 of the Child Benefit (General) Regulations 1976 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child) also applies to that person;
- (b) except where regulation 61(1)(d) or (e) applies, the period in the case of any person falling within paragraph (1)(b) is the period beginning on the day ►<sup>2</sup>◄ he was discharged, and ends on the last day of the period of 8 weeks beginning with the date on which the period began or on the day before the date on which that person attains the age of 18, whichever first occurs.

<sup>2</sup>Word omitted in reg. 60(2)(b) by reg. 4(3) of S.I. 2009/2655 as from 26.10.09.

- (3) In this regulation, “week” means any period of 7 consecutive days.

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(a) 1989 c. 41.  
(b) 1952 c. 52.  
(c) 1975 c. 21.

**Other young persons in prescribed circumstances**

**61.—(1)** For the period specified in relation to him in paragraph (2), this regulation applies to a young person—

- (a) who is a person who is laid off or kept on short-time and is available for employment in accordance with section 6 and Chapter II of Part II read with regulation 64;
  - (b) who is a member of a couple and is treated as responsible for a child who is a member of his household;
  - (c) who falls within a prescribed category of persons for the purposes of section 124(1)(e) of the Benefits Act<sup>(a)</sup> and who is not claiming income support;
  - ▶<sup>1</sup>(d) to whom section 3(1)(f)(ii) or section 3A(1)(e)(i) does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60, or sub-paragraph (b) or (c) of this paragraph, and who registers with Jobcentre Plus in accordance with regulation 62(2)(a); and◀
  - ▶<sup>1</sup>(e) to whom section 3(1)(f)(ii) or section 3A(1)(e)(i) does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60, or sub-paragraph (b) or (c) of this paragraph, and who registers with Jobcentre Plus in accordance with regulation 62(2)(b);◀
  - (f) who has accepted a firm offer of enlistment by one of the armed forces with a starting date not more than 8 weeks after the offer was made who was not in employment or training at the time of that offer and whose jobseeker's allowance has never been reduced in accordance with regulation 63 or ▶<sup>2</sup>section 19(2)(c) or (d) or section 19A(2)(d), (e), (f) or (g)◀ read with regulation 68 or ▶<sup>2</sup>reduced in accordance with section 19(2)(a) or (b)◀ read with Part V.
  - ▶<sup>3</sup>(g) who has limited capability for work for the purposes of Part 1 of the Welfare Reform Act.◀
- (2) (a) The period in the case of any person falling within paragraph (1)(a) is the period starting with the date of which he was laid off or first kept on short-time and ending on the date on which he ceases to be laid off or kept on short-time or the day before the day he attains the age of 18 or at the expiry of the 13 week period starting with the date of the lay off, or date he was first kept on short-time, whichever first occurs;
- (b) except where paragraph (1)(d) or (e) applies, the period in the case of any person falling within paragraph ▶<sup>3</sup>(1)(b), (c) or (g)◀ is the period until the day before that person attains the age of 18 or until paragraph (1)(b) or (c) ceases to apply, whichever first occurs;
  - (c) the period in the case of any person falling within paragraph (1)(d) is the period starting with the date of registration with ▶<sup>4</sup>Jobcentre Plus◀ and ending on the day on which the person is next due to attend in accordance with regulation 23 ▶<sup>5</sup>or regulation 23A◀ or on the date on which the period calculated in accordance with regulation 59(2) or 60(2) or sub-paragraph (b) would have expired, whichever first occurs;
  - (d) the period in the case of any person falling within paragraph (1)(e) is the period starting on the date of registration with ▶<sup>4</sup>Jobcentre Plus◀ and ending five days after that date or on the day after the day on which he registered with ▶<sup>6</sup>a person other than Jobcentre Plus specified by the Secretary of State for the purposes of regulation 62(1)◀, or on the date on which the period calculated in accordance with regulation 59(2) or 60(2) or sub-paragraph (b) would have expired, whichever first occurs;

<sup>1</sup>Paras. (d) & (e) substituted by reg. 10(5)(a) of Part 3 of S.I. 2011/2425 as from 31.10.11.

<sup>2</sup>Words in reg. 61(1)(f) substituted by reg. 5(12) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Reg. 61(1)(g) inserted & words in para. (2)(b) substituted by reg. 3(11)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Words substituted in paragraph (2)(c) & (d) by reg. 10(5)(b) of Part 3 of S.I. 2011/2425 as from 31.10.11.

<sup>5</sup>Words inserted in reg. 61(2)(c) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>6</sup>Words substituted in para. (2)(d) by reg. 10(5)(c) of Part 3 of S.I. 2011/2425 as from 31.10.11.

(a) See regulation 4ZA of the Income Support (General) Regulations, inserted by Regulation 3 of the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996, S.I. 1996/206.

## Regs. 61-63

- (e) the period in the case of any person falling within paragraph (1)(f) is the period starting with the date of claim and ending with the day before the day on which he is due to enlist or the day before he attains the age of 18, whichever first occurs.

(3) In this regulation "week" means a period of 7 consecutive days.

**Registration**

**62.**—(1) Except in the circumstances set out in paragraphs (2) and (3) a young person to whom section 3(1)(f)(ii) or (iii) <sup>1</sup>or section 3A(1)(e)(i) or (ii) <sup>2</sup>applies other than one falling within regulation 61(1)(a) or (f), must register with <sup>2</sup>such person as the Secretary of State may specify <sup>4</sup>.

<sup>1</sup>Words inserted in reg. 62(1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words substituted in para. 62(1) by reg. 10(6)(b) of Part 3 of S.I. 2011/2425 as from 31.10.11.

<sup>3</sup>Paragraph 62(2)(a) & (b) replaced paras. 62(2) & (3) by reg. 10(6)(b) of Part 3 of S.I. 2011/2425 as from 31.10.11.

<sup>3</sup>(2) A young person must register with Jobcentre Plus for both employment and training where the Secretary of State has specified a person other than Jobcentre Plus for the purposes of paragraph (1) and—

- (a) the young person is unable to register with that person because of an emergency affecting that person such as a strike or fire, or
- (b) the young person would suffer hardship because of the extra time it would take to register with that person. <sup>4</sup>

**Reduced payments under section 17**

**63.**—(1) Except as provided in paragraph (3), the amount of an income-based jobseeker's allowance which would otherwise be payable to a young person shall be reduced by <sup>4</sup>, if he is a single person or a lone parent, <sup>4</sup> a sum equal to 40% of the amount applicable in his case by way of a personal allowance determined <sup>4</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple, a sum equal to 40% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1 <sup>4</sup> for the period set out in paragraph (2) if—

<sup>4</sup>Words inserted & substituted in reg. 63(1) by reg. 2(2) of S.I. 1997/827 as from 7.4.97.

- (a) he was previously entitled to an income-based jobseeker's allowance and that entitlement ceased by virtue of the revocation of a direction under section 16 because he had failed to pursue an opportunity of obtaining training or rejected an offer of training;
- (b) his allowance has at any time in the past been reduced in accordance with this regulation or in accordance with regulation 68 because he has done an act or omission falling within <sup>5</sup>section 19(2)(a) or (b) or section 19A(2)(c) to (g) <sup>4</sup> and he has—
- (i) failed to pursue an opportunity of obtaining training without showing <sup>5</sup>a good reason <sup>4</sup> for doing so,
- (ii) rejected an offer of training without showing <sup>5</sup>a good reason <sup>4</sup> for doing so or
- (iii) failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure;
- (c) he has—
- (i) done an act or omission falling within section 16(3)(b)(i) or (ii) and has not shown <sup>5</sup>a good reason <sup>4</sup> for doing so or done an act or omission falling within <sup>5</sup>section 19A(2)(d) or (e) or failed to attend a training scheme or employment programme <sup>5</sup> <sup>4</sup> without <sup>5</sup>a good reason <sup>4</sup> or done an act or omission falling within <sup>5</sup>section 19A(2)(d) or (e) or failed to attend a training scheme or employment programme <sup>5</sup> <sup>4</sup> for which he was regarded as having <sup>5</sup>a good reason <sup>4</sup> in accordance with regulation 67(1) and
- (ii) after that act or omission failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure

<sup>5</sup>Words in reg. 63(1)(b), (i), (ii) & (c)(i) substituted & omitted by reg. 5(13)(a)-(c) of S.I. 2012/2568 as from 22.10.12.

and at the time he did the act or omission falling within sub-paragraph (i) he was a new jobseeker;

- (d) he has—
- (i) failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure or ►<sup>1</sup>given up a place on a training scheme or employment programme◄ ►<sup>1</sup>◄ without ►<sup>1</sup>a good reason◄ or ►<sup>1</sup>given up a place on a training scheme or employment programme◄ ►<sup>1</sup>◄ for which he was regarded as having ►<sup>1</sup>a good reason◄ in accordance with regulation 67(1) and
  - (ii) after that failure he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and on the day before the day he first attended the course referred to in sub-paragraph (i) he was a new jobseeker; or
- (e) he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and on the day before he first attended the course he was not a new jobseeker; or
- (f) he has failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure and he lost his place on the course through his misconduct.

<sup>1</sup>Words in reg. 63(d)(i) & (4) and reg. 64(2) substituted and omitted by reg. 5(13) and (14) of S.I. 2012/2568 as from 22.10.12.

(2) The period shall start with the date on which the first severe hardship direction is made under section 16 after the act or acts referred to in paragraph (a), (b), (c), (d), (e) or (f) of paragraph (1) have taken place and shall end fourteen days later.

(3) In the case of a young person who is pregnant or seriously ill who does an act calling within sub-paragraphs (a)-(f) of paragraph (1), the reduction shall be ►<sup>2</sup>if he is a single person or a lone parent,◄ of 20% of the amount applicable in his case by way of a personal allowance ►<sup>2</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple, of 20% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1◄.

<sup>2</sup>Words inserted in reg. 63(3) by reg. 2(3) of S.I. 1997/827 as from 7.4.97.

(4) For the purposes of this regulation, “new jobseeker” means a young person who has not since first leaving full-time education been employed or self-employed for 16 or more hours per week or completed a course of training or failed to complete a course of training and no certificate has been issued to him to show ►<sup>1</sup>a good reason◄ for that failure under subsection (4) of section 17 or ►<sup>1</sup>given up a place on a training scheme or employment programme◄ ►<sup>1</sup>◄ without ►<sup>1</sup>a good reason◄ or done an act or omission falling within ►<sup>1</sup>section 19A(2)(g)◄ ►<sup>1</sup>◄.

(5) A reduction under paragraph (1) or (3) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

### Availability for employment

64.—(1) A young person is required to be available for employment in accordance with section 6 and Chapter II of Part II except as provided in paragraphs (2) and (3).

(2) A young person whose jobseeker's allowance has not been reduced in accordance with regulation 63 or in accordance with regulation 68 because he has done an act or omission falling within ►<sup>1</sup>section 19A(2)(d), (e), (f) or (g) or section 19(2)(c) or (d) or in accordance with section 19(2)(a) or (b)◄ read with Part V and who does not fall within regulation 61(1)(a) or (f) may restrict his availability for employment to employment where suitable training is provided by the employer.

(3) A young person who places restrictions on the nature of employment for which he is available as permitted by paragraph (2) does not have to show that he has reasonable prospects of securing employment notwithstanding those restrictions.

### Active seeking

65.—(1) Subject to the following paragraphs, Section 7 and Chapter III of Part II shall have effect in relation to a young person as if “employment” included “training”.

(2) Subject to paragraphs (4) and (5), in order to have the best prospects of securing employment or training a young person can be expected to have to take more than one step on one occasion in any week unless taking one step on one occasion is all that it is reasonable for that person to do in that week, and unless it is reasonable for him to take only one step on one occasion, he can be expected to have to take at least one step to seek training and one step to seek employment in that week.

(3) Subject to paragraph (4), steps which it is reasonable for a young person to be expected to have to take include, in addition to those set out in regulation 18(2)–

- (a) seeking training and
- (b) seeking full-time education.

(4) Paragraphs (1), (2) and (3) do not apply to a young person falling within regulation 61(1)(a) or (f).

(5) Paragraphs (1) and (2) do not apply to a young person ►<sup>1</sup>◄ who has had his jobseeker's allowance reduced in accordance with regulation 63 or regulation 68 because he has done an act or omission falling within ►<sup>1</sup>section 19A(2)(a), (d), (e), (f) or (g) or section 19(2)(c) or (d) or in accordance with section 19(2)(a) or (b)◄ read with Part V but paragraph (3) does apply to such a young person.

(6) "Training" in section 7 and in this regulation means suitable training.

<sup>1</sup>Words in regs. 65(5), 66 & 67 omitted and substituted by reg. 5(15) & (17)(a) & (b) of S.I. 2012/2568 as from 22.10.12.

<sup>2</sup>Reg. 65A inserted by reg. 12 of S.I. 1996/1517 as from 7.10.96.

### ►<sup>2</sup>Attendance, information and evidence

**65A.** A young person who does not fall within regulation 61(1)(a) or (f) shall, if the Secretary of State requires him to do so, provide, in addition to the declaration specified in regulation 24(6), a declaration to the effect that since making a claim for jobseeker's allowance or since he last provided a declaration in accordance with this regulation he has been actively seeking suitable training to the extent necessary to give him his best prospects of securing suitable training save as he has otherwise notified the Secretary of State.◄

### The jobseeker's agreement

**66.**—(1) In a jobseeker's agreement with a young person, other than one falling within regulation 61(1)(a) or (f), the following information is required in addition to that prescribed in Chapter V of Part II: a broad description of the circumstances in which the amount of the person's benefit may be reduced in accordance with section 17 and regulation 63, or ►<sup>1</sup>section 19(2)(a), (b), (c) or (d) or section 19A(2)(a), (c), (d), (e), (f) or (g)◄ and regulation 68.

(2) A young person is to be treated as having entered into a jobseeker's agreement and as having satisfied the condition mentioned in section 1(2)(b) as long as the circumstances set out in ►<sup>3</sup>regulation 62(2) or 62(3)◄ apply.

<sup>3</sup>Words substituted in reg. 66(2) by Sch., Pt. I to S.I. 1996/1516 as from 7.10.96.

### Sanctions

**67.**—(1) Without prejudice to any other circumstances in which a person may be regarded as having ►<sup>1</sup>a good reason◄ for any act or omission for the purposes of ►<sup>1</sup>section 19A(2)(d), (e) or (f)◄, and in addition to the circumstances listed in regulation 73, a young person is to be regarded as having ►<sup>1</sup>a good reason◄ for any act or omission for the purposes of ►<sup>1</sup>section 19A(2)(d), (e) or (f)◄ where

- (a) this is the first occasion on which he has done an act or omission falling within ►<sup>1</sup>section 19A(2)(d), (e) or (f)◄ and he has not while claiming a jobseeker's allowance failed to pursue an opportunity of obtaining training without ►<sup>1</sup>a good reason◄ or rejected an offer of training without ►<sup>1</sup>a good reason◄ or failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that training; and
- (b) at the time he did the act or omission falling within ►<sup>1</sup>section 19A(2)(d) or (e) or failed to attend a training scheme or employment programme◄ he was ►<sup>4</sup>◄ a new jobseeker or, ►<sup>1</sup>in the case where he has given up a place on a training scheme or employment programme◄, at the time he first attended the scheme or programme he was ►<sup>4</sup>◄ a new jobseeker.

<sup>4</sup>Words deleted in reg. 67(1)(b) by reg. 13 of S.I. 1996/1517 as from 7.10.96.



(2) Without prejudice to any other circumstances in which a person may be regarded as having ►<sup>1</sup>a good reason◄ for any act or omission for the purposes of ►<sup>2</sup>section 19(2)(c) or (d)◄, a young person is to be regarded as having ►<sup>1</sup>a good reason◄ for any act or omission for the purposes of ►<sup>2</sup>section 19(2)(c) or (d) read with Part V◄ where the employer did not offer suitable training unless he falls within regulation 61(1)(a) or (f) or his jobseeker's allowance has been reduced in accordance with regulation 63 or in accordance with regulation 68 because he has done an act or omission falling within ►<sup>1</sup>section 19A(2)(d), (e), (f) or (g)◄ or ►<sup>1</sup>section 19(2)(a), (b), (c) or (b) read with Part V.◄

<sup>1</sup>Words substituted in reg. 67 & 68 by reg. 5(17)-(18) of S.I. 2012/2568 as from 22.10.12.  
<sup>2</sup>Words in reg. 67(2) substituted by reg. 4(5) of S.I. 2013/443 as from 2.4.13.

(3) For the purposes of this regulation, "new jobseeker" means a young person who has not since first leaving full-time education been employed or self-employed for 16 or more hours per week or completed a course of training or failed to complete a course of training and no certificate has been issued to him to show ►<sup>1</sup>a good reason◄ for that failure under subsection (4) of section 17 or ►<sup>1</sup>given up a place on a training scheme or employment programme◄ without ►<sup>1</sup>a good reason◄ or done an act or omission falling within ►<sup>1</sup>section 19A(2)(g)◄.

### Reduced amount of allowance

**68.**—(1) Subject to paragraphs (2) and (4), the amount of an income-based jobseeker's allowance which would otherwise be payable to a young person shall be reduced by ►<sup>3</sup>if he is a single person or a lone parent,◄ a sum equal to 40% of the amount applicable in his case by way of a personal allowance determined ►<sup>3</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple ►<sup>4</sup>(including a joint-claim couple)◄, a sum equal to 40% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1◄ for a period of two weeks from the beginning of the first week after ►<sup>5</sup>the Secretary of State's◄ decision where the young person ►<sup>1</sup>◄ has done any act or omission falling within ►<sup>1</sup>section 19(2)(c) or (d) or section 19A(2)(a), (c), (d), (e), (f) or (g)◄, unless the young person reaches the age of 18 before that two week period expires, in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

<sup>3</sup>Words inserted & substituted in reg. 68(1) by reg. 3(2) of S.I. 1997/827 as from 7.4.97.

<sup>4</sup>Words inserted in reg. 68(1) & (2) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>5</sup>Words substituted in reg. 68(1) and (2) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>6</sup>Words inserted in reg. 68(2) by reg. 3(3) of S.I. 1997/827 as from 7.4.97.

<sup>7</sup>Words in reg. 68(2) inserted by reg. 2(12) of S.I. 2010/509 as from 6.4.10.

(2) Subject to paragraph (4), in a case where the young person or any member of his family is pregnant or seriously ill the amount of an income-based jobseeker's allowance which would otherwise be payable to the young person shall be reduced by ►<sup>6</sup>if he is a single person or a lone parent,◄ a sum equal to 20% of the amount applicable in his case by way of a personal allowance determined ►<sup>6</sup>in accordance with paragraph 1(1) or 1(2) of Schedule 1 (as the case may be) or, if he is a member of a couple ►<sup>4</sup>(including a joint-claim couple)◄, a sum equal to 20% of the amount which would have been applicable in his case if he had been a single person determined in accordance with paragraph 1(1) of Schedule 1◄ for a period of two weeks from the beginning of the first week after ►<sup>5</sup>the Secretary of State's◄ decisions where the young person ►<sup>7</sup>satisfies a condition referred to in regulation 27A or◄ has done any act or omission falling within section 19(5) or within 19(6)(c) or (d) ►<sup>4</sup>or within section 20A(2) to (c), (f) or (g)◄, unless the young person reaches the age of 18 before that two week period expires, in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(4) If a young person's claim for an income-based jobseeker's allowance is terminated before the expiry of the period determined in accordance with paragraphs (1) and (2), and he makes a fresh claim for the allowance, it shall be payable to him at the reduced rate determined in accordance with paragraph (1) or (2) for the balance of the time remaining of that two weeks, unless the young person reaches the age of 18 before that two week period expires, in which case the allowance shall be payable at the full rate applicable in his case from the date he reaches the age of 18.

(5) An income-based jobseeker's allowance shall be payable to a young person at the full rate applicable in his case after the expiry of the two week period referred to in paragraphs (1) and (2).

## Reg. 69

PART V  
SANCTIONS

<sup>1</sup>Reg. 69 substituted by reg. 2(2) of S.I. 2012/2568 as from 22.10.12.

▶<sup>1</sup>The period of a reduction under section 19: higher-level sanctions

**69.**—(1) Subject to paragraphs (3) and (4), a reduction under section 19 (higher level sanctions) is to have effect for—

- (a) 13 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2);
- (b) 26 weeks, where there has been only one previous sanctionable failure by the claimant that falls within paragraph (2);
- (c) 156 weeks, where there have been two or more previous sanctionable failures by the claimant that fall within paragraph (2)(a) and, if applicable, (b) and the most recent of those failures—
  - (i) falls within paragraph (2)(c), and
  - (ii) resulted in a reduction that has effect for 26 weeks under sub-paragraph (b) or 156 weeks under this sub-paragraph, or would have done but for paragraph (4).

(2) A previous sanctionable failure referred to in paragraph (1) falls within this paragraph if—

- (a) the failure resulted in a decision to reduce the claimant's award in accordance with section 19;
- (b) in the case of a joint-claim couple, the failure was by the same claimant; and
- (c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.

(3) Where a claimant's award has been reduced in relation to a sanctionable failure which is specified in section 19(2)(a), (b) or (d) and which occurred before the date of claim for a jobseeker's allowance, any such failure must not be counted for the purpose of determining the period of a reduction for a subsequent sanctionable failure under section 19.

(4) Where a sanctionable failure which is specified in section 19(2)(a), (b) or (d) occurs on or before the date on which a claim for a jobseeker's allowance is made—

- (a) except where sub-paragraph (b) applies, the reduction relating to that failure is to have effect for the period set out in paragraph (1) that applies in the claimant's case (the "applicable sanction period") minus the period beginning with the day after the date of the sanctionable failure and ending with the day before the date of claim;
- (b) if—
  - (i) the failure was in relation to employment which was due to last for a limited period,
  - (ii) the limited period ends on or before the end of the applicable sanction period, and
  - (iii) the date of claim is on or before the last day of the limited period,

the reduction relating to that failure is to have effect for the period beginning with the day after the date of the sanctionable failure and ending with the last day of the limited period minus the period beginning with the day after the date of the sanctionable failure and ending with the day before the date of claim.

(5) In paragraph (4)(b), "limited period" means a specific term which is fixed, or which can be ascertained, before it begins, by reference to some relevant circumstance.

(6) The period of a reduction under section 19 begins—

- (a) on the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or
- (b) in any other case, on the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

**The period of a reduction under section 19A: Other sanctions**

- 69A.**—(1) A reduction under section 19A (other sanctions) is to have effect for—
- (a) 4 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2); or
  - (b) 13 weeks, where there has been—
    - (i) only one previous sanctionable failure by the claimant that falls within paragraph (2), or
    - (ii) more than one previous sanctionable failure and the most recent of those failures falls within paragraph (2).
- (2) A previous sanctionable failure falls within this paragraph if—
- (a) the failure resulted in a decision to reduce the claimant's award in accordance with section 19A;
  - (b) in the case of a joint-claim couple, the failure was by the same claimant; and
  - (c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.
- (3) The period of a reduction under section 19A begins—
- (a) on the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or
  - (b) in any other case, on the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

**The period of a reduction under section 19B: Claimants ceasing to be available for employment etc.**

- 69B.**—(1) Subject to paragraph (5), the amount of an award of a jobseeker's allowance, other than a joint-claim jobseeker's allowance, is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the claimant—
- (a) was previously entitled to a jobseeker's allowance, or was a member of a couple entitled to a joint-claim jobseeker's allowance; and
  - (b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) or (c) (availability for employment and actively seeking employment).
- (2) Subject to paragraph (5), the amount of an award of a joint-claim jobseeker's allowance is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the case falls within either paragraph (3) or (4).
- (3) A case falls within this paragraph if—
- (a) one of the claimants was previously entitled to a jobseeker's allowance, other than a joint-claim jobseeker's allowance; and
  - (b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) <sup>1</sup>or (c) <sup>1</sup>.
- (4) A case falls within this paragraph if—

<sup>1</sup>Words inserted in reg. 69B(3)(b) by reg. 4(6)(a) of S.I. 2013/443 as from 2.4.13.

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- (a) the couple were previously entitled to a joint-claim jobseeker's allowance but ceased to be so entitled by either or both of them failing to comply with the condition in section 1(2)(a) or (c); or
  - (b) either member of the couple was a member of another couple previously entitled to such an allowance and that couple ceased to be so entitled by that person failing to comply with the condition in section 1(2)(a) or (c).
- (5) This regulation does not apply where—
- (a) the claimant had been treated as available for work under regulation 14 (circumstances in which a person is to be treated as available)(a), or as actively seeking employment under regulation 19 (circumstances in which a person is to be treated as actively seeking employment)(b);
  - (b) the claimant ceased to be so treated due to no longer falling within regulation 14 or 19;
  - (c) as a result of (b), the claimant's award was terminated for failing to comply with the conditions in section 1(2)(a) or (c) (availability for employment and actively seeking employment); and
  - (d) the Secretary of State considers that a reduction is not appropriate in the claimant's circumstances.
- (6) Subject to paragraph (7), a reduction under this regulation is to have effect for a period of—
- (a) 4 weeks, where there has been only one occasion on which the claimant's previous entitlement ceased; or
  - (b) 13 weeks, where there have been two or more occasions on which the claimant's previous entitlement ceased and the date of the most recent occasion was within 52 weeks but not within 2 weeks of the last previous occasion.

(7) The period specified in paragraph (6) is to be reduced by the period beginning with the first day of the benefit week following the benefit week in which the claimant was last paid an award of jobseeker's allowance and ending with the day before the date of claim <sup>1</sup>or where regulation 3(g) of the Claims and Payments Regulations applies, the day before the suspension ends<sup>1</sup>.

<sup>1</sup>Words inserted in reg. 69B(7) & (8) by reg. 4(6)(b) of S.I. 2013/443 as from 2.4.13.

(8) The period of a reduction under this regulation begins on the date of claim <sup>1</sup>or where regulation 3(g) of the Claims and Payments Regulations applies, the date on which the suspension ends<sup>1</sup>.

<sup>2</sup>Reg. 70 substituted by reg. 2(3) of S.I. 2012/2568 as from 22.10.12.

**<sup>2</sup>The amount of a reduction under section 19 and 19A and regulation 69B**

**70.—(1)** Subject to paragraph (2), the amount of a reduction under section 19 or 19A or regulation 69B is—

- (a) 100% of the allowance payable to the claimant; or
- (b) in the case of a joint-claim couple—
  - (i) 100% of the allowance payable to the couple, where the reduction relates to a sanctionable failure by each member of the couple, or
  - (ii) an amount calculated in accordance with paragraph (3), where the reduction relates to a sanctionable failure by only one member of the couple.

(2) In a case where the following circumstances apply—

- (a) a claimant's award is already reduced in accordance with section 19 or 19A or regulation 69B; or
- (b) in the case of a joint-claim couple, an award of a joint-claim jobseeker's allowance is already reduced in accordance with section 19 or 19A or regulation 69B as a result of a sanctionable failure by one or each member of the couple and the current sanctionable failure is by the same claimant,

no reduction is to be made for any days when those circumstances apply.

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(a) Regulation 14 has been amended but not in ways material to these Regulations.  
 (b) Regulation 19 has been amended but not in ways material to these Regulations.

(3) The amount referred to in paragraph (1)(b)(ii) is such amount which, after its deduction from the full amount of the award of a joint-claim jobseeker's allowance, leaves the following amount—

- (a) in any case in which the member of the couple, who is not the member whose sanctionable failure led to the reduction, satisfies the conditions set out in section 2 of the Act (contribution based conditions), a rate equal to the amount calculated in accordance with section 4(1) (amount payable by way of a jobseeker's allowance);
- (b) in any case where the couple are a couple in hardship for the purposes of Part IXA(a), a rate equal to the amount calculated in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples);
- (c) in any other case, a rate calculated in accordance with section 4(3A)(b) (amount payable by way of a joint-claim jobseeker's allowance) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 which would have been the applicable amount had the member of the couple who is not subject to sanctions been a single claimant.◀

**►<sup>1</sup>Cases in which no reduction is to be made under section 19 or 19A**

<sup>1</sup>Reg. 70A inserted by reg. 2(3) of S.I. 2012/2568 as from 22.10.12.

**70A.**—(1) No reduction is to be made under section 19 (higher-level sanctions) where—

- (a) the sanctionable failure is listed in section 19(2)(a), (b), or (d);
- (b) the sanctionable failure occurs before a claim to a jobseeker's allowance is made; and
- (c) the period of the reduction as calculated under sub-paragraph (a) or (b) of regulation 69(4) is the same as, or shorter than, the period between the date of the sanctionable failure and the date of claim.

(2) No reduction is to be made under section 19A (other sanctions) where the sanctionable failure is specified in section 19A(2)(a) (failure to comply with regulations under section 8(1) or (1A)) and—

- (a) is a failure to comply with regulation 24 (provision of information and evidence); or
- (b) unless paragraph (3) or (4) applies, is a failure to comply with regulation 23 (attendance) or 23A (attendance by members of a joint-claim couple)(c).

(3) This paragraph applies where the claimant—

- (a) fails to ►<sup>2</sup>participate◀ on the day specified in a relevant notification;
- (b) makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of five working days beginning with the first working day after the day on which the claimant failed to ►<sup>2</sup>participate◀ on the day specified; and
- (c) fails to show a good reason for that failure to ►<sup>2</sup>participate◀.

<sup>2</sup>Words in reg. 70A(3)(a)-(c), (4)(a) & (b) substituted by reg. 4(7)(a) & (b) of S.I. 2013/443 as from 2.4.13.

(4) This paragraph applies where—

- <sup>2</sup>(a) the claimant fails to participate in an interview at the time specified in a relevant notification, but makes contact with an employment officer in the manner set out in the notification on the day specified in the notification;◀
- (b) ►<sup>2</sup>the Secretary of State has informed the claimant in writing that a failure to participate in an interview at the time specified in a relevant notification, on the next occasion, on which a claimant is required to participate in an interview◀, at the time specified in a relevant notification, may result in the claimant's entitlement to a jobseeker's allowance or a joint-claim jobseeker's allowance ceasing or the award being subject to a reduction;

(a) Part 1XA was inserted by S.I. 2000/1978.

(b) Section 4(3A) was inserted by section 59 of the Welfare Reform and Pensions Act 1999.

(c) Regulation 23A was inserted by S.I. 2000/1978.

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<sup>1</sup>Words in reg. 70A(7)(c), (d) & (e) substituted by reg. 4(7)(b)(iii) of S.I. 2013/443 as from 2.4.13.

- (c) the claimant fails to ►<sup>1</sup>participate in an interview at the time specified◄ at the time specified in a relevant notification on the next occasion;
- (d) the claimant makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of five working days after the day on which the claimant failed to ►<sup>1</sup>participate in an interview at the time specified◄; and
- (e) the claimant fails to show a good reason for that failure to ►<sup>1</sup>participate in an interview at the time specified◄.

(5) In this regulation, “relevant notification” has the meaning given in regulation 25.

**Sanctionable failures under section 19: schemes under section 17A(1)**

**70B.**—(1) Mandatory Work Activity is a prescribed scheme for the purposes of section 19(2)(e) (higher level sanctions).

(2) In paragraph (1) “Mandatory Work Activity” means a scheme under section 17A(1) (schemes for assisting persons to obtain employment; “work for your benefit” schemes etc) designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment.

**Application of a reduction to a new award**

**70C.**—(1) Subject to paragraph (4), this regulation applies where—

- (a) the amount of an award is reduced in accordance with section 19 or 19A or regulation 69B;
- (b) that award (“the previous award”) is terminated;
- (c) the reduction period had either not yet begun or not ended when the previous award was terminated;
- (d) a new award is made to the claimant who had been entitled to the previous award; and
- (e) in the case of an award of a joint-claim jobseeker’s allowance, the reduction to the previous award was made in relation to a sanctionable failure by the claimant who is entitled to the new award.

(2) Where this regulation applies, the reduction period that would have applied to the previous award but for the award having terminated applies to the new award from the first day of the benefit week in which the claim for the new award is made for the outstanding period.

(3) In this regulation—

“outstanding period” means the period determined under regulation 69, 69A or 69B in relation to the previous award minus—

- (a) the benefit weeks in respect of which the previous award was reduced; and
- (b) the period beginning with the first day of the benefit week after the benefit week in which the previous award was terminated and ending with the first day of the benefit week in which entitlement to the new award begins;

“reduction period” means the period determined under regulation 69, 69A or 69B in relation to the previous award.

(4) This regulation does not apply where the Secretary of State is satisfied that, since the date of the most recent sanctionable failure, the claimant has been in employment for a period of, or more than one period where the total of those periods amounts to, at least 26 weeks.◄

**Voluntary Redundancy**

- 71.—(1) A claimant is to be treated as not having left his employment voluntarily—
- (a) where he has been dismissed by his employer by reason of redundancy after volunteering or agreeing to be so dismissed, ▶<sup>1</sup>◀
  - (b) where he has left his employment on a date agreed with his employer without being dismissed, in pursuance of an agreement relating to voluntary redundancy, ▶<sup>2</sup>or
  - (c) where he has been laid off or kept on short-time to the extent specified in ▶<sup>3</sup>section 148 of the Employment Rights Act 1996◀, and has complied with the requirements of that section.◀

<sup>1</sup>Word “or” deleted in reg. 71(1)(a) by reg. 5 of S.I. 1996/1516 as from 7.10.96.  
<sup>2</sup>Word “or” and sub-para. (c) inserted in reg. 71(1) by reg. 5 of S.I. 1996/1516 as from 7.10.96.  
<sup>3</sup>Words in reg. 71(1)(c) & (2) substituted by reg. 8(5)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

(2) In paragraph (1) “redundancy” means one of the facts set out in paragraphs (a) and (b) of section ▶<sup>3</sup>139(1) of the Employment Rights Act 1996◀.

▶<sup>4</sup>**Good reason for the purpose of section 19(2)(c) and (d) and 19A(2)(c)**

72. A person is not to be regarded as having a good reason for any act or omission for the purposes of section 19(2)(c) and (d) and section 19A (2)(c) if, and to the extent that, the reason for that act or omission relates to the time it took, or would normally take, for the person to travel from his home to the place of the employment, or a place mentioned in the jobseeker’s direction, and back to his home where that time was or is normally less than ▶<sup>5</sup>one hour and thirty minutes either way,◀ by a route and means appropriate to his circumstances and to the employment, or to the carrying out of the jobseeker’s direction, unless, in view of the health of the person or any caring responsibilities of his, that time was or is unreasonable.◀

<sup>4</sup>Reg. 72 substituted by reg. 2(5) of S.I. 2012/2568 as from 22.10.12.

<sup>5</sup>Words in reg. 72 substituted by reg. 3(3) of S.I. 2012/2575 as from 5.11.12.

[Regulations 73 & 73A are revoked by reg. 2(6) of S.I. 2012/2568.]

**Person of prescribed description for the purpose of section 20(3)**

74.—(1) Subject to paragraph (2), a person shall be of a prescribed description for the purposes of section 20(3) ▶<sup>6</sup>◀ (exemption from non-payment of jobseeker’s allowance) and shall not fall within ▶<sup>6</sup>section 19(2)(b) or (d)◀ ▶<sup>6</sup>◀ if he has neither worked in employed earner’s employment, nor has been a self-employed earner, nor been a full-time student nor been in relevant education, during the period of 13 weeks preceding the day of the commencement of the employment.

<sup>6</sup>Words omitted in reg. 74(1) & (4) and substituted in para. (1) by reg. 2(7) of S.I. 2012/2568 as from 22.10.12.

- (2) For the purposes of paragraph (1), a person shall not be regarded as having—
- (a) worked in employed earner’s employment; or
  - (b) been a self-employed earner; or
  - (c) been a full-time student or been in relevant education;

by reason only of any engagement in an activity referred to in paragraph (3) or by his attendance for a period of up to 14 days at a work camp.

- (3) The activities referred to in this paragraph are—
- (a) the manning or launching of a lifeboat; or
  - (b) the performance of duty as a part-time member of a fire brigade.

(4) A trial period in section 20(3) ▶<sup>6</sup>◀ means a period of 8 weeks beginning with the commencement of the fifth week of the employment in question and ending at the end of the twelfth week of that employment and for the purpose of this definition in determining the time at which the fifth week of the employment in question commences or at which the twelfth week of that employment ends, any week in which a person has not worked in the employment for at least 16 hours shall be disregarded.

[Regulation 74A revoked by reg. 3(4) of S.I. 2012/2575.]

[Regulation 74B is revoked by reg. 2(8) of S.I. 2012/2568.]

## Reg. 75

See Annex 1 to these regs. on \*page 11.5001 which has reference to the Flexible New Deal (Designation of Employment Officers)\* Order 2009.

<sup>1</sup>Reg. 75 substituted by reg. 8 of S.I. 1997/2863 as from 5.1.98.

<sup>2</sup>Words in reg. 75(1) and sub-para. (a) substituted by reg. 2(9) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Words in reg. 75(1), (b), (3) & (5) substituted, para. (2) omitted, words in para. (5) inserted by reg. 2(9) of S.I. 2012/2568 as from 22.10.12.

<sup>4</sup>Reg. 75(4) substituted and defn. of "employment" deleted by reg. 4(8) of S.I. 2013/443 as from 2.4.13.

►<sup>1</sup>Interpretation

**75.**—(1) For the purposes of ►<sup>2</sup>section 19A◄ and of this Part:

- <sup>2</sup>(a) "an employment programme" means a programme or scheme which is designed to assist a claimant to prepare for or move into work;◄
- <sup>3</sup>(b) "a training scheme" means a scheme or course which is designed to assist a claimant to gain the skills, knowledge or experience that will make it more likely, in the opinion of the Secretary of State, that the claimant will obtain work or be able to do so.◄

(2) ►<sup>3</sup>◄

►<sup>3</sup>(3) In section 19A and in this Part, "week" means any period of 7 consecutive days.◄

►<sup>4</sup>(4) In section 19 and in this Part, "employment" means employed earner's employment other than such employment in which a person is employed whilst participating in an employment programme falling within paragraph (1)(a) and "employed earner" shall be construed accordingly; and for the purposes of paragraph (4) of regulation 70C includes self-employment where the claimant's income as calculated under Part VIII exceeds his applicable amount as calculated under sections 4(1), 12 and 13 of the Act.◄

(5) ►<sup>3</sup>In this part◄

►<sup>3</sup>"current sanctionable failure" means a failure which is sanctionable under section 19 (higher-level sanctions), 19A (other sanctions) or 19B (claimants ceasing to be available for employment etc) in relation to which the Secretary of State has not yet determined whether the amount of an award is to be reduced in accordance with section 19 or 19A or regulation 69B;◄

►<sup>4</sup>◄

►<sup>3</sup>"sanctionable failure" means a failure which is sanctionable under section 19 (higher-level sanctions), 19A (other sanctions) or 19B (claimants ceasing to be available for employment etc).◄



## PART VI

*Membership of the family***Persons of a prescribed description**

76.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act is a person <sup>1</sup>who falls within the definition of qualifying young person in section 142 of the Benefits Act (child and qualifying young person)<sup>4</sup>, and in these Regulations, except in Part IV, such a person is referred to as a “young person”.

(2) Paragraph (1) shall not apply to a person who is—

- (a) <sup>1</sup>
- (b) entitled to a jobseeker's allowance or would, but for section 3(1)(d) of the Act (provision against dual entitlement) be so entitled; or
- (c) entitled to income support or would, but for section 134(2) of the Benefits Act (exclusion from benefit) be <sup>2</sup>so entitled; or
- (d) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies<sup>3</sup> or
- (e) entitled to an income-related employment and support allowance or would, but for paragraph 6(1)(d) of Schedule 1 to the Welfare Reform Act (conditions of entitlement to income-related employment and support allowance), be so entitled.<sup>4</sup>; or
- (f) entitled to universal credit<sup>4</sup>

<sup>5</sup>(3) A person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act includes 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.<sup>4</sup>

**Circumstances in which a person is to be treated as responsible or not responsible for another**

77.—(1) Subject to the following provisions of this regulation, a person is to be treated for the purposes of the Act as responsible for a child or young person for whom he is receiving child benefit <sup>5</sup>and this includes a child or young person to whom paragraph (3) of regulation 76 applies<sup>4</sup>.

(2) In a case where a child (“the first child”) is in receipt of child benefit in respect of another child (“the second child”), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.



(3) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

- (a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or
- (b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.

(4) Where regulation 78(7) (circumstances in which a person is to be treated as being or not being a member of the household) applies in respect of a child or young person, that child or young person shall be treated as the responsibility of the claimant for that part of the week for which he is under that regulation treated as being a member of the claimant's household.

(5) Except where paragraph (4) applies, a child or young person shall be treated as the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

**Circumstances in which a person is to be treated as being or not being a member of the household**

**78.**—(1) Subject to paragraphs (2) to (5), the claimant and any partner and, where the claimant or his partner is treated as responsible under regulation 77 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall be treated for the purposes of the Act as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

▶<sup>1</sup>(1A) Subject to paragraphs (2) and (3), the members of a joint-claim couple shall be treated for the purposes of the Act as members of the same household notwithstanding that they are temporarily living away from each other.◀

<sup>1</sup>Reg. 78(1A) inserted & words substituted in regs. 78(2) & (3) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(2) ▶<sup>1</sup>Paragraphs (1) and (1A)◀ shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.

(3) ▶<sup>1</sup>Paragraphs (1) and (1A)◀ shall not apply in respect of any member of a couple or of a polygamous marriage where—

- (a) one, both or all of them are patients detained in a hospital provided under section 4 of the National Health Service Act 1977(a) ▶<sup>2</sup>high security psychiatric services◀ or ▶<sup>3</sup>section 102 of the National Health Service (Scotland) Act 1978(b) (state hospitals)◀; or

<sup>2</sup>Words substituted in reg. 78(3)(a) by reg. 13(4) of S.I. 2006/2378 as from 2.10.06.

- ▶<sup>4</sup>(b) one, both or all of them are—
  - (i) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (ii) on temporary release in accordance with the provisions of the Prison Act 1952(c) or rules made under section 39(6) of the Prisons (Scotland) Act 1989(d);◀

<sup>3</sup>Words substituted in reg. 78(3)(a) by reg. 3(2) of S.I. 2006/588 as from 1.4.06.

- (c) ▶<sup>1</sup>a claimant◀ is abroad and does not satisfy the conditions of regulation 50 (persons absent from Great Britain); or
- (d) one of them is permanently ▶<sup>5</sup>residing in a care home, an Abbeyfield Home or an independent hospital◀.

<sup>4</sup>Reg. 78(3)(b) substituted by reg. 18 of S.I. 1996/1517 as from 7.10.96.

(4) A child or young person shall not be treated as a member of the claimant's household where he is—

<sup>5</sup>Words in reg. 78(3)(d) substituted by para. 3(a) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(a) 1977 c. 49; section 4 was amended by section 148, Schedule 4, paragraph 47 of the Mental Health Act 1983 (c. 20).

(b) 1978 c. 29.

(c) 1952 c. 52.

(d) 1989 c. 45.

## Reg. 78

- (a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989<sup>(a)</sup> or by a voluntary organisation under section 59(1)(a) of that Act; or
- (b) placed with the claimant or his partner prior to adoption; or
- (c) in accordance with a relevant Scottish enactment, boarded out with the claimant or his partner, whether or not with a view to adoption; or
- (d) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983<sup>(b)</sup> or <sup>1</sup>the Adoption Agencies (Scotland) Regulations 2009.◀

<sup>1</sup>Words substituted in paras. 4(d) and 5(h) by reg. 19(2)(a) of Part 2, Sch. 1, of S.I. 2011/1740 as from 15.7.11.

(5) Subject to paragraphs (6) and (7), paragraph (1) shall not apply to a child or young person who is not living with the claimant and who—

- (a) in a case which does not fall within sub-paragraph (b), has been continuously absent from Great Britain for a period of more than four weeks commencing—
  - (i) where he went abroad before the date of the claim for a jobseeker's allowance, with that date;
  - (ii) in any other case, on the day which immediately follows the day on which he went abroad; or
- (b) where <sup>2</sup>regulation 50(5)◀ or paragraph 11 or 13 of Schedule 5 (temporary absence abroad for the treatment of a child or young person) applies, has been continuously absent from Great Britain for a period of more than 8 weeks, that period of 8 weeks commencing—
  - (i) where he went abroad before the date of the claim for a jobseeker's allowance, on the date of that claim;
  - (ii) in any other case, on the day which immediately follows the day on which he went abroad; or
- (c) has been an in-patient or in accommodation <sup>3</sup>◀ for a continuous period of more than 12 weeks commencing—
  - (i) where he became an in-patient or, as the case may be, entered that accommodation before the date of the claim for a jobseeker's allowance, with that date; or
  - (ii) in any other case, with the date on which he became an in-patient or entered that accommodation,
 and, in either case, has not been in regular contact with either the claimant or any member of the claimant's household; or
- (d) is being looked after by a local authority under a relevant enactment; or
- (e) has been placed with a person other than the claimant prior to adoption; or
- (f) is in the care of a local authority under a relevant Scottish enactment; or
- (g) has been boarded out under a relevant Scottish enactment with a person other than the claimant prior to adoption; or
- (h) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 of <sup>1</sup>the Adoption Agencies (Scotland) Regulations 2009◀; or
- (i) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.

<sup>2</sup>Words substituted in reg. 78(5)(b) by Sch., Part II to S.I. 1996/1516 as from 7.10.96.

<sup>3</sup>Words in reg. 78(5)(c) omitted by para. 3(b) of S.I. 2005/2687 as from 24.10.05.

(6) In the case of a person who was entitled to income support <sup>4</sup>or an income-related employment and support allowance◀ immediately before his entitlement to a jobseeker's allowance commenced, sub-paragraphs (a), (b) and (c) of paragraph (5) <sup>5</sup>shall◀ each have effect as if head (i) was omitted.

<sup>4</sup>Words inserted in reg. 78(6) by reg. 3(13) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Words substituted in reg. 78(6) & (7) by Sch., Part II to S.I. 1996/1516 as from 7.10.96.

(7) A child or young person to whom any of the circumstances mentioned in <sup>5</sup>sub-paragraphs (d), (f) or (i)◀ of paragraph (5) applies shall be treated as being a member of the claimant's household only for that part of any benefit week where that child or young person lives with the claimant.

(8) Where a child or young person for the purposes of attending the educational establishment at which he is receiving relevant education is living with the claimant or his partner and neither one is treated as responsible for that child or young person that child or young person shall be treated as being a member of the household of the person treated as responsible for him and shall not be treated as a member of the claimant's household.

(a) 1989 c. 41.

(b) S.I. 1983/1964.

(9) In this regulation—

- ▶<sup>1</sup>(za) “accommodation” means accommodation provided by a local authority in a home owned or managed by that local authority—
  - (i) under sections 21 to 24 of the National Assistance Act 1948 (provision of accommodation); or
  - (ii) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968 (provision of residential or other establishment); or
  - (iii) under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.);

<sup>1</sup>Para. (za) inserted in reg. 78(9) by para. 3(c) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

where the accommodation is provided for a person whose stay in that accommodation has become other than temporary;◀

- (a) “relevant enactment” means the Army Act 1955(a), the Social Work (Scotland) Act 1968(b), the Matrimonial Causes Act 1973(c), ▶<sup>2</sup>the Adoption and Children (Scotland) Act 2007◀, the Family Law Act 1986(d) and the Children Act 1989(e);
- (b) “relevant Scottish enactment” means the Army Act 1955, the Air Force Act 1955(f), the Naval Discipline Act 1957(g), the Adoption Act 1958(h), the Matrimonial Proceedings Children Act 1958(i), the Children Act 1958(j), the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969(k), the Children and Young Persons Act 1969(l), the Matrimonial Causes Act 1973, the Guardianship Act 1973(m), the Children Act 1975(n), the Domestic Proceedings and Magistrates’ Courts Act 1978(o), ▶<sup>2</sup>the Adoption and Children (Scotland) Act 2007◀, the Child Care Act 1980(p) and the Foster Children Act 1980(q);
- (c) “voluntary organisation” has the meaning assigned to it in the Children Act 1989 or, in Scotland, the Social Work (Scotland) Act 1968.

<sup>2</sup>Words substituted in paras. 9(a) & (b) by reg. 19(2)(b) of Part 2, Sch. 1 of S.I. 2011/1740 as from 15.7.11.

## PART VII

### AMOUNTS

#### Weekly amounts of contribution-based jobseeker’s allowance

**79.—**(1) In the case of a contribution-based jobseekers allowance, the age related amount applicable to a claimant for the purposes of section 4(1)(a) shall be—

- ▶<sup>3</sup>(a) in the case of a person who has not attained the age of 25, ▶<sup>4</sup>£57.90◀ per week;◀
- (c) in the case of a person who has attained the age of 25, ▶<sup>4</sup>£73.10◀ per week.

<sup>3</sup>Reg. 79(1)(a) & (b) substituted for (a) by reg. 6(7) of S.I. 2013/2536 as from 29.10.13.

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

<sup>4</sup>In art. 79(1)(a) & (c) amount substituted by art. 8 of S.I. 2015/30. See art. 1(2)(g) of the S.I. for the relevant effective dates and when to apply.

- 
- (a) 1955 c. 18. The provisions relating to reception orders were replaced as from 1st January 1992 by the Armed Forces Act 1991 (c. 61) but with the savings (arts. 2 and 3(1) of S.I. 1991/2719).
  - (b) 1968 c. 49.
  - (c) 1973 c. 18.
  - (d) 1986 c. 55.
  - (e) 1989 c. 41.
  - (f) 1955 c. 19.
  - (g) 1957 c. 53.
  - (h) 1958 c. 5.
  - (i) 1958 c. 40.
  - (j) 1958 c. 65.
  - (k) 1969 c. 46.
  - (l) 1969 c. 54.
  - (m) 1973 c. 29.
  - (n) 1975 c. 72.
  - (o) 1978 c. 22.
  - (p) 1980 c. 5.
  - (q) 1980 c. 6.

## Regs. 80-82

## Deductions in respect of earnings

**80.**—(1) 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 contribution-based jobseeker's allowance for any ►<sup>1</sup>benefit week◄ is an amount equal to the weekly amount of the claimant's earnings calculated in accordance with Part VIII (income and capital).

(2) For the avoidance of doubt, in calculating the amount of earnings for the purposes of this regulation, only the claimant's earnings shall be taken into account.

## Payments by way of Pensions

**81.**—(1) The deduction in respect of pension payments►<sup>2</sup>, PPF payments or FAS payments◄ from the amount which apart from this regulation would be payable to a claimant by way of a contribution-based jobseeker's allowance for any ►<sup>3</sup>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.

►<sup>3</sup>(1A) Where pension payments►<sup>2</sup>, 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.

(1B) Where pension payments►<sup>2</sup>, 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.◄

(2) In determining the amount of any pension payments►<sup>2</sup>, PPF payments or FAS payments◄ for the purposes of paragraph (1), there shall be disregarded—

(a) and (b) ►<sup>3</sup>◄

►<sup>4</sup>(c) 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◄ ►<sup>5</sup>; and

(d) any PPF payments or FAS payments(a) which are payable to him and which arose on the death of a person who had an entitlement to such payments.◄

(3) Subject to the provisions of paragraph (2), where a pension payment►<sup>2</sup>, 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►<sup>2</sup>, 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.

►<sup>6</sup>Income-based jobseeker's allowance

**82.**—(1) Regulations 83 to ►<sup>7</sup>85◄ and 87 apply in the case of an income-based jobseeker's allowance but not a joint-claim jobseeker's allowance.

(2) Regulations 86A to ►<sup>7</sup>86C◄ only apply in the case of a joint-claim jobseeker's allowance.◄

<sup>1</sup>Words substituted in reg. 80(1) by reg. 2(8) of S.I. 1997/454 as from 7.4.97.

<sup>2</sup>Words inserted into reg. 81(1), (1A), (1B), (2) & (3) by reg. 5(a) & (c) of S.I. 2006/1069 as from 5.5.06.

<sup>3</sup>Words substituted in reg. 81(1), Regs. 81(1A) & (1B) inserted & paras. 81(2)(a) & (b) deleted by regs. 19(2), (3) & (4) of S.I. 1996/1517 as from 17.10.96.

<sup>4</sup>Sub-para. (2)(c) of reg. 81 substituted by reg. 2(9) of S.I. 1997/454 as from 7.4.97.

<sup>5</sup>Sub-para (d) inserted in reg. 81(2) by reg. 5(b) of S.I. 2006/1069 as from 5.5.06.

<sup>6</sup>Reg. 82 substituted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>7</sup>Refs. substituted in reg. 82 by reg. 2(2) of, and Pt. II, para. 3 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(a) Definitions of "PPF payments" and "FAS payments" were inserted into section 35(1) of the Jobseekers Act 1995 by S.I. 2006/343.

**Applicable amounts**

**83.** Except in the case of a claimant to whom regulation 84, 85 <sup>1</sup> or <sup>2</sup> (applicable amount in other cases <sup>2</sup>) applies, a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case.

- (a) an amount in respect of himself or if he is a member of a couple, an amount in respect of both of them, determined in accordance with sub-paragraph (1), (2) or (3), as the case may be, of paragraph 1 of Schedule 1;
- (b) <sup>3</sup>

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (b) an amount determined in accordance with paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family, excluding a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant would exceed £3,000\*, but including a child whose capital falls to be treated as income in accordance with regulation 106(1) (modification in respect of children and young person);

- (c) <sup>4</sup>
- (d) <sup>3</sup>

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (d) where he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 1 (family premium);
- (e) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 1 (premiums); and
- (f) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

*\*Amount of £3,000 in reg. 83(b) maintained in force by art. 19(2)(a) of S.I. 2014/516. See art. 1(2)(h) of the S.I. for the relevant dates and when to apply.*

**Polygamous Marriages**

**84.—(1)** Except in the case of a claimant to whom regulation 83, <sup>1</sup> or <sup>2</sup> (applicable amounts in special cases <sup>1</sup> or <sup>2</sup> or paragraph (2) applies, where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amount as may apply in his case.

- (a) the highest amount applicable to him and one of his partners determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 1 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in <sup>5</sup> sub-paragraph (3)(e) and (1)(e) of paragraph 1 of Schedule 1 in respect of each of his other partners;
- (c) <sup>3</sup>

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (c) an amount determined in accordance with paragraph 2 of Schedule 1 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, would exceed £3,000\*, but including a child whose capital falls to be treated as income in accordance with regulation 106(1) (modification in respect of children and young persons);

*\*Amount of £3,000 in reg. 84(1)(c) maintained in force by art. 19(2)(a) of S.I. 2014/516. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

- (d) <sup>4</sup>
- (e) <sup>3</sup>

<sup>1</sup>Words omitted in reg. 83 & substituted & omitted in reg. 84(1) by reg. 2(2) of, and paras. 4 & 5 of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words deleted in regs. 83 & 84(1) by reg. 3(3)(a) & (b) of S.I. 2009/3228 as from 25.1.10.

<sup>3</sup>Regs. 83(b), (d), 84(1)(c) and (e) omitted by paras. 2(a) & 3(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>Regs. 83(c) & 84(1)(d) omitted by paras. 2 & 3 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

<sup>5</sup>Words substituted in reg. 84(1)(b) by Sch. Pt. II to S.I. 1996/1516 as from 7.10.96.

## Regs. 84-85

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (e) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 1 (family premium);
  - (f) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 1 (premiums); and
  - (g) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.
- (2) In the case of a partner who is aged less than 18 the amount which applies in respect of that partner shall be Nil unless that partner
- (a) is treated as responsible for a child; or
  - (b) is a person who, had he not been a member of a polygamous marriage, would have qualified for a jobseeker's allowance by virtue of section 3(1)(f)(ii) or section 3(1)(f)(iii) and the regulations made thereunder (jobseeker's allowance for persons aged 16 or 17).

**Special cases**

<sup>1</sup>Words in reg. 85(1) substituted by reg. 8(6) of S.I. 2007/2618 as from 1.10.07.

<sup>2</sup>Words omitted in reg. 85(1) by para. 4(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>3</sup>Words inserted in reg. 85(1) by reg. 2(2) of, and para. 6(a) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Words substituted in reg. 85(1) by reg. 2(10) of S.I. 1997/454 as from 7.4.97.

**85.—(1)** ▶<sup>1</sup>In◀ the case of a person to whom any paragraph in column (1) of Schedule 5 applies (applicable amounts in special cases) the amount included in the claimant's weekly applicable amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule ▶<sup>2</sup>◀

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

85.—(1) ▶<sup>3</sup>Subject to paragraph (2A),◀ in the case of a person to whom any paragraph in column (1) of Schedule 5 applies (applicable amounts in special cases) the amount included in the claimant's weekly applicable amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule but excluding an amount for a child or young person whose ▶<sup>4</sup>capital, if calculated◀ in accordance with Part VIII in like manner as for the claimant, would exceed £3,000\*, but including an amount for a child or young person whose capital falls to be treated as income in accordance with regulation 106(1) (modification in respect of children and young persons).

*\*Amount of £3,000 in reg. 85(1) maintained in force by art. 19(2)(a) of S.I. 2014/516. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

<sup>5</sup>Reg. 85(2) omitted by reg. 4(5) of S.I. 2009/583 as from 6.4.09.

<sup>6</sup>Reg. 85(2A) omitted by para. 4 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

<sup>7</sup>Reg. 85(3) omitted by reg. 6(2)(a) of S.I. 2005/3360 as from 10.4.06.

<sup>8</sup>Words inserted in reg. 85(4) by reg. 2(7)(a) of S.I. 1996/2538 as from 28.10.96.

<sup>9</sup>Words substituted in reg. 85(4) by reg. 7(2)(a) of S.I. 2006/1026 as from 30.4.06.

(2) ▶<sup>5</sup>◀

(2A) ▶<sup>6</sup>◀

(3) ▶<sup>7</sup>◀

*This paragraph is reproduced below as it was before amdts. in 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(3) In Schedule 5, for the purposes of paragraphs 1, 2 and 17 (persons in residential care or nursing home who become patients), where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(4) ▶<sup>8</sup>Subject to paragraph (4A),◀ ▶<sup>9</sup>in this regulation◀ and Schedule 5—



▶<sup>1</sup>◀

▶<sup>1</sup>“partner of a person subject to immigration control” means a person—

- (i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act ; or
- (ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000; and
- (iii) who is a member of a couple and ▶<sup>2</sup>the members◀ partner is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to ▶<sup>2</sup>the partner◀ for the purposes of exclusion from entitlement to jobseeker’s allowance;◀

▶<sup>3</sup>“person from abroad” has the meaning given in regulation 85A;◀

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of ▶<sup>4</sup>regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(a)◀

“prisoner” means a person who—

- (a) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act 1952(b) or the Prisons (Scotland) Act 1989(c);

other than a person ▶<sup>5</sup>who is detained in hospital under the provisions of the Mental Health Act 1983(d), or in Scotland, under the provisions of the ▶<sup>6</sup>Mental Health (Care and Treatment) (Scotland) Act 2003◀ or the Criminal Procedure (Scotland) Act 1995(e),◀

▶<sup>7</sup>◀

(4A) and (4B) ▶<sup>3</sup>◀

(5) and (6) ▶<sup>7</sup>◀

▶<sup>3</sup>Special cases: supplemental - persons from abroad

**85A.**—(1) “Person from abroad” means, subject to the following provisions of this regulation, a claimant who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

▶<sup>8</sup>(2) No claimant shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless—

- (a) ▶<sup>9</sup>subject to the exceptions in paragraph (2A),◀ the claimant has been living in any of those places for the past three months; and
- (b) the claimant has a right to reside in any of those places, other than a right to reside which falls within paragraphs (3).◀

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 3 of S.I. 2013/3196 for details.*

(2) No claimant shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3).

<sup>1</sup>Defn. of “partner of a person subject to immigration control” inserted and first defn. of “person from abroad” omitted by reg. 4(3) of S.I. 2000/636 as from 3.4.00.

<sup>2</sup>Words substituted in defn. of “partner of a person...” by para. 26(5) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Defn. of “person from abroad” substituted, Regs. 85(4A) & (4B) omitted & Reg. 85A inserted by reg. 7(2)(a)(ii), (2)(b) & (3) of S.I. 2006/1026 as from 30.4.06.

<sup>4</sup>Words in defn. of “patient” substituted by reg. 6(2)(b) of S.I. 2005/3360 as from 10.4.06.

<sup>5</sup>Words substituted in defn. of “prisoner” by reg. 8(2)(d) of S.I. 1998/263 as from 6.4.98.

<sup>6</sup>Words substituted in defn. of “prisoner” by art. 23(2)(a) of S.I. 2005/445 as from 5.10.05.

<sup>7</sup>Defn. of “residential accommodation”, regs. 85(5) & (6) omitted by paras. 4(b) & (c) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>8</sup>Reg. 85A(2) substituted by reg. 2(2) of S.I. 2013/3196 as from 1.1.14.

<sup>9</sup>Words in reg. 85A(2)(a) inserted by reg. 3(2)(3) of S.I. 2014/2735 as from 9.11.14. (See reg. 4 for details of savings provision which apply).

(a) S.I. 2005/3360.

(b) 1952 c. 52.

(c) 1989 c. 45.

(d) 1983 c. 72.

(e) 1995 c. 46.

**Reg. 85A**

<sup>1</sup>Reg. 85A(2A) inserted by reg. 3(2)(3) of S.I. 2014/2735 as from 9.11.14. (See reg. 4 for details of savings provision which apply).

►<sup>1</sup>(2A) The exceptions are where the claimant has at any time during the period referred to in paragraph (2)(a)–

- (a) paid either Class 1 or Class 2 contributions by virtue of regulation 114, 118, 146 or 147 of the Social Security (Contributions) Regulations 2001<sup>(a)</sup> or by virtue of an Order in Council having effect under section 179 of the Social Security Administration Act 1992<sup>(b)</sup>; or
- (b) been a Crown servant posted to perform overseas the duties of a Crown servant; or
- (c) been a member of Her Majesty's forces posted to perform overseas the duties of a member of Her Majesty's forces. ◀

(3) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following–

- (a) regulation 13 of the Immigration (European Economic Area) Regulations 2006<sup>(c)</sup>; ►<sup>2</sup>◀
- <sup>3</sup>(aa) regulation 15A(1) of those Regulations, but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations; ◀
- (b) Article 6 of Council Directive No. 2004/38/EC<sup>(d)</sup>►<sup>3</sup>; or
- (c) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen. ◀

<sup>2</sup>Words in reg. 85A(3)(a) omitted by reg. 3 of S.I. 2012/2587 as from 8.11.12.

<sup>3</sup>Paras. (3)(aa) & (c) inserted by reg. 3 of S.I. 2012/2587 as from 8.11.12.

(4) A claimant is not a person from abroad if he is–

- <sup>4</sup>(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulations 2006 as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those regulations; ◀
- (g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>(e)</sup>, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967<sup>(f)</sup>;
- <sup>5</sup>(h) a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is–
  - (i) discretionary leave to enter or remain in the United Kingdom;
  - (ii) leave to remain under the Destitution Domestic Violence concession<sup>(g)</sup>;
 or

<sup>4</sup>Reg. 85A(4)(a)-(f) substituted by reg. 3 of S.I. 2014/902 as from 31.5.14.

<sup>5</sup>Sub-para (h) substituted by reg. 6(8)(a) of S.I. 2013/2536 as from 29.10.13.

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- (a) S.I. 2001/1004. Regulations 146 and 147 amended by S.I. 2007/1838; there are other amending instruments but none is relevant.
  - (b) 1992 c. 5. Relevantly amended by paragraph 70 of Schedule 2 to the Jobseekers Act 1995, paragraph 107 of Schedule 7 to the Social Security Act 1998 (c. 14), paragraph 15 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), paragraph 21 of Part 2 of Schedule 2 to the State Pension Credit Act 2002 (c. 16), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 10(29) of Schedule 3 to the Welfare Reform Act 2007 (c. 5), Part 1 of Schedule 7 to the Welfare Reform Act 2009 (c. 24), paragraph 27 of Schedule 2 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5), S.I. 1999/671 and S.I. 2011/2425.
  - (c) S.I. 2006/1003.
  - (d) OJL 158, 30.4.04, p. 77.
  - (e) Cmd. 9171.
  - (f) Cmnd. 3906.
  - (g) The Destitution Domestic Violence concession is published by the Home Office at: <http://www.ukba.homeoffice.gov.uk>.

(iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(a);<sup>1</sup>

▶<sup>1</sup>(hh) a person who has humanitarian protection granted under those rules; ◀<sup>2</sup>or ◀

(i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom; ▶<sup>3</sup>◀

(j)-(k) ▶<sup>2</sup>◀

**86.** ▶<sup>4</sup>◀

▶<sup>5</sup>**Applicable amounts for joint-claim couples**

**86A.** Except in the case of a joint-claim couple where regulation 86B (polygamous

<sup>1</sup>Sub-para. (hh) added to reg. 85A by reg. 3(2) of S.I. 2006/2528 as from 9.10.06.

<sup>2</sup>Word after (hh) inserted and sub-paras. (j) & (k) omitted by reg. 6(8)(b)-(c) of S.I. 2013/2536 as from 29.10.13.

<sup>3</sup>Word omitted in reg. 85A(4)(i) by reg. 3(3) of S.I. 2009/362 as from 18.3.09.

<sup>4</sup>Reg. 86 omitted reg. 2(2) of S.I. 2001/3767 from 8.4.02.

<sup>5</sup>Regs. 86A, 86B, 86C & 86D inserted by reg. 2(5) of, and para. 35 of the Sch. 2 to S.I. 2000/1978 as from 19.3.01.

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(a) S.I. 2005/1379, amended by S.I. 2013/630; there are other amending instruments but none is relevant.



**Regs. 86A-86C**

marriages), <sup>1</sup>or 86C<sup>1</sup> (special cases) <sup>1</sup>or <sup>2</sup>applies, the applicable amount of a joint-claim couple who are jointly claiming a jobseeker's allowance shall be the aggregate of such of the following amounts as may apply in their case—

- (a) an amount in respect of the joint-claim couple determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 1;
- (b) <sup>3</sup>
- (c) the amount of any premiums which may be applicable to either or both members of the joint-claim couple, determined in accordance with Parts IVA and IVB of Schedule 1 (premiums); and
- (d) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to the joint-claim couple in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

<sup>1</sup>Words substituted & omitted in reg. 86A by reg. 2(2) of, & paras. 7 & 8 of the Sch. to S.I. 2001/3767 from 8.4.02.

<sup>2</sup>Words deleted in reg. 86A by reg. 3(3)(c) of S.I. 2009/3228 as from 25.1.10.

<sup>3</sup>Reg. 86A(b) & 86B(c) omitted by paras. 5 & 6 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

**Applicable amounts for joint-claim couples: polygamous marriages**

**86B.** Except in the case of a joint-claim couple where regulation 86A, <sup>4</sup>or 86C<sup>4</sup> (special cases) <sup>4</sup>or <sup>5</sup>applies, the applicable amount of a joint-claim couple who are jointly claiming a jobseeker's allowance where either or both members of that couple are members of a polygamous marriage, shall be the aggregate of such of the following amounts as may apply in their case—

- (a) the highest amount applicable to a member of the joint-claim couple and one other member of that marriage determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 1 as if those members were a couple;
- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3)(e) and (1)(e) of paragraph 1 of Schedule 1 in respect of each of the other members of the polygamous marriage who are members of that household;
- (c) <sup>3</sup>
- (d) the amount of any premiums which may be applicable to a member of the joint-claim couple determined in accordance with Parts IVA and IVB of Schedule 1 (premiums); and
- (e) any amounts determined in accordance with Schedule 2 (housing costs) which may be applicable to the joint-claim couple in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule.

<sup>4</sup>Words substituted and omitted in reg. 86B by reg. 2(2) of, and para. 8 of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>5</sup>Words deleted in reg. 86B by reg. 3(3)(d) of S.I. 2009/3228 as from 25.1.10.

**Joint-claim couples: special cases**

**86C.**—(1) <sup>6</sup>Where<sup>6</sup> a member of a joint-claim couple is a person to whom any paragraph in column (1) of Schedule 5A applies (applicable amounts in special cases for joint-claim couples), the amount included in the joint-claim couple's weekly applicable amount shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule.

<sup>6</sup>In reg. 86C, words substituted in para. (1) & para. (2A) omitted by reg. 6 of S.I. 2004/565 as from 1.4.04.

(2) Except where the amount prescribed in Schedule 5A in respect of a joint-claim couple includes an amount applicable under regulation 86A(c) or 86B(d), a person to whom paragraph (1) applies shall be treated as not falling within the conditions specified in paragraph 20I of Schedule 1 (severe disability premium).

(2A) <sup>6</sup>

(3) <sup>7</sup>

(4) Expressions used in this regulation and in Schedule 5A shall have the same meaning as those expressions have for the purposes of regulation 85 and Schedule 5 save that for the purposes of this regulation and of Schedule 5A, the definition of "person from abroad" in regulation 85(4) shall have effect as if after the words "a claimant" there were inserted the words, "other than a member of a joint-claim couple who is not the nominated member for the purposes of section 3B,".

<sup>7</sup>Reg. 86C(3) omitted by reg. 6(3) of S.I. 2005/3360 as from 10.4.06.

**Regs. 86D-87**

<sup>1</sup>Reg. 86D omitted by reg. 2(2) of, and para. 10 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

**86D. ▶<sup>1</sup>◀◀****Transitional supplement to income-based jobseeker's allowance**

**87.—(1)** In the case of a person who, before 7th October 1996 was entitled to a special transitional addition or transitional addition in accordance with the Income Support (Transitional) Regulations 1987(**a**), the amount of any income-based jobseeker's allowance payable to him shall be increased by an amount equal to those additions, but the increase shall continue to be payable only for so long as the claimant continues to satisfy the requirements imposed in those Regulations for payment of the addition.

(2) A claimant's weekly applicable amount shall include an amount (the "protected sum") equal to any protected sum which would have been applicable in his case under regulation 17(1)(g) or 18(1)(h) of, and Schedules 3A and 3B to, the Income Support Regulations(**b**) had he been entitled to income support and not a jobseeker's allowance.

(3) In the case of any person who had he been entitled to income support and not a jobseeker's allowance, would in any week have had a higher applicable amount, in accordance with regulation 17(2) to (6A) of the Income Support Regulations (**c**), than the amount applicable to him in accordance with regulation 82 or, as the case may be, 83 then that amount shall be substituted for the applicable amount determined under that regulation.

(4) Paragraph (5) applies to a person who, had he been entitled to income support and not a jobseeker's allowance, would have been a person to whom any of the following transitional or savings provisions would have applied—

- (a) the Income Support (General) Amendment No. 3 Regulations 1993(**d**) ("the 1993 Regulations"), regulation 4;
- (b) the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995 ("the 1995 Regulations")(**e**), regulation 28.

(5) Where this paragraph applies, the amount of housing costs applicable in the particular case shall be determined as if, in Schedule 2—

- (a) in a case to which regulation 4(1) of the 1993 Regulations would have applied, paragraph 10(4) to (9) was omitted;
- (b) in a case to which regulation 4(4) of the 1993 Regulations would have applied, in ▶<sup>2</sup>paragraph 10(4)◀ for the reference to £100,000 there was substituted a reference to £150,000; and
- (c) in a case to which the 1995 Regulations apply, in ▶<sup>2</sup>paragraph 10(4)◀ for the reference to £100,000 there was substituted a reference to £125,000.

(6) In determining for the purposes of this regulation whether, if the claimant were entitled to income support—

- (a) an amount would be applicable;
- (b) an amount would be payable; or
- (c) if an amount was payable, the rate at which it would be payable,

any requirement that the person be entitled to income support, or to income support for any period of time, shall be treated as if the reference to income support included also a reference to an income-based jobseeker's allowance.

<sup>2</sup>Words substituted in reg. 87(5)(b) and (c) by the Sch. Pt. II to S.I. 1996/1516 as from 7.10.96.

(a) S.I. 1987/1969; the relevant amending instruments are S.I. 1988/521 and 1989/1626.

(b) The relevant amending instruments are S.I. 1988/1445 and 1989/534.

(c) The relevant amending instrument is S.I. 1988/910.

(d) S.I. 1993/1679.

(e) S.I. 1995/516.

(7) <sup>1</sup>For the purposes of applying paragraph (1), regulation 2A of the Income Support (Transitional) Regulations, and for the purposes of paragraph (6), regulation 3A of the Income Support Regulations(a) shall have effect in accordance with the following sub-paragraphs—

<sup>1</sup>Words substituted in reg. 87(7) by reg. 20(a) of S.I. 1996/1517 as from 7.10.96.

- (a) as if in paragraph (1)(a), after the words “permitted period”, there was included the words “subject to paragraph (2A)”; and
- (b) with the addition after paragraph (1) of the following paragraphs—
  - “(2A) Subject to paragraph (2B) where the claimant or his partner has ceased to be engaged in remunerative work, the permitted period shall be 8 weeks if—
  - (a) a jobseeker’s allowance <sup>2</sup>is not payable<sup>3</sup> to the claimant in the circumstances mentioned in <sup>3</sup>section 19(2)(a) or (b)<sup>4</sup> of the Jobseekers Act 1995 (employment left voluntarily or lost through misconduct); or
  - (b) the claimant or his partner has ceased to be engaged in that work within 4 weeks of beginning it; or
  - (c) at any time during the period of 13 weeks immediately preceding the beginning of that work, the person who has ceased to be engaged in it—
    - (i) was engaged in remunerative work; or
    - (ii) was in relevant education; or
    - (iii) was a student.

<sup>2</sup>Words substituted in reg. 87(7)(b) by reg. 20(b) of S.I. 1996/1517 as from 7.10.96.

<sup>3</sup>Words in reg. 87(7)(b) & (2B) substituted by reg. 5(19) of S.I. 2012/2568 as from 22.10.12.

(2B) <sup>4</sup>Paragraph (2A)(b) or (2A)(c)<sup>5</sup> shall not apply in the case of a person who, by virtue of regulation 74 of the Jobseeker’s Allowance Regulations 1996, is a person to whom section <sup>3</sup>section 19(2)(b)<sup>4</sup> of the Jobseekers Act 1995 does not apply.

<sup>4</sup>Words substituted in reg. 87(7)(b) by Sch. Pt. II to S.I. 1996/1516 as from 7.10.96.

(2C) In this regulation, “remunerative work” means remunerative work for the purposes of the Jobseekers Act 1995.”

*The heading to the regulation (reg. 21 of S.I. 1996/1517) which inserted reg. 87A below is:-*

**Minimum amount of a jobseeker’s allowance**

<sup>5</sup>87A. Where the amount of a jobseeker’s allowance is less than 10 pence a week that allowance shall not be payable.<sup>6</sup>

<sup>5</sup>Reg. 87A inserted by reg. 21 of S.I. 1996/1517 as from 7.10.96.

**PART VIII**

**INCOME AND CAPITAL**

**CHAPTER I**

**GENERAL**

**Calculation of income and capital of members of claimant’s family and of a polygamous marriage**

**88.**—(1) Subject to <sup>6</sup>paragraph<sup>7</sup> (3) and <sup>7</sup>and <sup>6</sup>regulation<sup>8</sup> 88ZA (calculation of income and capital of a joint-claim couple) <sup>6</sup>the income and capital of a claimant’s partner <sup>6</sup>which by virtue of section 13(2) is to be treated as the income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the “claimant” shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner <sup>6</sup>.

<sup>6</sup>Words substituted & omitted in reg. 88(1) by para. 6(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>7</sup>Words substituted in reg. 88(1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(a) S.I. 1993/1679.

## Reg. 88

*This paragraph is reproduced below as it was before amdts in 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

<sup>1</sup>Words substituted in reg. 88(1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

88.—(1) Subject to paragraphs (2) and (3) and <sup>1</sup>and regulations 88ZA (calculation of income and capital of a joint-claim couple) and <sup>1</sup>106 (modifications in respect of children and young persons), the income and capital of a claimant's partner and the income of a child or young person which by virtue of section 13(2) is to be treated as the income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner or that child or young person.

<sup>2</sup>Para. (2) of reg. 88 substituted by para. 6(b) Sch. 2(b) of S.I. 2003/455 as from 6.4.04.

<sup>2</sup>(2) Subject to the following provisions of this Part, the income paid to, or in respect of, and capital of, a child or young person who is a member of the claimant's family shall not be treated as the income or capital of the claimant. <sup>1</sup>

*This paragraph is reproduced below as it was before it was substituted by S.I. 2003/455. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(2) Regulations 99(2) and 101(2), so far as they relate to paragraphs 1 to 13 and 19 of Schedule 6 (earnings to be disregarded) and regulation 104(1) (capital treated as income) shall not apply to a child or young person.

<sup>3</sup>Words substituted by reg. 88(3) by Part II of Sch. to S.I. 1996/1516 as from 7.10.96.

(3) Where at least one member of a couple is aged less than 18 and the applicable amount of the couple falls to be determined under <sup>3</sup>paragraph 1(3)(b), (c), (g) or (h) <sup>1</sup> of Schedule 1 (applicable amounts), the income of the claimant's partner shall not be treated as the income of the claimant to the extent that—

- (a) in the case of a couple where both members are aged less than 18, the amount specified in paragraph 1(3)(a) of that Schedule exceeds the amount specified in paragraph 1(3)(c) of that Schedule; and
- (b) in the case of a couple where only one member is aged less than 18, the amount specified in paragraph 1(3)(e) of that Schedule exceeds the amount which applies in that case which is specified in <sup>3</sup>paragraph 1(3)(g) or (h) <sup>1</sup> of that Schedule.

(4) Subject to paragraph (5), where a claimant is married polygamously to two or more members of his household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member <sup>4</sup> <sup>1</sup>; and
- (b) the income and capital of that member <sup>4</sup> <sup>1</sup> shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant. <sup>4</sup> <sup>1</sup>

<sup>4</sup>Words in para. (4)(a) & (b) of reg. 88 omitted by para. 6(c) & (d) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

*These sub-paragraphs are reproduced below as they were before amdts in 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(a) the claimant shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and

(b) the income and capital of that member or, as the case may be, the income of that child or young person shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant or, as the case may be, as for any child or young person who is member of his family.

(5) Where a member of a polygamous marriage is a partner aged less than 18 and the amount which applies in respect of him under regulation 84(2) (polygamous marriages) is nil, the claimant shall not be treated as possessing the income of that partner to the extent that an amount in respect of him would have been included in the applicable amount if he had fallen within the circumstances set out in regulation 84(2)(a) or (b).



**Regs. 88ZA-92**

**►<sup>1</sup>Calculation of income and capital of a joint-claim couple**

<sup>1</sup>Reg. 88ZA inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

**88ZA.**—(1) Subject to paragraphs (2) and (4), the income and capital of a joint-claim couple shall be calculated by—

- (a) determining the income and capital of each member of that couple in accordance with this Part; and
- (b) aggregating the amount determined in respect of each member in accordance with sub-paragraph (a) above.

(2) Where—

- (a) a member of a joint-claim couple is aged less than 18;
- (b) the other member is aged over 18; and
- (c) the applicable amount of the couple falls to be determined under paragraph 1(3)(g) or (h) of Schedule 1 (applicable amounts),

the income of the joint-claim couple shall not be aggregated to the extent that the amount specified in paragraph 1(3)(e) of that Schedule exceeds the amount which applies in that case which is specified in paragraph 1(3)(g) or (h) of that Schedule.

(3) Where a member of a joint-claim couple is married polygamously to two or more members of his household, the joint-claim couple shall be treated as possessing income and capital belonging to each such member and the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for each member of the joint-claim couple.

(4) Regulations 99(2) and 101(2) in so far as they relate to paragraphs 5, 7, 8 and 11 of Schedule 6 (earnings to be disregarded) shall not apply to a member of a joint-claim couple but there shall instead be disregarded from the net earnings of a member of a joint-claim couple any sum, where applicable, specified in—

- (a) paragraphs 1 to 4 and 13 to 16 of Schedule 6; and
- (b) paragraphs 1 to 6 of Schedule 6A.◀

**►<sup>2</sup>Income of participants in the self-employment route ►<sup>3</sup>◀**

<sup>2</sup>Reg. 88A inserted by reg. 3(3) of S.I. 1998/1174 as from 1.6.98.

**88A.** Chapters II, III, IV, V, VII and VIII of this Part and regulations 131 to 136, 138 and 139 shall not apply to any income which is to be calculated in accordance with Chapter IVA of this Part (participants in the self-employment route ►<sup>3</sup>◀).◀

<sup>3</sup>Words in the title and reg. 88A deleted by reg. 2(a) of S.I. 2000/2910 as from 27.11.00.

**►<sup>4</sup>◀ liable relative payments**

<sup>4</sup>Words deleted in heading to and in reg. 89 by regs. 4(4) & (5) of S.I. 2009/2655. See reg. 1(6)(b) of the S.I. for the relevant commencement date.

**89.** Regulations 94 to ►<sup>5</sup>105◀, 108 to 115 and Chapter IX of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof (►<sup>4</sup>►<sup>6</sup>◀ liable relatives payments◀).

<sup>5</sup>Word substituted in reg. 89 by para. 7 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

*Reg. 89 is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

89. Regulations 94 to 106, 108 to 115 and Chapter IX of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof (liable relatives).

<sup>6</sup>Words substituted in reg. 89 and reg. 90 omitted by reg. 3 of S.I. 2008/2111 as from 27.10.08.

**90.** ►<sup>6</sup>◀

**Calculation of income and capital of full-time students**

**91.** The provisions of Chapters II to VI of this Part (income and capital) shall have effect in relation to full-time students and their partners subject to the modifications set out in Chapter IX thereof (full-time students).

**Rounding of fractions**

**92.** 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 II

## INCOME

**Calculation of income**

<sup>1</sup>Words substituted in reg. 93(1) by reg. 2(5) of S.I. 2001/1978 as from 19.3.01.

**93.**—(1) For the purposes of <sup>1</sup>section 3(1) (the income-based conditions) and 3A(1) (the conditions for claims by joint-claim couples)  $\blacktriangleleft$  (the income-based conditions) the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI, the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 116 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes capital treated as income under regulation 104 and income which a claimant is treated as possessing under regulation 105 (notional income).

**Calculation of earnings derived from employed earner's employment and income other than earnings**

**94.**—(1) Earnings derived from employment as an employed earner and income which does not consist of earnings 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 97 (calculation of weekly amount of income).

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

<sup>2</sup>Reg. 94(2)(a) substituted by reg. 4(10) of S.I. 2008/698 on or after 7.4.08, subject to the reg. 1(2) *ibid*.

- $\blacktriangleright$ <sup>2</sup>(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;
- (aa) 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;  $\blacktriangleleft$
- $\blacktriangleright$ <sup>3</sup>(b) in any other case, a period equal to such number of weeks as is equal to the number obtained by applying the formula—

<sup>3</sup>Reg. 94(2)(b) substituted by reg. 6(9)(a) of S.I. 2013/2536 as from 29.10.13.

$$\frac{E}{J + D}$$

where—

E is the amount of net earnings, or in the case of income which does not consist of earnings, the amount of that income less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings);

J is the amount of jobseeker's allowance which would be payable had the payment not been made;

D is an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 6 and Schedule 6A (sums to be disregarded in the calculation of earnings) or, as the case may be, any paragraph of Schedule 7 other than paragraph 1 of that Schedule, as is appropriate in the claimant's case,  $\blacktriangleleft$

and that period shall begin on the date on which the payment is treated as paid under regulation 96.

<sup>4</sup>Paras. (2A) and (2B) inserted into reg. 94 by reg. 5(2) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

$\blacktriangleright$ <sup>4</sup>(2A) The period over which a Career Development Loan, which is paid pursuant to section 2 of the Employment and Training Act 1973, shall be taken into account shall be the period of education and training intended to be supported by that loan.

(2B) Where grant income as defined in Chapter IX of this Part has been paid to a person who ceases to be a full-time student before the end of the period in respect of which that income is payable and, as a consequence, the whole or part of that income

falls to be repaid by that person, that income shall be taken into account over the period beginning on the date on which that income is treated as paid under regulation 96 and ending—

- (a) on the date on which repayment is made in full; or
- ▶<sup>1</sup>(aa) where the grant is paid in instalments, on the day before the next instalment would have been paid had the claimant remained a student; or◀
- (b) on the last date of the academic term or vacation during which that person ceased to be a full-time student, whichever shall first occur.◀

<sup>1</sup>Para. (aa) inserted in reg. 94(2B) by reg. 12 of S.I. 1998/563 as from 6.4.98.

▶<sup>2</sup>(2C)(a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations—

<sup>2</sup>Reg. 94(2C) substituted by reg. 3(5) of S.I. 2015/389 as from 6.4.15.

- (i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year; or
- (ii) in respect of training in the claimant's first year of training as a member of a reserve force for a maximum of 43 days in that year.
- (b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—
  - (i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table, or
  - (ii) in any other case, over a period which is equal to the duration of the training period.
- (c) this is the table referred to in sub-paragraph (b)(i)—

<i>Column 1</i> <i>Period of training in days</i>	<i>Column 2</i> <i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42◀

▶<sup>3</sup>(2D) The period referred to in paragraph (2C) over which earnings are to be taken into account shall begin on the date on which they are treated as paid under regulation 96.◀

<sup>3</sup>Reg. 94(2D) inserted by reg. 2(6) of S.I. 2012/1616 as from 30.7.12.

(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 96 (date on which income is treated as paid).

(4) In a case to which paragraph (3) applies, earnings under regulation 98 (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 98(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.

## Reg. 94

(6) Subject to paragraph (7), 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 96 (date on which income is 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 an 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<sup>(a)</sup>, 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 (6) is 52 weeks from the date on which the payment is treated as paid under regulation 96.

(8) In this regulation—

- (a) “compensation payment” means any payment to which paragraph (3) of regulation 98 (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 (9), 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 96, is specified in <sup>1</sup>section 227(1) of the Employment Rights Act 1996<sup>2</sup>, and treating the result (less any fraction of a whole number) as a number of weeks.

(9) For the purposes of paragraph (8), if it appears to <sup>2</sup>the Secretary of State<sup>1</sup> 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 the sub-paragraph, the expiry date shall be the date specified in paragraph (8)(b)(i).

(10) For the purposes of this regulation the claimant’s earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V respectively of this Part.

<sup>(a)</sup> 1992 c. 52. Section 188 was amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (S.I. 1995/2587).

<sup>1</sup>Words substituted in reg. 94(8)(c)(ii) by reg. 8(7) of S.I. 2007/2618 as from 1.10.07.

<sup>2</sup>Words substituted in reg. 94(9) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

▶<sup>1</sup>(11) For the purposes of the number obtained as referred to in paragraph (2)(b), any fraction is to be treated as a corresponding fraction of a week. ◀

<sup>1</sup>Reg. 94(11) inserted by reg. 6(10) of S.I. 2013/2536 as from 29.10.13.

**Calculation of earnings of self-employed earners**

**95.**—(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 ▶<sup>2</sup>any items to which paragraph (2A) 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 6 ▶<sup>3</sup>and Schedule 6A ◀ (earnings to be disregarded) as is appropriate in the claimant's case.

<sup>2</sup>Words in reg. 95(2) substituted by reg. 4(11)(a) & (b) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid.*

▶<sup>4</sup>(2A) 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,

<sup>3</sup>Words inserted in reg. 95(2) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>4</sup>Reg. 95(2A) substituted by reg. 4(6) of S.I. 2009/583. See reg. 1 to this S.I. for when to apply.

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. ◀



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

*See also reg. 163(2) below (share fishermen).*

**Date on which income is treated as paid**

**96.—**(1) Except where paragraph <sup>1</sup>(2) <sup>2</sup>applies ~~applies~~, a payment of income to which regulation 94 (calculation of earnings derived from employed earner's employment and income other than earnings) 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.
- (c) ~~▶<sup>2</sup>◀~~

<sup>1</sup>Words substituted in reg. 96(1), para. (1)(c) omitted & para. (4) inserted by reg. 4(4)(a)-(c) of S.I. 2008/2767 as from 17.11.08.  
<sup>2</sup>Words substituted in reg. 96(1) & reg. 96(3)-(4) & words in reg. 97(1) deleted by reg. 7(3)-(4) of S.I. 2011/674 as from 11.4.11.

(2) Income support, maternity allowance, short-term or long-term incapacity benefit, severe disablement allowance <sup>3</sup>, jobseeker's allowance <sup>4</sup>, employment and support allowance or universal credit ~~▶~~ shall be treated as paid <sup>4</sup>on any day ~~▶~~ in respect of which it is payable.

<sup>3</sup>Words substituted in reg. 96(2) by reg. 3(14) of S.I. 2008/1554 as from 27.10.08.  
<sup>4</sup>Words in reg. 96(2) substituted by reg. 30(4) of S.I. 2013/630 as from 29.4.13.

*The following regulation 96(2) continues to be reproduced as it is maintained in force in certain circumstances. See Explanatory Note of S.I. 2013/630 for when to apply.*

(2) Income support, maternity allowance, short-term or long-term incapacity benefit, severe disablement allowance <sup>3</sup>, jobseeker's allowance or employment and support allowance ~~▶~~ shall be treated as paid on the day of the benefit week in respect of which it is payable.

(3)-(4) ~~▶<sup>2</sup>◀~~

**Calculation of weekly amount of income**

**97.—**(1) For the purposes of regulation 94 (calculation of earnings derived from employed earner's employment and income other than earnings) ~~▶<sup>2</sup>◀~~, subject to paragraphs (2) to <sup>5</sup>(7) ~~▶~~, where the period in respect of which a payment <sup>6</sup>of income 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;
  - <sup>6</sup>(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;
  - (iiia) 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; ~~▶~~
  - (iv) 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.

<sup>5</sup>Word substituted in reg. 97(1) by reg. 2(11) of S.I. 1997/454 as from 7.4.97.  
<sup>6</sup>In reg. 97(1), words inserted and sub-para. (iii) substituted by reg. 4(5)(a) & (b) of S.I. 2008/2767 as from 27.11.08.

## Regs. 97-98

(2) Where a payment for a period not exceeding a week is treated under regulation 96(1)(a) (date on which income is 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) in the case of a payment of—

(a) maternity allowance, short-term or long-term incapacity benefit or severe disablement allowance, the amount to be taken into account for the relevant days shall be the amount of benefit payable in respect of those days;

(b) jobseeker's allowance <sup>1</sup>, income support or employment and support allowance <sup>1</sup> the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven.

<sup>1</sup>Words substituted in reg. 97(4)(b) by reg. 3(15) of S.I. 2008/1554 as from 27.10.08.

(5) Except in the case of a payment which it has not been practicable to treat under regulation 96(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 96(1)(b) (date on which income is treated as paid) is treated as paid first.

(6) Where the amount of the claimant's income 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 income is determined by reference to his average weekly income—

(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 income to be determined more accurately.

<sup>2</sup>(7) Where income is taken into account under paragraph (2B) of regulation 94 over the period specified in that paragraph, the amount of that income to be taken into account in respect of any week in that period shall be an amount equal to the amount of that income which would have been taken into account under regulation 131 had the person to whom that income was paid not ceased to be a full-time student. <sup>1</sup>

<sup>2</sup>Para. (7) inserted into reg. 97 by reg. 6(2) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

## CHAPTER III

## EMPLOYED EARNERS

**Earnings of employed earners**

**98.**—(1) Subject to paragraphs (2) and (3), "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;
  - ▶<sup>1</sup>(f) any payment or award of compensation made under section ▶<sup>2</sup>112(4), 113, 117(3)(a), 128, ▶<sup>3</sup>131 or 132◀ of the Employment Rights Act 1996 (the remedies: orders and compensation, the orders, enforcement of order and compensation, interim relief)◀;
  - (ff) any payment or remuneration made under section ▶<sup>2</sup>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);◀◀
  - (g) any award of compensation made under section 156, ▶<sup>2</sup>◀ 161 to 166, 189 or 192 of the Trade Union and Labour Relations (Consolidation) Act 1992(a) (compensation for unfair dismissal or redundancy on grounds of involvement in trade union activities, and protective awards).
  - ▶<sup>4</sup>(h) 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 ▶<sup>5</sup>Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001◀◀
- (2) "Earnings" shall not include—
- (a) ▶<sup>4</sup>Subject to paragraph (2A)◀ 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▶<sup>6</sup>, paternity leave, adoption leave▶<sup>7</sup>, shared parental 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 ▶<sup>2</sup>section 135(1) of the Employment Rights Act 1996◀.
  - ▶<sup>8</sup>(g) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme(b)◀
  - ▶<sup>9</sup>(h) any payment in respect of expenses arising out of the ▶<sup>10</sup>claimant's participating as a service user.◀
- ▶<sup>11</sup>(2A) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(h).◀
- (3) 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;

<sup>1</sup>Sub-para. (f) and (ff) substituted for sub-para. (f) in reg. 98(1) by reg. 22(1) of S.I. 1996/1517 as from 7.10.96.

<sup>2</sup>Words substituted in reg. 98(1)(f), (ff) & (2)(f) and words omitted in reg. 98(1)(g) by reg. 8(8)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

<sup>3</sup>Words substituted in reg. 98(1)(f) by reg. 6(10) of S.I. 2013/2536 as from 29.10.13.

<sup>4</sup>Sub-para. (h) inserted and words added to para (2)(a) by reg. 2(6)(a) & (b) of S.I. 1999/1509 as from 1.7.99.

<sup>5</sup>Words in reg. 98(1)(h) substituted by reg. 13(5) of S.I. 2006/2378 as from 2.10.06.

<sup>6</sup>Words inserted in reg. 98(2)(c) by reg. 3(5) of S.I. 2002/2689 as from 8.12.02.

<sup>7</sup>Words in reg. 98 inserted by art. 7(5) of S.I. 2014/3255 as from 31.12.14.

<sup>8</sup>Para. (2)(g) inserted into reg. 98 by reg. 2(12) of S.I. 1997/454 as from 7.4.97.

<sup>9</sup>In reg. 98, para. (2)(h) inserted by reg. 4(6) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

<sup>10</sup>Words in reg. 98(2)(h) substituted by reg. 4(4) of S.I. 2014/591 as from 28.4.14.

<sup>11</sup>Para (2A) inserted by reg. 2(6)(c) of S.I. 1999/1509 as from 1.7.99.

(a) 1992 c. 52.

(b) The Scheme is set out in regulation 4 of, and the Schedule to, the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Amendment) Regulations 1996 (S.I. 1996/3182).

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<sup>1</sup>Ref. in reg. 98(3)(c) added by reg. 22(2) of S.I. 1996/1517 as from 7.10.96.

- (b) any holiday pay;
- (c) any payment specified in paragraphs (1)(f)<sup>1</sup>, (ff), ◀ or (g) or (2);
- (d) any refund of contributions to which that person was entitled under an occupational pension scheme.

**Calculation of net earnings of employed earners**

**99.**—(1) For the purposes of regulation 94 (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) Subject to paragraph (3), there shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 and 19 of Schedule 6.

(3) For the purposes of calculating the amount to be deducted in respect of earnings under regulation 80 (contribution-based jobseeker's allowance: deductions in respect of earnings) the disregards specified in paragraphs 5 to 8 and 11 of Schedule 6 shall not apply.

(4) 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 by way of a contribution towards an occupational or personal pension scheme.

## CHAPTER IV

## SELF-EMPLOYED EARNERS

**Earnings of self-employed earners**

**100.**—(1) Subject to paragraph (2), "earnings", in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance paid under any scheme referred to in regulation 19(1)(r) (circumstances in which a person is to be treated as actively seeking employment: schemes for assisting persons to become self-employed earners) to the claimant for the purpose of assisting him in carrying on his business.

(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 to which paragraph 27 or 28 of Schedule 7 refers (payments in respect of a person accommodated with the claimant under an arrangement made by a local authority or voluntary organisation, and payments made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant's care);

▶<sup>2</sup>(c) any sports award. ◀

<sup>2</sup>Sub-para. (c) added to reg. 100(2) by reg. 7(3) of S.I. 1999/2165 as from 23.8.99.

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

**\*101.**—(1) For the purposes of regulation 95 (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 156, his share of the net profit derived from that employment less—
  - (i) an amount in respect of income tax and of ▶<sup>3</sup>national insurance contributions ◀ payable under the Benefits Act calculated in accordance with regulation 102 (deduction of tax and contributions for self-employed earners); and

<sup>3</sup>Words substituted in reg. 101(1)(b)(i) by reg. 6(11) of S.I. 2013/2536 as from 29.10.13.

- (ii) one half of any premium paid in the period that is relevant under regulation 95 in respect of a personal pension scheme.

(2) Subject to paragraph (3), there shall be disregarded from a claimant's net profit any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 6.

(3) For the purposes of calculating the amount to be deducted in respect of earnings under regulation 80 (contribution-based jobseeker's allowance: deductions in respect of earnings) the disregards in paragraphs 5 to 8 and 11 of Schedule 6 shall not apply.

(4) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (10) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 95 (calculation of earnings of self-employed earners) less—

- (a) subject to paragraphs (6) to (8), 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) <sup>1</sup>national insurance contributions<sup>◀</sup> payable under the Benefits Act, calculated in accordance with regulation 102 (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 95 in respect of a personal pension scheme.

<sup>1</sup>Words in reg. 101(4)(b)(ii) substituted by reg. 6(11) of S.I. 2013/2536 as from 29.10.13.

(5) 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 95 less, subject to paragraphs (6) to (8), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(6) Subject to paragraph (7), no deduction shall be made under paragraph (4)(a) or (5) 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 95;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(7) A deduction shall be made under paragraph (4)(a) or (5) 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.

(8) <sup>2</sup>The Secretary of State<sup>◀</sup> shall refuse to make a deduction under paragraph (4)(a) or (5) 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.

<sup>2</sup>Words substituted in reg. 101(8) by para. 2 of Sch. 2 to S.I. 1999/2860 as from 18.10.99.

(9) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (4)(a) or (5) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—
  - (i) the excess of any VAT paid over VAT received in the period determined under regulation 95;
  - (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;

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(iii) any payment of interest on a loan taken out for the purposes of the employment.

(10) 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) <sup>1</sup>national insurance contributions<sup>1</sup> payable under the Benefits Act, calculated in accordance with regulation 102 (deductions of tax and contributions for self-employment earners); and

(b) one half of any premium paid in the period that is relevant under regulation 95 in respect of a personal pension scheme.

<sup>1</sup>Words in reg. 101(10)(a)(ii) substituted by reg. 6(11) of S.I. 2013/2536 as from 29.10.13.

<sup>2</sup>Words substituted in reg. 101(11) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(11) Notwithstanding regulation 95 and the foregoing paragraphs, <sup>2</sup>the Secretary of State<sup>2</sup> may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 95 such as may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.

(12) For the avoidance of doubt 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.

*\*See reg. 163(3) for substituted version of this reg. as applying to share fishermen.*

<sup>3</sup>Reg. 102 substituted by reg. 6(12) of S.I. 2013/2536 as from 29.10.13.

**<sup>3</sup>Deduction of tax and contributions for self-employed earners**

**102.**—(1) Subject to paragraph (2), the amount to be deducted in respect of income tax under regulation 101(1)(b)(i), (4)(b)(i) or (10)(a)(i) (calculation of net profit of self-employed earners) is to be calculated—

(a) on the basis of the amount of chargeable income; and

(b) 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 sections 35 and 38 to 40 of the Income Tax Act 2007 (personal reliefs) as is appropriate to their circumstances.

(2) If the period determined under regulation 95 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 paragraph (1) is to be calculated on a pro rata basis.

(3) Subject to paragraph (4), the amount to be deducted in respect of national insurance contributions under regulation 101(1)(b)(i), (4)(b)(ii) or (10)(a)(ii) is to 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; 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.

(4) If the period determined under regulation 95 is less than a year—

(a) the amount specified for the tax year referred to in paragraph (3)(a) is to be reduced pro rata; and

(b) the limits referred to in paragraph (3)(b) are to be reduced pro rata.

- (5) In this regulation “chargeable income” means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 101(4)(a) or, as the case may be, (5); and
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment. ◀

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- (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 95 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 101;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

<sup>1</sup>Chapter IVA (Regs. 102A-102D) inserted by reg. 3(4) of S.I. 1998/1174 as from 1.6.98.

<sup>2</sup>Words in titles to Chapter IVA and to regs. 102B, 102C and in reg. 102C(1)(a) deleted by reg. 2(c) of S.I. 2000/2910 as from 27.11.00.

<sup>3</sup>Defn. of "self-employment route" in reg. 102A deleted by reg. 2(b) of S.I. 2000/2910 as from 27.11.00.

▶<sup>1</sup>CHAPTER IVAPARTICIPANTS IN THE SELF-EMPLOYMENT ROUTE ▶<sup>2</sup>◀**Interpretation****102A.** In this Chapter—▶<sup>3</sup>◀

"special account" means, where a person was carrying on a commercial activity in respect of which assistance was received under the self-employment route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

**Treatment of gross receipts of participants in the self-employment route ▶<sup>2</sup>◀**

**102B.** The gross receipts of a commercial activity carried on by a person in respect of which assistance is received under the self-employment route, shall be taken into account in accordance with the following provisions of this Chapter.

**Calculation of income of participants in the self-employment route ▶<sup>2</sup>◀**

**102C.**—(1) The income of a person who has received assistance under the self-employment route shall be calculated by taking into account the whole of the monies in the special account at the end of the last day upon which such assistance was received and deducting from those monies—

- (a) an amount in respect of income tax calculated in accordance with regulation 102D (deduction in respect of tax for participants in the self-employment route ▶<sup>2</sup>◀); and
- (b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) shall be apportioned equally over a period which starts on the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with the day upon which assistance was first received under the self-employment route and ending on the last day upon which such assistance was received.

(3) Income calculated pursuant to paragraph (1) shall be treated as paid—

- (a) in the case where it is due to be paid before the first benefit week in respect of which the participant or his partner ▶<sup>4</sup>or, in the case of a joint-claim couple, the participant and the other member of the couple of which the participant is a member,◀ first claims a jobseeker's allowance following the last day upon which assistance was received under the self-employment route, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid.

<sup>4</sup>Words inserted in reg. 102C(3)(a) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(4) This paragraph refers, where applicable in each benefit week in respect of which income calculated pursuant to paragraph (1) is taken into account pursuant to paragraphs (2) and (3), to the sums which would have been disregarded under paragraphs 5 to 8, 11 and 12 of Schedule 6<sup>1</sup> or paragraphs 1, 2, 5 and 6 of Schedule 6A<sup>2</sup> had the income been earnings.

<sup>1</sup>Words inserted in reg. 102C(4) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words in reg. 102D title & 102D(1) deleted by reg. 2(c) of S.I. 2000/2910 as from 27.11.00.

**Deduction in respect of tax for participants in the self-employment route<sup>2</sup>**

**102D.**—(1) The amount to be deducted in respect of income tax under regulation 102C(1)(a) (calculation of income of participants in the self-employment route<sup>2</sup>) in respect of the period determined under regulation 102C(2) shall be calculated as if—

- (a) the chargeable income is the only income chargeable to tax;
- (b) the <sup>3</sup>personal allowance<sup>4</sup> which are applicable to the person receiving assistance under the self-employment route by virtue of <sup>3</sup>section 257(1)<sup>4</sup> of the Income and Corporation Taxes Act 1988(a) (<sup>3</sup>personal allowance<sup>4</sup>) are allowable against that income; and
- (c) the rate at which the chargeable income less the <sup>3</sup>personal allowance<sup>4</sup> is assessable to income tax is <sup>4</sup>the basic rate of tax.

<sup>3</sup>Words substituted in reg. 102D(1)(b)-(c) & (2) by reg. 3(3) of S.I. 2007/1749 as from 16.7.07.

<sup>4</sup>Words in reg. 102D(1)(c) & (2) substituted & omitted by reg. 4(8)(a) & (b) of S.I. 2009/583 as from 6.4.09.

(2) For the purpose of paragraph (1), the <sup>5</sup>basic<sup>4</sup> rate<sup>4</sup> of tax to be applied and the amount of the <sup>3</sup>personal allowance<sup>4</sup> deductible shall, where the period determined under regulation 102C(2) is less than a year, be calculated on a pro rata basis.

<sup>5</sup>Words substituted in regs. 102D(2) by reg. 8(10) of S.I. 2007/2618 as from 1.10.07.

(3) In this regulation, “chargeable income” means the monies in the special account at the end of the last day upon which assistance was received under the self-employment route.<sup>4</sup>

**CHAPTER V**

**OTHER INCOME**

**Calculation of income other than earnings**

**103.**—(1) For the purposes of regulation 94 (calculation of income other than earnings) <sup>6</sup>the income of a claimant which does not consist of earnings to be taken into account shall, subject to the following provisions of this regulation, be his gross income and any capital treated as income under <sup>7</sup>regulation 104 (capital treated as income)<sup>4</sup>.

<sup>6</sup>Words deleted in reg. 103(1) by reg. 7(5) of S.I. 2011/674 as from 11.4.11.

*Para. (1) is reproduced below as it was before the amds. in 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.*

<sup>7</sup>Words substituted in reg. 103(1) by para. 8(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

103.—(1) For the purposes of regulation 94 (calculation of income other than earnings) the income of a claimant which does not consist of earnings to be taken into account shall, subject to the following provisions of this regulation, be his gross income and any capital treated as income under regulations 104 and 106 (capital treated as income and modifications in respect of children and young persons).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1) any sum, where applicable, specified in Schedule 7.

(3) Where the payment of any benefit under the Act or under the Benefits Act is subject to any deduction by way of recovery, the amount to be taken into account under paragraph (1) shall be the gross amount to which the beneficiary is entitled.

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(a) 1988 c. 1; ss. 257 to 257F were substituted for s. 257 by s. 33 of the Finance Act 1988 (c. 39); s. 257 was amended by s. 74(2) of, and Sch. 20 and Part V of Sch. 41 to, the Finance Act 1996 (c. 8) and by s. 55(2) of the Finance Act 1997 (c. 16); s. 259 was amended by ss. 30 and 35 of the Finance Act 1988 and s. 20 of the Finance (No. 2) Act 1992 (c. 48), s. 77 of, and para. 6 of Sch. 8 to, the Finance Act 1994 (c. 9) and Sch. 20 and Part V of Sch. 41 to the Finance Act 1996 (c. 8).

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<sup>1</sup>Reg. 103(4) omitted by reg. 6(3) of S.I. 2005/574 as from 4.4.05.

<sup>2</sup>Para. (5) of reg. 103 substituted by paras. (5), (5ZA) & (5ZB) by reg. 5(2) of S.I. 2001/2319 as from 2.7.01.

<sup>3</sup>Words substituted in paras. (5), (5ZA) & (5ZB), para (5AZA) inserted, defns. "assessment period" substituted and "quarter" inserted by regs. 4(2)(a)-(d) of S.I. 2008/1599 as from 1.9.08 (or during August 2008 if reg. 1(3)(a) (ibid) applies).

(4) ►<sup>1</sup>◀

►<sup>2</sup>(5) ►<sup>3</sup>Paragraphs (5ZA) and (5AZA) apply◀ where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(5ZA)►<sup>3</sup>Where a relevant payment is made quarterly, the◀ amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (5) applies, shall be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under regulation 136(5);

B = the number of benefit weeks from the benefit week immediately following that which includes the first day of that academic year to the benefit week immediately before that which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 136(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a jobseeker's allowance immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to a jobseeker's allowance;

D = the number of benefit weeks in the assessment period.

►<sup>3</sup>(5AZA) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (5) applies, shall be calculated by applying the formula in paragraph (5ZA) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 136(5).◀

(5ZB)►<sup>3</sup>In this regulation◀—

"academic year" and "student loan" shall have the same meanings as for the purposes of Chapter IX of this Part;

►<sup>3</sup>"assessment period" means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

"quarter" in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;



- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;◀

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 131(5A) or both.◀

▶<sup>1</sup>(5A) In the case of income to which regulation 94(2B) applies (calculation of income of former full-time students), the amount of income to be taken into account for the purposes of paragraph (1) shall be the amount of that income calculated in accordance with regulation 97(7) and on the basis that none of that income has been repaid.◀

▶<sup>2</sup>(5B) Where the claimant—

- (a) is a member of a couple;
- (b) his partner is receiving a contributory employment and support allowance; and
- (c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, ▶<sup>3</sup>or section 11J of the Welfare Reform Act as the case may be◀

the amount of that benefit to be taken into account is the amount as if it had not been reduced.◀

(6) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)

- ▶<sup>4</sup>(a) any payment to which regulation 98(2)(a) to (e) or 100(2) (payments not earnings) applies; or
- (b) in the case of a claimant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the claimant and his ▶<sup>5</sup>partner◀ (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.◀

*Para. (b) is reproduced below as it was before amdt. in S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version*

(b) in the case of a claimant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

**Capital treated as income**

**104.**—(1) Any capital payable by instalments which are outstanding on the first day in respect of which an income-based jobseeker's allowance is payable, or, in the case of a ▶<sup>6</sup>supersession◀, the date of that review, shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI of this Part exceeds ▶<sup>7</sup>◀▶<sup>1</sup>£16,000◀, be treated as income.

- (2) Any payment received under an annuity shall be treated as income.
- (3) ▶<sup>5</sup>◀

<sup>1</sup>Reg. 103(5A) inserted & words inserted in reg. 104(1) by regs. 7(2) & 3(2) respectively of S.I. 1997/65 or the first day of the benefit week on or after than date, whichever is later.  
<sup>2</sup>Reg. 103(5B) inserted by reg. 3(16) of S.I. 2008/1554 as from 27.10.08.

<sup>3</sup>Words in reg. 103(5B) inserted by reg. 30(5) of S.I. 2013/630 as from 29.4.13.

<sup>4</sup>Words substituted in reg. 103(6) by reg. 4(4) of S.I. 2000/636 as from 3.4.00.

<sup>5</sup>Words substituted in reg. 103(6)(b) & reg. 104(3) deleted by para. 8(b) & 9 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Words substituted in reg. 104(1) by para. 5 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>7</sup>Words omitted in reg. 104(1) by reg. 3(2) of S.I. 2005/2465 as from 10.4.06.

## Regs. 104-105

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

<sup>1</sup>Words in reg. 104(3) substituted by Sch. 4, para. (c)(i) of S.I. 2001/3070 as from 1.10.01.

<sup>2</sup>Words substituted in reg. 104(3) by reg. 5 of S.I. 2004/1141 as from 12.5.04.

<sup>3</sup>Reg. 104(5) inserted by reg. 3(3)(f) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>4</sup>Para. 104(6) inserted by reg. 2(d) of S.I. 2002/2442 as from 28.10.02.

<sup>5</sup>Para. 105 substituted by reg. 10(8) of S.I. 2011/2425 as from 31.10.11.

<sup>6</sup>Reg. 105(2)(c) & (2A) omitted & (2)(d) substituted by para. 10(a)-(b) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>7</sup>Reg. 105(2)(c) substituted by reg. 42(a) of S.I. 1996/1803 as from 7.4.97.

<sup>8</sup>Reg. 105(2)(f) omitted by reg. 6(4) of S.I. 2005/574 as from 4.4.05.

<sup>9</sup>Words inserted into reg. 105(2)(g) by reg. 3(3)(a) of S.I. 2006/588 as from 6.4.06.

<sup>10</sup>Words substituted in reg. 105(2)(g) by reg. 4(7)(a) of S.I. 2010/641 as from 1.4.10.

<sup>11</sup>Para. 2(ga) inserted in reg. 105 by reg. 4(8)(a) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

<sup>12</sup>Paras. (h) & (ha) substituted for (h) by reg. 3(4) of S.I. 2007/719 as from 2.4.07.

<sup>13</sup>Sub-para. (i) inserted in reg. 105(2) by reg. 6(2)(f) of S.I. 1998/563 as from 6.4.98.

(3) In the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment under ►<sup>1</sup>section 17, 23B, 23C or 24A of the Children Act 1989◄ or, as the case may be, ►<sup>2</sup>section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995◄ (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) shall be treated as income.

(4) Any earnings to the extent that they are not a payment of income shall be treated as income.

►<sup>3</sup>(5) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 shall be treated as income.◄

►<sup>4</sup>(6) Where an agreement or court order provides that payments shall be made to the claimant in consequence of any personal injury to the claimant and that such payments are to be made, wholly or partly, by way of periodical payments, any such periodical payments received by the claimant (but not a payment which is treated as capital by virtue of this Part), shall be treated as income.◄

**Notional income**

►<sup>5</sup>**105.**—(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to, or increasing the amount of income support or an employment and support allowance.◄

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) ►<sup>6</sup>◄

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

►<sup>7</sup>(c) child benefit to which paragraph (2A) refers;◄

- (d) ►<sup>6</sup>working tax credit or child tax credit◄
- (e) a jobseeker's allowance;
- (f) ►<sup>8</sup>◄
- (g) a personal pension scheme ►<sup>9</sup>, occupational pension scheme or a payment made by the board of the Pension Protection Fund◄ where the claimant ►<sup>10</sup>has not attained the qualifying age for state pension credit◄ ►<sup>11</sup>or
- <sup>11</sup>(ga) any sum to which paragraph (15A) applies;◄
- <sup>12</sup>(h) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a);
- (ha) any sum to which paragraph 43(a) of Schedule 8 refers; or◄◄
- <sup>13</sup>(i) rehabilitation allowance made under section 2 of the Employment and Training Act 1973(a)◄

income which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(2A) ►<sup>6</sup>◄

(a) 1973 c. 50, as amended by section 25 of the Employment Act 1988 (c. 19).

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

►<sup>1</sup>(2A) This paragraph refers to child benefit payable in accordance with regulation 2(1)(a)(ii) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976(a) (weekly rate for only, elder or eldest child of a lone parent) but only to the extent that it exceeds the amount specified in regulation 2(1)(a)(i) of those Regulations◀

<sup>1</sup>Reg. 105(2A) inserted by reg. 42(b) of S.I. 1996/1803 as from 7.4.97.

►<sup>2</sup>(2B) A claimant who has attained the ►<sup>3</sup>qualifying age for state pension credit◀ shall be treated as possessing—

<sup>2</sup>Para. (2B) inserted by reg. 3(3)(b) of S.I. 2005/2465 as from 6.4.06.

(a) the amount of any income from an occupational pension scheme ►<sup>4</sup>a personal pension scheme or the Board of the Pension Protection Fund◀—

<sup>3</sup>Words substituted in reg. 105(2)(2B) & (3) by reg. 4(7) of S.I. 2010/641 as from 1.4.10.

(i) for which no claim has been made, and  
(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer,

<sup>4</sup>Words substituted in reg. 105(2B)(a) by reg. 3(3)(b) of S.I. 2006/588 as from 6.4.06.

but only from the date on which it could be expected to be acquired were an application for it to be made.◀

►<sup>5</sup>(3) This paragraph applies where a person, ►<sup>3</sup>who has attained the qualifying age for state pension credit◀—

<sup>5</sup>In reg. 105 paras. (3) & (3A) substituted for (3) by reg. 3(4) of S.I. 2007/1749 as from 16.7.07.

(a) is entitled to money purchase benefits under an occupational pension scheme, or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme;

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme

(3A) Where paragraph (3) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.◀

(4) The amount of any income foregone in a case ►<sup>6</sup>where paragraph (3)(c)(i) or (ii)◀ applies shall be the maximum amount of income which may be withdrawn from the fund and shall be determined by ►<sup>7</sup>the Secretary of State◀ who shall take account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations 1987(b).

<sup>6</sup>Words in reg. 105(4) substituted by reg. 3(4)(b) of S.I. 2007/1749 as from 16.7.07.

<sup>7</sup>Words substituted in reg. 105(4) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(a) S.I. 1976/1267; the relevant amending instrument is S.I. 1996/1803.

(b) S.I. 1987/1968; paragraph (5) was added by S.I. 1995/2303.

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<sup>1</sup>Words substituted in reg. 105(5) by reg. 3(4)(c) of S.I. 2007/1749 as from 16.7.07.

<sup>2</sup>Words substituted in reg. 105(5) and para. (5A) inserted by reg. 3(3)(d) & (e) of S.I. 2005/2465 as from 6.4.06.

<sup>3</sup>Reg. 105(7)(d) inserted by reg. 3 of S.I. 1999/3324 as from 7.1.00.

<sup>4</sup>Words substituted in reg. 105(10) by reg. 2(1)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>5</sup>Words in reg. 105(10)(a) & para. (10)(b) substituted by para. 10(c) & (d) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Words substituted in reg. 105(10)(a)(i) by reg. 3(6) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Head (ia) inserted in reg. 105(10)(a) by reg. 2(1)(b) of S.I. 1999/2640 as from 15.11.99.

<sup>8</sup>Words substituted in reg. 105(1)(a)(ia) by reg. 3(3)(c) of S.I. 2006/588 as from 6.4.06.

<sup>9</sup>Words substituted in reg. 105(10)(a)(ia) and (ii) by para. 10(c) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>10</sup>Words substituted in reg. 105(10)(a)(ii) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(5) The amount of any income foregone in a case ►<sup>1</sup>where paragraph (3)(c)(iii)◄ applies shall be the income that the claimant could have received without purchasing an annuity had the fund held under the relevant ►<sup>2</sup>occupational or personal pension scheme been held under a scheme◄ where income withdrawal was available and shall be determined in the manner specified in paragraph (4).

►<sup>3</sup>(5A) In paragraph (3), “money purchase benefit” has the meaning it has in the Pension Schemes Act 1993.◄

(6) Subject to paragraph (7), any income which is due to be paid to the claimant but has not been paid to him, shall be treated as possessed by the claimant.

(7) Paragraph (6) shall not apply to—

- (a) any amount to which paragraph (8) or (9) applies;
  - (b) a payment to which section 74(2) or (3) of the Administration Act applies (abatement of prescribed payments from public funds which are not made before the prescribed date, and abatement from prescribed benefits where maintenance not paid); and
  - (c) a payment from a discretionary trust, or a trust derived from a payment made in consequence of a personal injury.
- <sup>3</sup>(d) any earnings which are due to an unemployed earner on the termination of his employment by reason of redundancy but which have not been paid to him.◄

(8) This paragraph applies to an amount which is due to be paid to the claimant under an occupational pension scheme but which is not paid because the trustees or managers of the scheme have suspended or ceased payment due to an insufficiency of resources.

(9) This paragraph applies to any amount by which a payment made to the claimant from an occupational pension scheme falls short of the payment which he was due under the scheme where the shortfall arises because the trustees or managers of the scheme have insufficient resources available to them to meet in full the scheme's liabilities.

►<sup>4</sup>(10) Any payment of income, other than a payment of income specified in para. (10A)◄

- (a) to a third party in respect of a single claimant or in respect of a single claimant or ►<sup>5</sup>his partner◄ shall be treated—
  - (i) in a case where that payment is derived from a payment of any benefit under the ►<sup>6</sup>benefit Acts, a payment from the Armed Forces and Reserve Forces Compensation Scheme, a war disablement pension, war widow's pension or war widower's pension or a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown◄ as possessed by that single claimant, if it would normally be paid to him, or as possessed ►<sup>5</sup>by his partner, if it would normally be paid to his partner◄
  - <sup>7</sup>(ia) in a case where that payment is a payment of an occupational pension►<sup>8</sup>, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◄ as possessed by that single claimant or, as the case may be, by ►<sup>9</sup>the claimant's partner◄;◄
  - (ii) in any other case, as possessed by that single claimant ►<sup>9</sup>or his partner◄ to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f)►<sup>10</sup>, 84(1)(g), 86A(d) or 86B(e)◄ of that single claimant or, as the case may be, ►<sup>9</sup>of his partner◄, or is used for any council tax or water charges for which that claimant or ►<sup>9</sup>partner is liable◄;

►<sup>5</sup>(b) to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case maybe, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner;◄

*Para. (10) of reg. 105 is reproduced below as it was before the amendments by S.I. 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- <sup>1</sup>(10) Any payment of income, other than a payment of income specified in para. (10A)◄
- (a) to a third party in respect of a single claimant or in respect of a single claimant or in respect of a member of the family shall be treated—
    - (i) in a case where that payment is derived from a payment of any benefit under the Act or under the Benefits Act, a war disablement pension or war widows pension ►<sup>2</sup>or war widower's pension◄, as possessed by that single claimant, if it would normally be paid to him, or as possessed by that member of the family, if it would normally be paid to that member;
    - <sup>3</sup>(ia) in a case where that payment is a payment of an occupational pension ►<sup>4</sup>a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◄, as possessed by that single claimant or, as the case may be, by that member;◄
    - (ii) in any other case, as possessed by that single claimant or by that member of the family to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f)►<sup>5</sup>, 84(1)(g), 86A(d) or 86B(e)◄ of that single claimant or, as the case may be, of any member of the family, or is used for any council tax or water charges for which that claimant or member is liable;
  - (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family;

<sup>1</sup>Words substituted in reg. 105(10) by reg. 2(1)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>2</sup>Words inserted in reg. 105(10)(a)(i) by reg. 3(2) of S.I. 2002/841 as from 8.4.02.

<sup>3</sup>Head (ia) inserted in reg. 105(10)(a) by reg. 2(1)(b) of S.I. 1999/2640 as from 15.11.99.

<sup>4</sup>Words substituted in reg. 105(1)(a)(ia) by reg. 3(3)(c) of S.I. 2006/588 as from 6.4.06.

<sup>5</sup>Words substituted in reg. 105(10)(a)(ii) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

but, except where sub-paragraph (a)(i) applies and in the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), this paragraph shall not apply to any payment in kind ►<sup>6</sup>to the third party◄.

- <sup>7</sup>(10A) Paragraph (10) shall not apply in respect of a payment of income made—
- (a) under ►<sup>8</sup>or by◄ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust►<sup>8</sup>, MFET Limited◄ ►<sup>9</sup>the Skipton Fund and the Caxton Foundation◄ or the Independent Living ►<sup>10</sup>Fund (2006)◄
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994(a) (concessionary coal); or
  - (c) pursuant to section 2 of the Employment and Training Act 1973(b) in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii);
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii); or
    - <sup>11</sup>(ia) ►<sup>12</sup>◄ in the Intensive Activity Period specified in regulation 75(1)(a)(iv); or◄

<sup>6</sup>Words inserted in reg. 105(10) by reg. 3(3)(f) of S.I. 2005/2645 as from 3.10.05.

<sup>7</sup>Reg. 105(10A) added by reg. 2(1)(b) of S.I. 1998/2117 as from 24.9.98.

<sup>8</sup>Words inserted in reg. 105(10A)(a) by reg. 4(3)(b) & (8)(a) of S.I. 2010/641 as from 1.4.10.

<sup>9</sup>Words inserted in para. 10A by reg. 10(9) of S.I. 2011/2425 as from 31.10.11.

<sup>10</sup>Words substituted in reg. 105(10A)(a) by reg. 4(6)(a) of S.I. 2008/1554 as from 17.11.08.

<sup>11</sup>Reg. 105(10A)(c)(ia) inserted by reg. 7(a) of S.I. 2001/1029 as from 9.4.01.

<sup>12</sup>Words in reg. 105(10A)(c)(ia) omitted by reg. 4(12)(a) of S.I. 2008/698 as from 14.4.08.

(a) 1994 c. 21.

(b) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and then amended by Schedule 7 to the Employment Act 1989 (c. 38).

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<sup>1</sup>In reg. 105(10A)(c) word inserted in head (iii) & head (iv) added by reg. 2(6) of S.I. 2009/480 as from 5.10.09.

<sup>2</sup>Reg. 105(10A)(ca) inserted by reg. 14(2) of S.I. 2010/1222 as from 22.11.10.

<sup>3</sup>Reg. 105(10A)(cb) inserted by reg. 12(1)(d) & (2) of S.I. 2011/688 as from 25.4.11

<sup>4</sup>Reg. 105(10A)(cc) substituted by reg. 9(2) of S.I. 2013/276 from 6.45pm on 12.2.13.

<sup>5</sup>Reg. 105(10A)(cd) inserted by reg. 11(2) of S.I. 2014/1913 as from 18.7.14.

<sup>6</sup>Reg. 105(10A)(ce) inserted by reg. 15(2) of S.I. 2014/3117 as from 25.11.14.

<sup>7</sup>Reg. 105(10A)(d) inserted by reg. 2(3)(d) of S.I. 1999/2640 as from 15.11.99.

<sup>8</sup>Words inserted in reg. 105(10A)(d) by reg. 3(3)(d) of S.I. 2006/588 as from 6.4.06.

<sup>9</sup>Words in reg. 105(10A)(d) & (11) substituted by para. 10(e) & (f) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>10</sup>Words substituted in reg. 105(11) by para. 5 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>11</sup>Words inserted in reg. 105(11) by reg. 4(6)(b) of S.I. 2008/2767 as from 17.11.08.

- (iii) in a qualifying course within the meaning specified in regulation 17A(7)(a)◀▶<sup>1</sup>; or  
 (iv) in the Flexible New Deal.◀

*\*See reg. 14(1)(d) of S.I. 2010/1222 at page 11.7185 for details of the modifications to reg. 105(10A) in certain situations as from 22.11.10.*

- ▶<sup>2</sup>(ca) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;◀  
 \*▶<sup>3</sup>(cb) in respect of a person's participation in the Mandatory Work Activity Scheme;◀  
 ▶<sup>4</sup>(cc) in respect of a claimant's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;◀  
 ▶<sup>5</sup>(cd) in respect of a person's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014;◀  
 ▶<sup>6</sup>(ce) in respect of a person's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014;◀  
 ▶<sup>7</sup>(d) under an occupational pension scheme▶<sup>8</sup>, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◀ where—  
 (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(b);  
 (ii) the payments is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and  
 (iii) the person referred to in (i) and ▶<sup>9</sup>his partner (if any)◀ does not possess, or is not treated as possessing, any other income apart from that payment.◀

*Reproduced below is head (iii) as it was before the amdt.in S.I 2003/455 was implemented. See reg. 1 of that S.I at page 6.7203 for details of when to apply this version.*

- (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(11) Where the claimant ▶<sup>10</sup>resides in a care home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital◀ any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant ▶<sup>9</sup>or his partner in that home ▶<sup>11</sup>or hospital◀ shall be treated as possessed by the claimant or his partner◀

*Reproduced below is head para. (11) as it was before the amdt. in S.I 2003/455 was implemented. See reg. 1 of that S.I at page 6.7203 for details of when to apply this version. .*

(11) Where the claimant lives in a residential care home or a nursing home, or is temporarily absent from such a home, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family.

(a) Regulation 17A was inserted by S.I. 1998/1274.

(b) 1980 c. 46.

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►<sup>1</sup>(11A) Where the amount of a subsistence allowance paid to a claimant in a benefit week is less than the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, he shall be treated as possessing the amount which is equal to the amount of income-based jobseeker's allowance which he would have received in that week, less 50p.◄

<sup>1</sup>Reg. 105(11A) added by reg. 3(1)(b) of S.I. 2000/724 as from 3.4.00.

(12) Where a claimant's earnings are not ascertainable at the time of the determination of the claim or of any ►<sup>2</sup>review or supersession the Secretary of State◄ shall treat the claimant as possessing such earnings as is reasonable in the circumstances of the case having regard to the number of hours worked and the earnings paid for comparable employment in the area.

<sup>2</sup>Words substituted in reg. 105(12) by paras. 2 & 6 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(13) ►<sup>3</sup>Subject to paragraph (13A),◄ where—

<sup>3</sup>Words inserted & omitted in reg. 105(13) by reg. 2(1) of S.I. 2000/678 as from 3.4.00.

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

►<sup>4</sup>the Secretary of State◄ shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies him that the means of that person are insufficient for him to pay or to pay more for the service; ►<sup>3</sup>◄

<sup>4</sup>Words substituted in reg. 105(13) by paras. 2 and 6 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

►<sup>5</sup>(13A) Paragraph (13) shall not apply—

<sup>5</sup>Reg. 105(13A) inserted by reg. 2(1) of S.I. 2000/678 as from 3.4.00.

- (a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the Secretary of State is satisfied in any of those cases that it is reasonable for him to provide services free of charge;
- (b) in a case where the service is performed in connection with—
  - (i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q)►<sup>6</sup>, other than where the service is performed in connection with the claimant's participation ►<sup>7</sup>◄ in the Intensive Activity Period specified in regulation 75(1)(a)(iv)◄; or
  - (ii) the claimant's or the claimant partner's participation in an employment or training programme as defined in regulation 19(3) for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme.◄ ►<sup>8</sup>; or
- (c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.◄

<sup>6</sup>Words inserted in reg. 105(13A)(b)(i) by reg. 7(b) of S.I. 2001/1029 as from 9.4.01

<sup>7</sup>Words in reg. 105(13A)(b)(i) omitted by reg. 4(12)(b) of S.I. 2008/698 as from 14.4.08.

<sup>8</sup>Para. (13A)(c) added & preceding word by reg. 8(11)(a) of S.I. 2007/2618 as from 1.10.07.

*The text below modifies para. (13) and adds para. (13B) from 28.11.00 to 27.11.01 unless revoked earlier. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

(13) Subject to paragraph (13A) and paragraph (13B), where—

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the Secretary of State shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies him that the means of that person are insufficient for him to pay or to pay more for the service;

(13B) Paragraph (13) shall not apply in a case where the service is performed in connection with the claimant's participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.

(14) Where a claimant is treated as possessing any income under any of paragraphs (1) to (11) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

## Reg. 105

(15) Where a claimant is treated as possessing any earnings under paragraphs (12) or (13) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess, except that paragraph (4) of regulation 99 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account the earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings ►<sup>1</sup>◀ the basic rate of tax in the year of assessment less only the ►<sup>2</sup>personal allowance◀ to which the claimant is entitled under ►<sup>2</sup>section 257(1)◀ of the Income and Corporation Taxes Act 1988(a) (►<sup>2</sup>personal allowance◀) as is appropriate to his circumstances; but, if the period over which those earnings are to be taken into account is less than a year, the earnings to which the ►<sup>3</sup>►<sup>1</sup>basic◀ rate◀ of tax is to be applied and the amount of the ►<sup>2</sup>personal allowance◀ deductible under this paragraph shall be calculated on a pro rata basis;

<sup>1</sup>Words in reg. 105(15)(a) omitted & substituted by reg. 4(7)(a) & (b) of S.I. 2009/583 as from 6.4.09.

<sup>2</sup>Words substituted in reg. 105(15)(a) by reg. 3(3) of S.I. 2007/1749 as from 16.7.07.

<sup>3</sup>Words substituted in para. (15)(a) by reg. 8(11)(b) of S.I. 2007/2618 as from 1.10.07.

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(a) 1988 c. 1; sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c. 39); section 259 was amended by sections 30 and 35 of the Finance Act 1988, section 20 of the Finance (No. 2) Act 1992 (c. 48), and section 77 and Schedule 8, paragraph 6 of the Finance Act 1994 (c. 9).



- (b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Benefits Act, calculated by applying to those earnings the initial and main primary percentages in accordance with section 8(1)(a) and (b) of that Act; and
- (c) one-half of any sum payable by the claimant in respect of a pay period by way of a contribution towards an occupational or personal pension scheme.

►<sup>1</sup>(15A) Paragraphs (1), (2), (6), (10), (12) and (13) shall not apply in respect of any amount of income other than earnings, or earnings derived from employment as an employed earner, arising out of the ►<sup>2</sup>claimant participating as a service user. ◀

(16) In this regulation—

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

“pension fund holder” means with respect to a personal pension scheme ►<sup>3</sup>or an occupational pension scheme ◀ the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

“resources” has the same meaning as in section 181 of the Pension Schemes Act 1993(a).

►<sup>4</sup>“work placement” means practical work experience which is not undertaken in expectation of payment. ◀

<sup>1</sup>Para. (15A) inserted in reg. 105 by reg. 4(8)(b) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

<sup>2</sup>Words in reg. 105(15A) substituted by reg. 4(4) of S.I. 2014/591 as from 28.4.14.

<sup>3</sup>Words substituted in reg. 105(16) by reg. 3(4) of S.I. 2007/1749 as from 16.7.07.

<sup>4</sup>Defn. of “work placement” inserted by reg. 8(11)(c) of S.I. 2007/2618 as from 1.10.07.

**Modifications in respect of children and young persons**

**106. ►<sup>5</sup>◀**

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

106.—(1) Any capital of a child or young person payable by instalments which are outstanding on the first day in respect of which an income-based jobseeker's allowance is payable or, in the case of a review, the date of that review, shall, if the aggregate of the instalments outstanding and the amount of that child or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant would exceed £3,000, be treated as income.

(2) In the case of a child or young person who is residing at an educational establishment at which he is receiving relevant education—

- (a) any payment made to the educational establishment, in respect of that child's or young persons' maintenance, by or on behalf of a person who is not a member of the family or by a member of the family out of funds contributed for that purpose by a person who is not a member of the family, shall be treated as income of that child or young person but it shall only be taken into account over periods during which that child or young person is present at that educational establishment; and
- (b) if a payment has been so made, for any period in a benefit week in term-time during which that child or young person returns home, he shall be treated as possessing an amount of income in that week calculated by multiplying the amount of ►<sup>6</sup>personal allowance, any disabled child premium and any enhanced disability premium ◀ applicable in respect of that child or young person by the number equal to the number of days in that week in which he was present at his educational establishment and dividing the product by seven; but this sub-paragraph shall not apply where the educational establishment is provided under section 8 of the Education Act 1944(b)

<sup>5</sup>Reg. 106 omitted by para. 11 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Words in reg. 106(2)(b) substituted by reg. 5(a) of S.I. 2000/2629 as from 9.4.01.

(a) 1993 c. 48.

(b) 1944 c. 31; section 8 was amended by the Education Act 1980 (c. 20), section 38(6) and Schedule 7; the Further and Higher Education Act 1992 (c. 13), sections 12(1) and 93 and Schedule 8; and the Education Act 1993 (c. 35), section 307 and Schedules 19 and 21.

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(duty of local authority to secure primary and secondary schools) by a local education authority or where the payment is made under section 49 or 50 of the Education (Scotland) Act 1980(a) (power of education authority to assist persons).

(3) Where a child or young person—

- (a) is resident at an educational establishment and he is wholly or partly maintained at that establishment by a local education authority under section 8 of the Education Act 1944; or
- (b) is maintained at an educational establishment under section 49 or 50 of the Education (Scotland) act 1980, he shall for each day he is present at that establishment be treated as possessing an amount of income equal to the sum obtained by dividing the amount of ►<sup>1</sup>personal allowance, any disabled child premium and any enhanced disability premium◄ applicable in respect of him by seven.

<sup>1</sup>Words in reg. 106 substituted by reg. 5(a) of S.I. 2000/2629 as from 9.4.01.

(4) Where the income of a child or young person who is a member of the claimant's family calculated in accordance with Chapters I to V of this Part exceeds the amount of the ►<sup>1</sup>personal allowance, any disabled child premium and any enhanced disability premium◄ applicable in respect of that child or young person, the excess shall not be treated as the income of the claimant.

(5) Where the capital of a child or young person if calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except as provided in paragraph (1), would exceed £3,000, any income of that child or young person shall not be treated as the income of the claimant.

(6) In calculating the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 14 to 16), any sum specified in paragraphs 17 and 18 of Schedule 6 (earnings to be disregarded).

(7) Any income of a child or young person which is to be disregarded under Schedule 7 (income other than earnings to be disregarded) shall be disregarded in such manner as to produce the result most favourable to the claimant.

(8) Where a child or young person is treated as possessing any income under paragraphs (2) or (3) the foregoing provisions of this Part shall apply for the purposes of calculating that income as if a payment had actually been made and as if it were actual income which he does possess.

(9) For the purposes of this regulation, a child or young person shall not be treated as present at his educational establishment on any day if on that day he spends the night with the claimant or a member of his household.

## CHAPTER VI

## CAPITAL

**Capital limit**

<sup>2</sup>Reg. 107 substituted by reg. 3(4) of S.I. 2005/2465 as from 10.4.06.

►<sup>2</sup>**107.** For the purposes of section 13(1) and (2A) (no entitlement to an income-based jobseeker's allowance if capital exceeds a prescribed amount), the prescribed amount is £16,000.◄

**Calculation of capital**

**108.**—(1) Subject to paragraph (2), the capital of a claimant to be taken into account shall be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 110.

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 8.

(a) 1980 c. 44; section 50 was amended by the Education (Scotland) Act 1981 (c. 58), section 2.

**Disregard of capital of child or young person**

**109. ▶<sup>1</sup>◀**

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

109. The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.

<sup>1</sup>Reg. 109 omitted by reg. 11 of S.I. 2003/455 as from 6.4.04

**Income treated as capital**

**110.**—(1) Any bounty derived from employment to which paragraph 9 of Schedule 6 applies and paid at intervals of at least one year shall be treated as capital.

(2) Except in the case of an amount to which section 15(2)(c)(i) (refund of tax in trade dispute cases) applies, any amount by way of refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 98(1)(c) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 4 to 8, 11 ▶<sup>2</sup>, 17, 42 or 43◀ of Schedule 8, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

<sup>2</sup>Words substituted in reg. 110(4) by reg. 13(6) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

(5) Subject to paragraph (6), in the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) Paragraph (5) 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).

(7) Any payment under section 30 of the Prison Act 1952(a) (payments for discharged prisoners) or allowance under section 17 of the Prisons (Scotland) Act 1989(b) (allowances to prisoners on discharge) shall be treated as capital.

**(8) ▶<sup>3</sup>◀**

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

(8) Any payment made by a local authority which represents arrears of payments under paragraph 15 of Schedule 1 to the Children Act 1989(c) (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order) or under section 50 of the Children Act 1975(d) (contributions to a custodian towards the cost of accommodation and maintenance of a child) ▶<sup>4</sup> or any payment, made by an authority, as defined in Article 2 of the Children Order, which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contributions by an authority to child's maintenance), ◀ shall be treated as capital.

<sup>3</sup>Paras. (8) & (10) (b) of reg. 110 omitted by para. 12 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>Words substituted in reg. 111(b)(i) by para. 5 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.

(10) This paragraph applies to a payment—

(a) which is made to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes);

(b) ▶<sup>3</sup>◀

(a) 1952 c. 52; section 30 was substituted by section 66(3) of the Criminal Justice Act 1967 (c. 80).

(b) 1989 c. 45.

(c) 1989 c. 41.

(d) 1975 c. 72.

## Regs. 110-113

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

(b) to which regulation 106(2) (modifications in respect of children and young persons) applies; or

<sup>1</sup>Words inserted by reg. 110(10)(c) by reg. 4(3)(c) & (8)(b) of S.I. 2010/641 as from 1.4.10.

(c) which is made under <sup>1</sup>or by <sup>1</sup>the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust <sup>1</sup>, MFET Limited <sup>1</sup> or the Independent Living <sup>2</sup>Fund (2006) <sup>1</sup>.

<sup>2</sup>Words substituted in reg. 110(10)(c) by reg. 4(7)(a) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>(11) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital. <sup>1</sup>

<sup>3</sup>Para. (11) added to reg. 110 by reg. 3(2)(d) of S.I. 2000/724 as from 3.4.00.

#### **<sup>4</sup>Calculation of capital in the United Kingdom**

<sup>4</sup>Reg. 111 substituted by reg. 8(12) of S.I. 2007/2618 as from 1.10.07.

**111.** Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any incumbrance secured on it. <sup>1</sup>

#### **Calculation of capital outside the United Kingdom**

**112.** Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case in which there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any incumbrance secured on it.

#### **Notional capital**

**113.—(1)** A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to or increasing the amount of income support, except—

- (a) where that capital is derived from a payment made in consequence of a personal injury and is placed on trust for the benefit of the claimant; or
- (b) to the extent that the capital he is treated as possessing is reduced in accordance with regulation 144 (diminishing notional capital rule) <sup>5</sup>or <sup>6</sup>(c) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a); or
- (d) any sum to which paragraph 43(a) of Schedule 8 refers. <sup>1</sup>

<sup>5</sup>Sub-para. (c) inserted in reg. 113(1) by reg. 6 of S.I. 1997/2197 as from 6.10.97.

<sup>6</sup>Reg. 113(1)(c) & (d) substituted for 113(1)(c) by reg. 3(5) of S.I. 2007/719 as from 2.4.07.

(2) Except in the case of—

- (a) a discretionary trust
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 8; or

- (d) a personal pensions scheme, <sup>1</sup>or
- <sup>2</sup>(da) an occupational pension scheme <sup>3</sup>or a payment made by the Board of the Pension Protection Fund<sup>4</sup> where the claimant <sup>4</sup>has not attained the qualifying age for state pension credit<sup>4</sup>; or<sup>4</sup>
- <sup>5</sup>(e) any sum to which paragraph 42(2)(a) of Schedule 8 (capital to be disregarded) applies which is administered in the way referred to in paragraph 42(1)(a); or
- (f) any sum to which paragraph 43(a) of Schedule 8 refers.<sup>4</sup>

any capital which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date of which it could be expected to be acquired were an application made.

<sup>1</sup>Sub-para. (e) inserted in reg. 113(1) by reg. 6 of S.I. 1997/2197 as from 6.10.97.

<sup>2</sup>Sub-para. (da) inserted by reg. 3(5) of S.I. 2005/2465 as from 10.4.06.

<sup>3</sup>Words inserted into reg. 113(2)(da) by reg. 3(4)(a) of S.I. 2006/588 as from 1.4.06.

<sup>4</sup>Words inserted into reg. 113(2)(da) by reg. 4(9) of S.I. 2010/641 as from 1.4.10.

<sup>5</sup>Sub-paras. (e) & (f) substituted for (e) by reg. 3(5) of S.I. 2007/719 as from 2.4.07.



- ▶<sup>1</sup>(3) Any payment of capital, other than a payment of capital specified in paragraph (3A)◀
- (a) to a third party in respect of a single claimant or ▶<sup>2</sup>his partner◀ shall be treated—
- (i) in a case where that payment of any benefit under the Act or under the Benefits Act, ▶<sup>3</sup>a payment from the Armed Forces and Reserve Forces Compensation Scheme,◀ a war disablement pension or war widow's pension ▶<sup>4</sup>or war widower's pension◀, as possessed by that single claimant, if it would normally be paid to him, or as possessed ▶<sup>2</sup>by his partner, if it would normally be paid to his partner◀;
- ▶<sup>5</sup>(ia) in a case where that payment is a payment of an occupational pension▶<sup>6</sup>, a pension or other periodical payment made under a personal pension scheme, or a payment made by the Board of the Pension Protection Fund◀ as possessed by that single claimant or, as the case may be, by ▶<sup>2</sup>the claimant's partner◀;◀
- (ii) in any other case, as possessed by that single claimant ▶<sup>2</sup>or his partner◀ to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit ▶<sup>7</sup>is payable◀, or any housing costs to the extent that they are met under regulation 83(f), ▶<sup>8</sup>84(1)(g), 86A(d) or 86B(e)◀▶<sup>7</sup>◀, of that single claimant or, as the case may be, ▶<sup>2</sup>of his partner◀, or is used for any council tax or water charges for which that claimant or ▶<sup>2</sup>partner is liable◀.
- ▶<sup>9</sup>(b) to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case may be, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner.◀

*The head below is reproduced as it was before the amdts. in S.I. 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- ▶<sup>10</sup>(3) Any payment of capital, other than a payment of capital specified in paragraph (3A)◀
- (a) to a third party in respect of a single claimant or in respect of a member of the family shall be treated—
- (i) in a case where that payment of any benefit under the Act or under the Benefits Act, ▶<sup>11</sup>a payment from the Armed Forces and Reserve Forces Compensation Scheme,◀ a war disablement pension or war widow's pension ▶<sup>12</sup>or war widower's pension◀, as possessed by that single claimant, if it would normally be paid to him, or as possessed by that member of the family, if it would normally be paid to that member;
- ▶<sup>13</sup>(ia) in a case where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, as possessed by that single claimant or, as the case may be, by that member;◀
- (ii) in any other case, as possessed by that single claimant or by that member of the family to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent for which housing benefit ▶<sup>14</sup>is payable◀ or any housing costs to the extent that they are met under regulation 83(f), ▶<sup>15</sup>84(1)(g), 86A(d) or 86B(e)◀▶<sup>14</sup>◀, of that single claimant or, as the case may be, of any member of the family, or is used for any council tax or water charges for which that claimant or member is liable.
- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or by or on behalf of any member of the family.

<sup>1</sup>Reg. 113(3) substituted by reg. 3(1)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>2</sup>Words substituted in reg. 113(3)(a) by para. 13(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>3</sup>Words inserted in reg. 113(3)(a)(i) by reg. 2(6) of S.I. 2005/574 as from 4.4.05.

<sup>4</sup>Words inserted in reg. 113(3)(a)(i) by reg. 3(3) of S.I. 2002/841 as from 8.4.02.

<sup>5</sup>Reg. 113(3)(a)(ia) inserted by reg. 2(1)(b) of S.I. 1999/2640 as from 15.11.99.

<sup>6</sup>Words inserted in reg. 113(3)(a)(ia) by reg. 3(4)(b) of S.I. 2006/588 as from 6.4.06.

<sup>7</sup>Words substituted & omitted in reg. 113(3)(a)(ii) by reg. 2(2) of & the Sch., para. 11 to S.I. 2001/3767 as from 8.4.02.

<sup>8</sup>Words substituted in reg. 113(3)(a)(ii) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>9</sup>Reg. 113(3)(b) substituted by para. (b) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>10</sup>Reg. 113(3) substituted by reg. 3(1)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>11</sup>Words inserted in reg. 113(3)(a)(i) by reg. 2(6) of S.I. 2005/574 as from 4.4.05.

<sup>12</sup>Words inserted in reg. 113(3)(a) by reg. 3(3) of S.I. 2002/841 as from 8.4.02.

<sup>13</sup>Head (ia) inserted by reg. 2(1)(b) of S.I. 1999/2640 as from 15.11.99.

<sup>14</sup>Words in reg. 113(3)(a)(ii) substituted and omitted by reg. 2(2) of, and para. 11 of Part II to the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>15</sup>Words substituted in reg. 113(3)(a)(ii) by reg. 2(5) of S.I. 2000/1978 as from 19.03.01.

## Reg. 113

<sup>1</sup>Reg. 113(3A) inserted by reg. 3(1)(b) of S.I. 1998/2117 as from 24.9.98.

<sup>2</sup>Words inserted in reg. 113(3A)(a) by reg. 4(3)(d) & (8)(c) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words in reg. 113(3A)(a) substituted by reg. 3(2)(d) of S.I. 2004/2308 as from 4.10.04.

<sup>4</sup>Words in reg. 113(3A)(a) substituted by reg. 4(7)(b) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Words substituted in reg. 113(3A)(a) by reg. 5(3) of S.I. 2005/3391 as from 12.12.05.

<sup>6</sup>Words inserted in paragraph 3A by reg. 10(10) of S.I. 2011/2425 as from 31.10.11.

<sup>7</sup>Reg. 113(3A)(b)(ia) inserted by reg. 8 of S.I. 2001/1029 as from 9.4.01.

<sup>8</sup>Words in reg. 113(3A)(b)(ia) omitted by reg. 4(12)(b) of S.I. 2008/698 as from 14.4.08

<sup>9</sup>In reg. 113(3A), word in sub-para. (b)(iii) & sub-para. (b)(iv) inserted by reg. 2(7) of S.I. 2009/480 as from 5.10.09.

<sup>10</sup>Reg. 113(3A)(bb) inserted by reg. 13(1)(d) & (2) of S.I. 2011/688 as from 25.4.11.

<sup>11</sup>Reg. 113(3A)(bc) added by reg. 13(1)(d) & (2) of S.I. 2011/917 as from 20.5.11.

<sup>12</sup>Reg. 113(3A)(bd) inserted by reg. 12(2) of S.I. 2014/1913 as from 18.7.14.

<sup>13</sup>Reg. 113(3A)(be) inserted by reg. 16(2) of S.I. 2014/3117 as from 25.11.14.

<sup>14</sup>Reg. 113(3A)(c) inserted by reg. 2(3)(d) of S.I. 1999/2640 as from 15.11.99.

<sup>15</sup>Words in reg. 113(3A)(c) substituted by reg. 3(4)(c) of S.I. 2006/588 as from 6.4.06.

<sup>16</sup>Words substituted in reg. 113(3A)(c)(iii) by para. 13(c) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

\*<sup>1</sup>(3A) Paragraph (3) shall not apply in respect of a payment of capital made—

- (a) under <sup>2</sup>or by <sup>1</sup>the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust<sup>2</sup>, MFET Limited<sup>3</sup>, the Independent Living <sup>4</sup>Fund (2006)<sup>5</sup>, the Skipton Fund<sup>6</sup>, the Caxton Foundation<sup>1</sup> or the London Bombings Relief Charitable Fund<sup>1</sup>; or
- (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
  - (i) in an employment programme specified in regulation 75(1)(a)(ii);
  - (ii) in a training scheme specified in regulation 75(1)(b)(ii); or
  - <sup>7</sup>(iii) <sup>8</sup>in the Intensive Activity Period specified in regulation 75(1)(a)(iv); or<sup>1</sup>
  - (iii) in a qualifying course within the meaning specified in regulation 17A(7)<sup>1</sup> <sup>9</sup>; or
  - (iv) in the Flexible New Deal;<sup>1</sup>

*The text below modifies reg. 113 from 28.11.00 to 27.11.01 unless revoked earlier by adding head (iv) to para. (3A)(b). Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

- (iv) in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations but only to the extent that it is not used for a purpose specified in paragraph (3)(a)(ii).

*\*See reg. 15(1)(d) & (2) of S.I. 2010/1222 for details of the modifications to reg. 113(3A) as from 22.11.10 until 21.11.13.*

- <sup>10</sup>(bb) in receipt of a person's participation in the Mandatory Work Activity Scheme;<sup>1</sup>
- <sup>11</sup>(bc) in respect of a claimant's participation in the Employment, Skills and Enterprise Scheme;<sup>1</sup>
- <sup>12</sup>(bd) in respect of a person's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014;<sup>1</sup>
- <sup>13</sup>(be) in respect of a person's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014;<sup>1</sup>
- <sup>14</sup>(c) under an occupational pension scheme<sup>15</sup>, in respect of a pension or other periodical payment made under a personal scheme or a payment made by the Board of the Pension Protection Fund<sup>1</sup> where—
  - (i) a bankruptcy order has been made in respect of the pension in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980<sup>(a)</sup>;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and <sup>16</sup>his partner (if any) <sup>1</sup> does not possess, or is not treated as possessing, any other income apart from that payment.<sup>1</sup>

*The head below is reproduced as it was before the amends. in S.I. 2003/435 were implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or a partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

(a) 1980 c. 46.



- (a) the value of his holding in that company shall, notwithstanding regulation 108 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing any capital under any of paragraphs (1) to (4) the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of that capital as if it were actual capital which he does possess.

(7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.

(8) In paragraph (3) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

**Diminishing notional capital rule**

**114.**—(1) Where a claimant is treated as possessing capital under regulation 113(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
  - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
  - (ii) a week which follows that relevant week and which satisfies those conditions,
 shall be reduced by an amount determined under paragraph (2);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
  - (i) that week is a week subsequent to the relevant week, and
  - (ii) that relevant week is a week in which the condition in paragraph (3) is satisfied,
 shall be reduced by an amount determined under paragraph (3).

(2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that—

- (a) he is in receipt of a jobseeker's allowance; and
- (b) but for regulation 113(1), he would have received an additional amount of jobseeker's allowance in that benefit week or, as the case may be, that part week;

and in such a case, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to an income-based jobseeker's allowance in the relevant week but for regulation 113(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of jobseeker's allowance to which the claimant would have been entitled in the relevant week but for regulation 113(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of jobseeker's allowance to which he would have been entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7.

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<sup>1</sup>Words substituted in reg. 114(3)(b) by para. 8(3) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>2</sup>Words in reg. 114(3)(c) substituted by reg. 3 of S.I. 2013/458 as from 1.4.13.

(b) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of the housing benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose “benefit week” has the same meaning as in regulation 2(1) of the <sup>1</sup>the Housing Benefit Regulations 2006<sup>1</sup> (interpretation).

(c) the amount of council tax benefit (if any) equal to the difference between his maximum council tax benefit and the amount (if any) of council tax benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose “benefit week” <sup>2</sup>means a period of 7 consecutive days beginning on a Monday and ending on a Sunday<sup>2</sup>.

(4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for a jobseeker's allowance and the conditions in paragraph (5) are satisfied, and in such a case—

(a) sub-paragraphs (a), (b) and (c) of paragraph (3) shall apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and

(b) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(5) The conditions referred to in paragraph (4) are that—

(a) a further claim is made 26 or more weeks after—

(i) the date on which the claimant made a claim for a jobseeker's allowance in respect of which he was first treated as possessing the capital in question under regulation 113(1); or

(ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for a jobseeker's allowance which resulted in the weekly amount being re-determined; or

(iii) the date on which he last ceased to be in receipt of a jobseeker's allowance; whichever last occurred; and

(b) the claimant would have been entitled to a jobseeker's allowance but for regulation 113(1).

(6) The amount as re-determined pursuant to paragraph (4) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

- (7) For the purposes of this regulation—
- (a) “part-week” has the same meaning as in regulation 150(3);
  - (b) “relevant week” means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 113(1)—
    - (i) was first taken into account for the purposes of determining his entitlement to a jobseeker’s allowance or income support; or
    - (ii) was taken into account on a subsequent occasion for the purposes of determining or re-determining his entitlement to a jobseeker’s allowance or income support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a jobseeker’s allowance or income support;
 and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) of this sub-paragraph, the later or latest such benefit week or part-week;
  - (c) “relevant subsequent week” means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

**Capital jointly held**

**115.** Except where a claimant possesses capital which is disregarded under regulation 113(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset, they shall be treated as if each of them were entitled in possession to <sup>1</sup>to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess.◀

<sup>1</sup>Words substituted in reg. 115 by reg. 2(2)(f) of S.I. 1998/2250 as from 12.10.98.

**Calculation of tariff income from capital**

**116.—(1)** <sup>2</sup>Except in a case to which paragraph <sup>3</sup>(1B) applies,◀ where the claimant’s capital calculated in accordance with this Part exceeds <sup>3</sup>£6,000◀ it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of <sup>3</sup>£6,000◀ but not exceeding <sup>3</sup>£16,000◀.

<sup>2</sup>Words in reg. 116(1) and reg. 116(1A) to (1C) inserted by reg. 12 of S.I. 1996/1516 as from 7.10.96.

<sup>3</sup>◀

<sup>3</sup>Words omitted and amounts substituted in reg. 116 and para. (1ZA) omitted by reg. 3(6)(a) & (b) of S.I. 2006/2465 as from 10.4.06.

<sup>2</sup>(1A) In the case of a claimant to whom paragraph (1B) applies and whose capital calculated in accordance with Chapter VI of Part VIII exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) This paragraph applies where the claimant lives permanently in—

- <sup>4</sup>(a) a care home, or an independent hospital;
- (b) an Abbeyfield Home;◀
- (c) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947(a), (provision of accommodation in camps) where the claimant requires personal care <sup>5</sup>by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home◀
- (d) <sup>4</sup>◀

<sup>4</sup>In reg. 116(1B), sub- paras. (a) & (b) substituted & sub-para. (d) omitted by para. 6(a) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>5</sup>Words substituted in reg. 116(1B)(c) by reg. 7(6)(b) of S.I. 1997/2197 as from 6.10.97.

(a) 1947 c. 19.

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<sup>1</sup>Words inserted in reg. 116(1C) & substituted in (1C)(a) & para. (4) omitted by para. 6(b) & (c) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>2</sup>Reg. 116(1C)(a) substituted by reg. 2(2) of, and para. 12 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>3</sup>Words in reg. 116(2) and 116(3) substituted by reg. 12(c) of S.I. 1996/1516 as from 7.10.96.

<sup>4</sup>Ref. in regs. 116(2) & (3) omitted by reg. 3(6)(c) of S.I. 2005/2465 as from 10.4.06.

<sup>5</sup>Heading to Chapter VII substituted by reg. 3 of S.I. 2008/2111 as from 27.10.08.

<sup>6</sup>Words deleted in heading to Chapter VII & defn. of "child maintenance" omitted by reg. 4(5) & (9)(a) of S.I. 2009/2655. See reg. 1(6)(b) to this S.I. for the relevant commencement date.

<sup>7</sup>Defns. of "claimant's family", "housing costs" & "ordinary clothing and footwear" inserted by reg. 3(6) of S.I. 2008/2111 as from 27.10.08.

<sup>8</sup>Words substituted in defn. of "liable relative" by para. 26(6)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(1C) For the purpose of paragraph (1B), a claimant shall be treated as living permanently in such home ►<sup>1</sup>, hospital◄ or accommodation where he is absent—

- <sup>2</sup>(a) from a home ►<sup>1</sup>, hospital◄ or accommodation referred to in sub-paragraph (a), ►<sup>1</sup>or (b)◄ of paragraph (1B) for a period not exceeding 13 weeks;◄
- (b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), but intends, with the agreement of the manager of the accommodation, to return to the accommodation in due course.◄

(2) Notwithstanding ►<sup>3</sup>paragraphs (1) ►<sup>4</sup>◄ and (1A)◄, where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of ►<sup>3</sup>paragraphs (1) ►<sup>4</sup>◄ and (1A)◄, capital includes any income treated as capital under regulation 110 and 124 (income treated as capital and liable relative payments treated as capital).

(4) ►<sup>1</sup>◄

## CHAPTER VII

►<sup>5</sup>►<sup>6</sup>◄ LIABLE RELATIVE PAYMENTS◄**Interpretation**

**117.** In this Chapter, unless the context otherwise requires—

►<sup>6</sup>◄

►<sup>7</sup>"claimant's family" shall be construed in accordance with section 35(1) of the Jobseekers Act 1995 (interpretation);

"housing costs" means those costs which may be met under regulation 83(f) or 84(1)(g) (housing costs);◄

"claimant" includes a young claimant;

"liable relative" means—

- (a) a spouse ►<sup>8</sup>, former spouse, civil partner or former civil partner◄ of a claimant or of a member of the claimant's family;
- (b) a parent of a young claimant or of a child or young person who is a member of a claimant's family;
- (c) a person who has not been adjudged to be the father of a young claimant or of a child or young person who is a member of a claimant's family, where that person is contributing to the maintenance of that young claimant, child or young person and by reason of that contribution he may reasonably be treated as the father of that young claimant, child or young person;
- (d) a person liable to maintain another person by virtue of section 78(6)(c) of the Administration Act where the latter is the claimant or a member of the claimant's family,

and, in this definition, a reference to a child's, young person's or young claimant's parent includes any person in relation to whom the child, young person or young claimant was treated as a child or a member of the family;

►<sup>7</sup>"ordinary clothing and footwear" means clothing and footwear for normal daily use but does not include school uniforms;◄

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“payment” means a periodical payment or any other payment made by or derived from a liable relative <sup>1</sup> but it does not include any payment—

- (a) arising as a consequence of a disposition of property made in contemplation of, or as a consequence of—
  - (i) an agreement to separate; or
  - (ii) any proceedings for judicial separation, divorce or nullity of marriage; <sup>2</sup>or
  - (iii) any proceedings for separation, dissolution or nullity in relation to a civil partnership; <sup>3</sup>
- (b) made after the death of the liable relative;
- (c) made by way of a gift but not in aggregate or otherwise exceeding £250 in the period of 52 weeks beginning with the date on which the payment, or if there is more than one such payment the first payment, is made; and in the case of a claimant who continues to be in receipt of an income-based jobseeker's allowance at the end of the period of 52 weeks, this provision shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks;
- (d) <sup>3</sup>

*This paragraph continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (d) to which regulation 106(2) applies (payments in respect of children and young persons who reside at an educational establishment);
- <sup>4</sup>(e) made to a third party, or in respect of a third party, unless the payment is—
  - (i) in relation to the claimant or the claimant's <sup>5</sup>partner or is made or derived from a person falling within sub-paragraph (d) of the definition of liable relative; and
  - (ii) <sup>6</sup> in respect of food, ordinary clothing or footwear, fuel, <sup>6</sup>rent for which housing benefit is payable, housing costs to the extent that they are met under regulations 83(f) or 84(1)(g) (housing costs), council tax or water charges; <sup>4</sup>
- (f) in kind;
- (g) to or in respect of a child or young person who is to be treated as not being a member of the claimant's household under regulation 78;
- (h) which is not a periodical payment, to the extent that any amount of that payment—
  - (i) has already been taken into account under this Part by virtue of a previous claim or determination; or
  - (ii) has been recovered under section 74(1) of the Administration Act (prevention of duplication of payments) or is currently being recovered; or
  - (iii) at the time the determination is made, has been used by the claimant except where he has deprived himself of that amount for the purpose of securing entitlement to a jobseeker's allowance or increasing the amount of that allowance;
- <sup>5</sup>(i) to which paragraph 70 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) applies; <sup>4</sup>

“periodical payment” means—

- (a) a payment which is made or is due to be made at regular intervals <sup>4</sup>;
- (b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;
- (c) any payment <sup>4</sup>, <sup>5</sup> that does not exceed the amount of jobseeker's allowance payable had that payment not been made;

<sup>1</sup>Words omitted in defn. of “payment” by reg. 3(6) of S.I. 2008/2111 as from 27.10.08.

<sup>2</sup>Word ‘or’ & para. (iii) inserted into defn. of “payment” by para. 26(6)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Para. (d) of reg. 117 omitted by para. 14 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>In defn. of “payment” para. (e) substituted & in defn. of “periodical payment” words omitted & substituted by reg. 3 of S.I. 2008/2111 as from 27.10.08.

<sup>5</sup>In defn. of “payment”, words substituted in para. (e)(i) & para. (h) inserted & in defn. of “periodical payment” words deleted in para. (c) by reg. 4(9)(b) & (c) of S.I. 2009/2655. See reg. 1(6)(b) of the S.I. for the relevant commencement date.

<sup>6</sup>Words in para. (e)(i) & (ii) omitted and substituted by reg. 4(9) of S.I. 2013/443 as from 2.4.13.

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- (d) any payment representing a commutation of payments to which subparagraph (a) or (b) of this definition applies whether made in arrears or in advance,

but does not include a payment due to be made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, which was not so made;

"young claimant" means a person aged 16 or over but under  $\blacktriangleright^2\blacktriangleleft$  who makes a claim for a jobseeker's allowance.

<sup>1</sup>Words in defn. of "young claimant" substituted by reg. 3(7) of S.I. 2006/718 as from 10.4.06.

<sup>2</sup>Words deleted in heading to & in reg. 118 & in reg. 121(3)(b) by regs. 4(4), (10) & (11) of S.I. 2009/2655. See reg. 1(6)(b) of the S.I. for the relevant commencement date.

**Treatment of  $\blacktriangleright^2\blacktriangleleft$  liable relative payments**

**118.** Subject to regulation 119  $\blacktriangleright^2\blacktriangleleft$  a payment shall—

- (a) to the extent that it is not a payment of income, be treated as income;
- (b) be taken into account in accordance with the following provisions of this Chapter.

**Disregard of payments treated as not relevant income**

**119.** Where the Secretary of State treats any payment as not being relevant income for the purposes of section 74A of the Administration Act(a) (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant's income.

**Period over which periodical payments are to be taken into account**

**120.**—(1) The period over which a periodical payment is to be taken into account shall be—

- (a) in a case where the payment is made at regular intervals, a period equal to the length of that interval;
- (b) in a case where the payment is due to be made at regular intervals but is not so made, 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 amount of that payment by the weekly amount of that periodical payment as calculated in accordance with regulation 122(4);
- (c) in any other case, a period equal to a week.

(2) The period under paragraph (1) shall begin on the date on which the payment is treated as paid under regulation 123.

<sup>3</sup>Reg. 121 substituted by reg. 3(8) of S.I. 2008/2111 as from 27.10.08.

 **$\blacktriangleright^3$ Period over which payments other than periodical payments are to be taken into account**

**121.**—(1) The period over which a payment other than a periodical payment (a "non-periodical payment") is to be taken into account shall be determined as follows.

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) the amount is the aggregate of £2 and—

- (a) the amount of jobseeker's allowance that would be payable had no payment been made,
- (b)  $\blacktriangleright^2\blacktriangleleft$

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 122) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall subject to paragraphs (6) and (7), be taken into account over a period of a number of weeks equal to the number obtained by applying the formula—

(a) 1992 c. 5; section 74A was inserted by the Child Support Act 1995 (c. 34).

$$\frac{A}{B-C}$$

(6) If a liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{D}{B-E}$$

(8) The period under paragraph (2) or (4) shall begin on the date on which the payment is treated as paid under regulation 123 (date on which a liable relative payment is treated as paid) and the period under paragraph (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

A = the amount of the non-periodical payment;

B = the aggregate of £2 and the amount of jobseeker's allowance that would be payable had the periodical payment not been made <sup>1</sup>;

C = the weekly amount of the periodical payment;

D = the balance (if any) of the non-periodical payment;

E = the weekly amount of any subsequent periodical payment.

<sup>1</sup>Words deleted in reg. 121(10) & in heading to reg. 122 by reg. 4(4) & (11)(b) of S.I. 2009/2655. See reg. 1(6)(b) of the S.I. for the relevant commencement date.

**Calculation of the weekly amount of <sup>1</sup> liable relative payment**

**122.**—(1) Where a periodical payment is made or is due to be made at intervals of one week, the weekly amount shall be the amount of that payment.

(2) Where the periodical payment is made or is due to be made at intervals greater than one week and those intervals are monthly, the weekly amount shall be determined by multiplying the amount of the payment by 1 and dividing the product by 52.

(3) Where a periodical payment is made or is due to be made at intervals and those intervals are neither weekly or monthly, the weekly amount shall be determined by dividing that payment by the number equal to the number of weeks (including any part of a week) in that interval.

(4) Where a payment is made and that payment represents a commutation of periodical payments whether in arrears or in advance, the weekly amount shall be the weekly amount of the individual periodical payments so commuted as calculated under paragraphs (1) to (3) as appropriate.

(5) The weekly amount of a payment to which regulation 121 applies (period over which payments other than periodical payments are to be taken into account) shall be equal to the amount of the divisor used in calculating the period over which the payment or, as the case may be, the balance is to be taken into account.

## Regs. 123-130

<sup>1</sup>Words deleted in heading to reg. 123 by reg. 4(4) of S.I. 2009/2655. See reg. 1(6)(b) to this S.I. for the relevant commencement date.

**Date on which a ►<sup>1</sup>◄ liable relative payment is to be treated as paid**

**123.**—(1) A periodical payment is to be treated as paid—

- (a) in the case of a payment which is due to be made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid unless, having regard to the manner in which jobseeker's allowance is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.

(2) Subject to paragraph (3), any other payment shall be treated as paid—

- (a) in the case of a payment which is made before the benefit week in which the claimant first became entitled to an income-based jobseeker's allowance, on the day in the week in which it is paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is paid unless, having regard to the manner in which jobseeker's allowance is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.

(3) Any other payment paid on a date which falls within the period in respect of which a previous payment is taken into account, not being a periodical payment, is to be treated as paid on the first day following the end of that period following the end of that period.

<sup>2</sup>Regs. 124-129 omitted by regs. 3(4)(b) & (c) of S.I. 2008/2111 as from 27.10.08.

**124.-129. ►<sup>2</sup>◄**

## CHAPTER IX

►<sup>3</sup>STUDENTS◄

<sup>3</sup>Title substituted by reg. 3(3) of S.I. 2000/1922 as from 1.8.00.

**Interpretation**

**130.** In this Chapter, unless the context otherwise requires—

►<sup>4</sup>“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;◄

►<sup>5</sup>“access funds” means—

- (a) grants made under section ►<sup>6</sup>68◄ of the Further and Higher Education Act 1992 ►<sup>6</sup>◄►<sup>7</sup>for the purpose of providing funds on a discretionary basis to be paid to students◄;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980; ►<sup>7</sup>◄
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993, or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case

<sup>4</sup>Defn. of “academic year” inserted in reg. 130 by reg. 2(a) of S.I. 2001/2319 as from 1.8.01.

<sup>5</sup>Defn. of “access funds” inserted in reg. 130 by reg. 3(4) of S.I. 2000/1922 as from 1.8.00.

<sup>6</sup>In reg. 130, in defn. of “access funds” number substituted and words omitted by reg. 4(12)(a) & (b) of S.I. 2009/2655 as from 26.10.09.

<sup>7</sup>Words inserted & word “or” in para. (b) deleted in def. of “access funds” by reg. 2(1)(b)(i) & (ii) of S.I. 2001/2319 as from 2.7.01.



**Reg. 130**

being grants, or grants, loans or other payments as the case may be, made for the purpose of assisting students in financial difficulties;<sup>1</sup>

- (d) discretionary payments known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the <sup>2</sup>Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of <sup>4</sup>the Apprenticeships, Skills, Children and Learning Act 2009<sup>2</sup> or
- (e) Financial Contingency Funds made available by the <sup>5</sup>Welsh Ministers;

<sup>6</sup>“contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
  - (i) the holder of the allowance or bursary;
  - (ii) the holder’s parents;
  - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
  - (iv) the holder’s spouse or civil partner.

“covenant income” means the income payable to a student under a deed of covenant by a person whose income is, or is likely to be, taken into account in assessing the student’s grant or award;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944<sup>(a)</sup>, a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973<sup>(b)</sup>, an education and library board established under article 3 of the Education and Libraries (Northern Ireland) Order 1986<sup>(c)</sup>, any body which is a research council for the purposes of the Science and Technology Act 1965<sup>(d)</sup> or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

<sup>7</sup>“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds <sup>8</sup>or any payment to which paragraph 12 of Schedule 7 or paragraph 52 of Schedule 8 applies;

“grant income” means—

- (a) any income by way of a grant;
- (b) in the case of a student other than one to whom sub-paragraph (c) refers, any contribution that has been taken into account whether or not it has been paid;

<sup>1</sup>Words “or” inserted in para. (c) & para (d) added by reg.

2(1)(b)(ii) of S.I. 2001/2319 as from 2.7.01.

<sup>2</sup>Word “or” omitted in para. (c), inserted in para. (d) & para. (e) added by reg. 2(3)(b)(i) of S.I. 2002/1589 as from 1.8.02.

<sup>3</sup>Words substituted in reg. 130(d) by reg. 5(b) of S.I. 2010/1941 as from 1.9.10.

<sup>4</sup>Words substituted in regulation 130(d) by regulation 5(6)(a) and (b) of S.I. 2012/956 as from 1.5.12.

<sup>5</sup>Words substituted in defn. of “access funds” by reg. 3(7) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Defn. of “contribution” substituted by reg. 4(9) of S.I. 2009/583 as from 6.4.09.

<sup>7</sup>Defn. of “grant” substituted by reg. 3(4) of S.I. 2000/1922 as from 1.8.00.

<sup>8</sup>Words inserted in defn. of “grant” by reg. 6(2) of S.I. 2004/1708 as from 1.8.04 where course of study begins on or after that date but before 1.9.04, or 1.9.04 in any other case.

(a) 1944 c. 31, as amended by S.I. 1974/595 and 1977/293.

(b) 1973 c. 65.

(c) 1986/594 (N.I. 3).

(d) 1965 c. 4.



- (c) in the case of a student who satisfies the additional conditions for a disability premium in paragraph 14 of Schedule 1 (applicable amounts), any contribution which has been taken into account and which has been paid,

and any such contribution which is paid by way of a covenant shall be treated as part of the student's grant income;

▶<sup>1</sup>◀

▶<sup>2</sup>“last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;◀

▶<sup>3</sup>“periods of experience” means periods of work experience which form part of a sandwich course;◀

“standard maintenance grant” means

- (a) except where paragraph (b) or (c) applies, in the case of a student attending ▶<sup>4</sup>or undertaking◀ a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (“the 1995 regulations”) for such a student;

- (b) except where paragraph (c) applies, in the case of a student residing at his parents' home, the amount specified in paragraph 3(2) thereof;

- ▶<sup>4</sup>(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980(a), the amount of money specified as the “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support Scotland Guide issued by the Student Awards Agency for Scotland(b), or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority ▶<sup>5</sup>◀◀

- (d) in any other case, the amount specified in paragraph 2(2) of the 1995 regulations other than in sub-paragraph (a) or (b) thereof;

*The provisions of the Education (Mandatory Awards) Regulations referred to in the last two defns. are reproduced in volume 6 of this work, at page 6.4003 et seq.*

▶<sup>6</sup>◀

▶<sup>7</sup>“student loan” means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998(c), section 73 of the Education (Scotland) Act 1980(d) or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998(e) ▶<sup>4</sup>and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the “Students' Allowances (Scotland) Regulations 1999(f)◀;

“year”, in relation to a course, means the period of 12 months beginning on 1st January, 1st April, 1st July or 1st September according to whether the academic year of the course begins in the winter, the spring, the summer or the autumn respectively, but if students are required to begin attending the course during August or September and to continue attending through the autumn the academic year of the course shall be considered to begin in the autumn rather than the summer.◀

**Calculation of grant income**

**131.**—(1) The amount of a student's grant income to be taken into account shall, subject to paragraphs ▶<sup>8</sup>(2) and (3)◀, be the whole of his grant income.

(a) 1980 c. 44.

(b) The relevant leaflets are SAS 2, SAS 4 and SAS 6.

(c) 1998 c. 30; see the Education (Student Support) Regulations 1999 (S.I. 1999/496) and the Education (Student Loans) Regulations 1998 (S.I. 1998/211).

(d) 1980 c. 44; S. 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), S. 29(1); see the Education (Student Loans) Regs. 1998.

(e) S.I. 1998/1760 (N.I. 14); see the Education (Student Support) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 192) for loans to students commencing courses after 1st September 1998.

(f) S.I. 1999/1131 (S. 91).

<sup>1</sup>Defn. of “last day of course” omitted & words inserted in defn. of “standard maintenance grant” by regs. 6(4)(a) & (b) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Defn. of “last day of the course” inserted by reg. 4(10) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Defn. of “periods of experience” substituted by reg. 2(3)(b)(ii) of S.I. 2002/1589 as from 1.8.02.

<sup>4</sup>Words substituted in defn. of “standard maintenance grant”, and added to defn. of “student loan” by regs. 2(d) & (e) of S.I. 2001/2319 as from 2.7.01.

<sup>5</sup>Words omitted in defn. of “standard maintenance grant” by reg. 4(8) of S.I. 2008/2767 as from 17.11.08.

<sup>6</sup>Defn. of “student” deleted by reg. 3(5) of S.I. 2000/1922 as from 1.8.00.

<sup>7</sup>Defn. of “student loan” inserted and defn. of “year” substituted by reg. 2(2)(b) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid.* applies).

<sup>8</sup>Words substituted in reg. 131 (1) by reg. 3(6)(a) of S.I. 2000/1922 as from 1.8.00.

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(2) There shall be disregarded from the amount of a student's grant income any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides while attending his course but only to the extent that his rent is not met by housing benefit;
- (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
- (f) intended to meet the cost of books and equipment ►<sup>1</sup>◄ ►<sup>2</sup>◄
- (g) intended to meet travel expenses incurred as a result of his attendance on the course.
- <sup>3</sup>(h) intended for maintenance ►<sup>4</sup>◄ of a child dependent◄
- <sup>4</sup>(i) intended for the child care costs of a child dependant◄
- <sup>5</sup>(j) of higher education bursary for care leavers made under Part III of the Children Act 1989.◄

<sup>1</sup>Words in reg. 131(2)(f) deleted by Pt. II of Sch. to S.I. 1999/1516 as from 7.10.96.

<sup>2</sup>Words omitted in reg. 131(2)(f) by reg. 2(3) of S.I.1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(hb)(i) *ibid.* applies).

<sup>3</sup>Para.(2)(h) inserted in reg. 131 by para. 16(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>Words deleted from sub-para. (h) & sub-para. (i) added to reg. 131(2) by reg. 3(4) of S.I. 2004/1708 as from 1.9.04 (or during August 2004 if reg. (1)(b)(i) *ibid.* applies).

<sup>5</sup>Reg. 131(2)(j) added by reg. 4(10) of S.I. 2009/583 as from 6.4.09.

▶<sup>1</sup>(3) Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income—

- (a) the sum of ▶<sup>2</sup>▶<sup>3</sup>£303◀ per academic year◀ in respect of travel costs; and
- (b) ▶<sup>4</sup>the sum of ▶<sup>2</sup>▶<sup>3</sup>£390◀ per academic year◀ towards the costs of books and equipment.◀

whether or not any such costs are incurred.◀

▶<sup>5</sup>◀

(4) ▶<sup>6</sup>Subject to paragraph (5A), a student's grant income except for any amount intended for the maintenance of ▶<sup>7</sup>adult◀ dependants under Part III of Schedule 2 of the Education (Mandatory Awards) Regulation 1999 ▶<sup>7</sup>◀ shall be apportioned◀—

*Reproduced below is para. (4) before the amendments in S.I. 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.*

(4) ▶<sup>8</sup>Subject to paragraph (5A), a student's grant income except for any amount intended for the maintenance of dependants under Part III of Schedule 2 to the Education (Mandatory Awards) Regulations 1999, or intended for an older student under Part IV of the Schedule, shall be apportioned◀—

- (a) subject to paragraph (6), in a case where it is attributable to the period of study, equally between the weeks ▶<sup>9</sup>in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study◀;
- (b) in any other case, equally between the weeks in the period ▶<sup>9</sup>beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable◀

*The provisions of the Education (Mandatory Awards) Regulations referred to in reg. 131(3) and (4) above, and in reg. 132(3) below, are reproduced in volume 6 of this work, at page 6.4003 et seq.*

(5) ▶<sup>10</sup>Any grant in respect of ▶<sup>11</sup>an adult dependant◀ paid under section 63(6) of the Health Services and Public Health Act 1968(a) (grants in respect of the provision of instruction to officers of hospital authorities) and◀ any amount intended for the maintenance of ▶<sup>11</sup>an adult dependant◀ or for an older student under the provisions referred to in paragraph (4) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.

▶<sup>12</sup>(5A) ▶<sup>13</sup>In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so,◀ any amount intended for the maintenance of ▶<sup>11</sup>an adult dependant◀ under provisions other than those referred to in paragraphs (4) and (5), shall be apportioned over the same period as the student's loan is apportioned or ▶<sup>13</sup>, as the case may be, would have been apportioned◀◀.

<sup>1</sup>Words omitted in reg. 131 & sub-para (3) substituted by reg. 2(3) of S.I.1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(hb)(i) *ibid.* applies).

<sup>2</sup>Words in reg. 131(3) substituted by reg. 3(2)(a) & (b) of S.I. 2007/1632 as from 1.9.07 (or during August 2007 if reg. 1(3)(a) *ibid.* applies).

<sup>3</sup>Amounts substituted in reg. 131(3)(a) & (b) by reg. 2(2), (3) & (4)(b) of S.I. 2009/1575 as from 1.9.09 (or during August 2009 if reg. 1(3)(a) (*ibid.*) applies)

<sup>4</sup>Words substituted in reg. 131(3)(b) by reg. 3(2) of S.I. 2001/2319 as from 2.7.01.

<sup>5</sup>Reg 131(3A) omitted by reg. 5(3) of S.I. 2006/1752 as from 1.9.06 (or during August 2006 if reg. 1(2)(a) *ibid.* applies).

<sup>6</sup>Words substituted in reg. 131(4) by reg. 3(6) of S.I. 2000/1922 as from 1.8.00.

<sup>7</sup>Words inserted & omitted in para. (4) of reg. 131 by para. 16(c) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>8</sup>Words substituted in reg. 131(4) by reg. 3(6) of S.I. 2000/1922 as from 1.8.00.

<sup>9</sup>Words in reg. 131(4)(a) & (b) substituted by reg. 4(3) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid.* applies).

<sup>10</sup>Words added to reg. 131(5) by reg. 6 of S.I. 2001/2319 as from 2.7.01.

<sup>11</sup>Words in para. (5) substituted by para. 16(d) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>12</sup>Para. (5A) inserted in reg. 131 by reg. 3(6) of S.I. 2000/1922 as from 1.8.00.

<sup>13</sup>Words added and substituted in reg. 131(5A) by reg. 4(5) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid.* applies).

(a) 1968 c. 46.

## Regs. 131-133

*Paras. (5) & (5A) below are reproduced as they were before the amendments in S.I. 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version*

<sup>1</sup>Words added to reg. 131(5) by reg. 6 of S.I. 2001/2319 as from 2.7.01.

(5)▶<sup>1</sup>Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968(a) (grants in respect of the provision of instruction to officers of hospital authorities) and◀ any amount intended for the maintenance of dependants or for an older student under the provisions referred to in paragraph (4) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.

<sup>2</sup>Para. 5(A) inserted in reg. 131 by reg. 3(6) of S.I. 2002/1922 as from 1.8.00.

▶<sup>2</sup>(5A) ▶<sup>3</sup>In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so,◀ any amount intended for the maintenance of dependants under provisions other than those referred to in paragraphs (4) and (5), shall be apportioned over the same period as the student's loan is apportioned ▶<sup>3</sup>, as the case may be, would have been apportioned◀◀.

<sup>3</sup>Words added and substituted in reg. 131(5A) by reg. 4(5) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies).

(6) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between ▶<sup>4</sup>the weeks in the period beginning with the benefit week, the first day of which immediately follows the last day of the period of experience and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study◀.

<sup>4</sup>Words substituted in reg. 131(6) by reg. 5(7) of S.I. 2002/1589 as from 25.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies)

#### Calculation of covenant income where a contribution is assessed

**132.**—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or, if there are 53 benefit weeks (including part-weeks) in the year, 53; and
- (b) by disregarding £5 from the resulting amount.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount, if any, by which the amount excluded under regulation 131(2)(g) falls short of the amount for the time being specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (travel expenditure).

#### Covenant income where no grant income or no contribution is assessed

**133.**—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 131(2)(a) to (e), necessary as a result of his attendance on the course, shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under regulation 131(2)(f) and (g) and (3) had the student been in receipt of the standard maintenance grant;
- (c) the balance, if any, shall be divided by 52 or, if there are 53 benefit weeks (including part-weeks) in the year, 53 and treated as weekly income of which £5 shall be disregarded.

(a) 1968 c. 46.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenant income shall be calculated in accordance with paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 131(2)(a) to (e); and
- (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under regulation 131(2)(f) and (g) and (3).

**Relationship with amounts to be disregarded under Schedule 7**

**134.** No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 7 (charitable and voluntary payments). ▶<sup>1</sup>◀

<sup>1</sup>Words omitted in reg. 134 by reg. 13(7) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

**Other amounts to be disregarded**

**135.**—(1) For the purposes of ascertaining income other than grant income, covenant income, and loans treated as income in accordance with regulation 136, any amount intended for any expenditure specified in regulation 131(2) (calculation of grant income) necessary as a result of the student's attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 131(2) and (3), 132(3) ▶<sup>2</sup>, 133(1)(a) or (b) and 136(5) (calculation of grant income, covenant income and treatment of student loans)◀ on like expenditure.

<sup>2</sup>Words substituted in reg. 135(1) by reg. 2(4) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid.* applies).

(2) Where a claim is made in respect of any period in the normal summer vacation and any income is payable under a deed of covenant which commences or takes effect after the first day of that vacation, that income shall be disregarded.

**Treatment of student loans**

**136.**—▶<sup>3</sup>(1) A student loan shall be treated as income ▶<sup>4</sup>◀

<sup>3</sup>Paras. (1) & (1A) substituted for (1) and para. (2) substituted by reg. 3(7)(a) & (b) of S.I. 2000/1922 as from 1.8.00.

▶<sup>4</sup>◀

(2) In calculating the weekly amount of the loan to be taken into account as income—

- ▶<sup>5</sup>(a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with—
  - (i) except in a case where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
  - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the benefit week, the first day of which coincides with, or immediately follows, the first day of the course,

<sup>4</sup>Words in reg. 136(1) & para. (1A) omitted by reg. 4(9)(a) & (b) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Reg. 136(2)(a) substituted by reg. 5(2) of S.I. 2002/1589 as from 26.8.02 (or during August 2002) if reg. 1(1)(b)(i) *ibid.* applies).

and ending with the benefit week, last day of which coincides with, or immediately precedes, the last day of the course;◀

- ▶<sup>6</sup>(aa) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the benefit week ▶<sup>7</sup>, the first days of which coincides with, or immediately follows, the first day of that academic year and ending with the benefit week, the last day of which coincides with, or immediately precedes,◀ the last day of that academic year but excluding any benefit weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this sub-paragraph, "quarter" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2001;◀

<sup>6</sup>Sub-para. (aa) inserted in reg. 136(2) by reg. 4(a) of S.I. 2001/2319 as from 2.7.01.

<sup>7</sup>Words substituted in reg. 136(2)(aa) by reg. 5(3) of S.I. 2002/1589 as from 26.8.02 (or during August 2002) if reg. 1(1)(b)(i) *ibid.* applies).

## Reg. 136

<sup>1</sup>Words omitted and substituted in reg. 136(2)(b) by reg. 5(4) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if 1(1)(b)(i) *ibid* applies).

<sup>2</sup>Words substituted in reg. 136(2)(c) by reg. 5(5) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if 1(1)(b)(i) *ibid* applies).

<sup>3</sup>Reg. 136(3) substituted and sub-paras (4) & (5) inserted by reg. 5(a) & (b) of S.I. 1999/1935 as from 30.8.99, (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

- (b) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with ►<sup>1</sup>◀—
- <sup>1</sup>(i) except in a case where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year;
- (ii) where the final academic year starts on 1st September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term, ◀
- and ending with the last day of ►<sup>1</sup>the benefit week, the last day of which coincides with, or immediately precedes ◀ the last day of the course;
- (c) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of—
- (i) the first day of the first benefit week in September; or
- <sup>2</sup>(ii) the benefit week, the first day of which coincides with, or immediately follows, the first day of the autumn term, ◀
- and ending with the ►<sup>2</sup>the benefit week, the last day of which coincides with, or immediately precedes, the last day of June◀,

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.◀

- <sup>3</sup>(3) A student shall be treated as possessing a student loan in respect of an academic year where—
- (a) a student loan has been made to him in respect of that year, or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.
- (4) Where a student is treated as possessing a student loan under paragraph (3), the amount of the student loan to be taken into account as income shall be, subject to paragraph (5)—
- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so and either—
- (i) in the case of a student other than one to whom head (ii) refers, any contribution whether or not it has been paid to him; or
- (ii) in the case of a student who satisfies the additional conditions for a disability premium specified in paragraph 14 of Schedule 1 (applicable amounts), any contribution which has actually been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
- (ii) no deduction in that loan was made by virtue of the application of a means test.



(5) There shall be deducted from the amount of income taken into account under paragraph (4)–

- (a) the sum of <sup>1</sup>£303<sup>2</sup> per academic year in respect of travel costs; and
- (b) <sup>3</sup>the sum of <sup>1</sup>£390<sup>2</sup> per academic year towards the costs of books and equipment,

whether or not any such costs are incurred.

<sup>1</sup>Words in reg. 136(5)(a) and (b) substituted by reg. 3(a) & (b) of S.I. 2007/1632 as from 1.9.07 (or during August 2007 if reg. 1(3)(a) *ibid* applies).

<sup>2</sup>Amounts substituted in reg. 136(5)(a) & (b) by reg. 2(2), (3) & (4)(b) of S.I. 2009/1575 as from 1.9.09 (or during August 2009 if reg. 1(3)(a) *ibid* applies).

<sup>3</sup>Words substituted in reg. 136(5)(b) by reg. 3 of S.I. 2001/2319 as from 2.7.01.

<sup>1</sup>Reg. 136A inserted by reg. 3(8) of S.I. 2000/1922 as from 1.8.00.

►<sup>1</sup>**Treatment of payments from access funds**

**136A.**—(1) This regulation applies to payments from access funds that are not payments to which regulation 138(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which paragraph (3) of this regulation applies, shall be disregarded as income.

(3) Subject to paragraph (4) of this regulation and paragraph 38 of Schedule 7, any payments from access funds which are intended and used for food, ordinary clothing or footwear ►<sup>2</sup>◄, household fuel, rent for which housing benefit is payable, ►<sup>3</sup>or any housing costs◄ to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>3</sup>◄, of a single claimant or, as the case may be, of ►<sup>4</sup>his partner◄ and any payments from access funds which are used for any council tax or water charges for which that claimant or ►<sup>4</sup>partner is liable◄ shall be disregarded as income to the extent of £20 per week.

<sup>2</sup>In reg. 136A, words omitted in (3) by reg. 3(6) of S.I. 2007/719 as from 2.4.07.

<sup>3</sup>Words substituted and omitted in reg. 136A(3) by reg. 2(2) of, and para. 13 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Words in reg. 136A(3) substituted by para. 17 of Sch.2 to S.I. 2003/455 as from 6.4.04.

<sup>5</sup>Words substituted and omitted in reg. 136A(3) by reg. 2(2) of, and para. 13 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

*Reproduced below is para. (3) before the amendments in S.I. 2003/455 have been implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.*

(3) Subject to paragraph (4) of this regulation and paragraph 38 of Schedule 7, any payments from access funds which are intended and used for food, ordinary clothing or footwear (which has the same meaning as in paragraph 15(2) of Schedule 7), household fuel, rent for which housing benefit is payable, ►<sup>5</sup>or any housing costs◄ to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>5</sup>◄, of a single claimant or, as the case may be, of any other member of his family and any payments from access funds which are used for any council tax or water charges for which that claimant or member is liable shall be disregarded as income to the extent of £20 per week.

►<sup>1</sup>(3A) In paragraph (3) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.◀

(4) Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student;

that payment shall be disregarded as income.◀

►<sup>2</sup>Treatment of fee loans

**136B.** A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.◀

<sup>2</sup>Reg. 136B added by reg. 5(4) of S.I. 2006/1752 as from 1.9.06 (or during August 2006 if reg. 1(2)(a) *ibid* applies).

Disregard of contribution

**137.** Where the claimant or his partner is a student and, for the purpose of assessing a contribution to the student's grant, ►<sup>3</sup>or student loan◀ the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partners income.

<sup>3</sup>Words inserted into regs. 137 & 137A by reg. 2(6) & (7) of S.I. 1999/1935 as from 30.8.99, (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

►<sup>4</sup>Further disregard of student's income

**137A.** Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant, ►<sup>3</sup>or student loan◀ the amount taken into account shall be disregarded in assessing that student's income.◀

<sup>4</sup>Reg. 137A inserted by reg. 4(4)(f) of S.I. 1998/563 as from 6.4.98.

Income treated as capital

►<sup>5</sup>**138.**—(1)◀ Any amount by way of a refund of tax deducted from a student's income shall be treated as capital.

<sup>5</sup>Reg. 138 renumbered as 138(1) & paras. (2) & (3) inserted by reg. 3(9) of S.I. 2000/1922 as from 1.8.00.

►<sup>5</sup>(2) An amount paid from access funds as a single lump sum shall be treated as capital.

(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear ►<sup>6</sup>◀, household fuel, rent for which housing benefit is payable, ►<sup>7</sup>or any housing costs◀ to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>7</sup>◀, of a single claimant or, as the case may be, of ►<sup>8</sup>his partner◀, or which is used for an item other than any council tax or water charges for which that claimant or ►<sup>8</sup>partner is liable◀ shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.◀

<sup>6</sup>Words omitted in reg. 138(3) by reg. 3(7) of S.I. 2007/719 as from 2.4.07.

<sup>7</sup>Words substituted and omitted in reg. 138(3) by reg. 2(2) of, and para. 14 of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>8</sup>Words in reg. 138(3) substituted by para. 17 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>9</sup>Para. (3) originally inserted by reg. 3(a) of S.I. 2000/1922 as from 1.8.00.

<sup>10</sup>Words substituted and omitted in reg. 138(3) by reg. 2(2) and para. 14 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

*Reproduced below is para. (3) before the amendments in S.I. 2003/455 have been implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.*

►<sup>9</sup>(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear (which has the same meaning as in paragraph 15(2) of Schedule 7), household fuel, rent for which housing benefit is payable, ►<sup>10</sup>or any housing costs◀ to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>10</sup>◀, of a single claimant or, as the case may be, of any other member of his family, or which is used for an item other than any council tax or water charges for which that claimant or member is liable shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.◀

## Regs. 138-140

<sup>1</sup>Reg. 138(4) inserted by reg. 3(7) of S.I. 2007/719 as from 2.4.07.

►<sup>1</sup>(4) In paragraph (3) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.◄

**Disregard of changes occurring during summer vacation**

<sup>2</sup>Words substituted in regs. 139 & 140 by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

**139.** In calculating a student's income ►<sup>2</sup>the Secretary of State◄ shall disregard any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course, if the vacation does not form part of this period of study, from the date on which the change occurred up to the end of that vacation.

## PART IX

## HARDSHIP

**Meaning of “person in hardship”**

*See reg. 10(2) and (3) & (18)(e) of S.I. 2010/1222 at page 11.7185 for details of the modifications of this reg. in certain situations as from 22.11.10.*

<sup>3</sup>Words inserted in reg. 140(1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

**140.—(1)** In this Part of these Regulations, a “person in hardship” means for the purposes of regulation 141 a claimant, other than a claimant to whom paragraph (3) or (4) applies ►<sup>3</sup>or a member of a joint-claim couple and regulation 3E does not apply◄, who—

<sup>4</sup>Words substituted in reg. 140(1)(b) by reg. 11(14) of S.I. 2008/3051 as from 24.11.08.

- (a) is a single woman—
  - (i) who is pregnant; and
  - (ii) in respect of whom ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid to her, she will suffer hardship; or
- (b) is a single person who is responsible for a ►<sup>4</sup>child or young person◄, and ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid to the single person, the ►<sup>4</sup>child or young person◄ will suffer hardship; or
- (c) is ►<sup>5</sup>a couple◄—
  - <sup>5</sup>(i) at least one member of the couple is a woman who is pregnant; and◄
  - (ii) ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid, the woman will suffer hardship; or
- (d) is a member of a polygamous marriage and—
  - (i) one member of the marriage is pregnant; and
  - (ii) ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid, that woman will suffer hardship; or
- (e) is a member of ►<sup>5</sup>a couple◄ or of a polygamous marriage where—
  - (i) one or both members of the couple, or one or more members of the polygamous marriage, are responsible for a child or young person; and
  - (ii) ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid, the child or young person will suffer hardship; or
- (f) has an award of a jobseeker's allowance which includes or would, if a claim for a jobseeker's allowance from him were to succeed have included, in his applicable amount a disability premium and—
  - (i) where the person has an award, a jobseeker's allowance is not payable ►<sup>6</sup>◄ because it is suspended ►<sup>6</sup>or the award is reduced in accordance with section 19 or 19A or regulation 69B◄; and
  - (ii) ►<sup>2</sup>the Secretary of State◄ is satisfied that, unless a jobseeker's allowance is paid, the person who would satisfy the conditions of entitlement to that premium would suffer hardship; or

<sup>5</sup>In reg. 140, words in para. (1)(c), (1)(c)(i) & para. (1)(e) substituted by para. 26(8) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>6</sup>Words in reg. 140 omitted and substituted by reg. 3(2)(a) of S.I. 2012/2568 as from 22.10.12.

- (g) suffers, or whose partner suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and ►<sup>1</sup>the Secretary of State◀ is satisfied that—
  - (i) the suffering has already lasted, or is likely to last, for not less than 26 weeks; and
  - (ii) unless a jobseeker's allowance is paid to the claimant the probability is that the health of the person suffering would, within 2 weeks of ►<sup>1</sup>the Secretary of State◀ making his decision, decline further than that of a normally healthy adult and that person would suffer hardship; or
- (h) does, or whose partner does, or in the case of a claimant who is married to more than one person under a law which permits polygamy, at least one of those persons do, devote a considerable portion of each week to caring for another person who—
  - (i) is in receipt of an attendance allowance ►<sup>2</sup>, the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act◀ ►<sup>3</sup>or armed forces independence payment◀; or
  - (ii) has claimed either attendance allowance►<sup>2</sup>, disability living allowance►<sup>3</sup>, armed forces independence payment◀ or personal independence payment◀, but only for so long as the claim has not been determined, or for, 26 weeks from the date of claiming, ►<sup>4</sup>whichever is the earlier; or
  - (iii) has claimed either attendance allowance or disability living allowance and has an award of either 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, ►<sup>2</sup>or
  - (iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act for a period commencing after the date on which that claim was made►<sup>3</sup>; or
  - (v) has claimed and has an award of armed forces independence payment for a period commencing after the date on which that claim was made,◀◀ and ►<sup>1</sup>the Secretary of State◀ is satisfied, after taking account of the factors set out in ►<sup>5</sup>paragraph (5)◀ in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a jobseeker's allowance is paid to the claimant; or
  - (i) is a person or is the partner of a person to whom section 16 applies by virtue of a direction issued by the Secretary of State, except where the person to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
  - (j) is a person—
    - (i) to whom section 3(1)(f)(iii) (persons under the age of 18) applies, or is the partner of such a person; and
    - (ii) in respect of whom ►<sup>1</sup>the Secretary of State◀ is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship.
  - <sup>6</sup>(k) is a person
    - (i) who, pursuant to the Children Act 1989(a), was being looked after by a local authority;
    - (ii) with whom the local authority had a duty, pursuant to that Act, to take reasonable steps to keep in touch; or
    - (iii) who, pursuant to that Act, qualified for advice and assistance from a local authority,

<sup>1</sup>Words substituted in reg. 140(1)(g), (h) & (j) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>2</sup>Words substituted in reg. 140(1)(h) & reg. 140(1)(h)(iv) inserted by para. 16(4) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>3</sup>Words in reg. 140(1)(h)(i), (ii), (iv) & reg. 140 (1)(h)(v) inserted by para. 10(4) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>4</sup>Words in reg. 140(1)(h) (ii) substituted and reg. 140(1)(h)(iii) added by reg. 13(1) of S.I. 1996/1516 as from 7.10.96.

<sup>5</sup>Words in reg. 140(1)(h) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

<sup>6</sup>Sub-para. (k) added to reg. 140(1) by reg. 2(4) of S.I. 2000/239 as from 6.3.00.

(a) 1989 c. 41.

## Regs. 140-140A

but in respect of whom (i), (ii) or, as the case may be, (iii) above had not applied for a period of three years or less as at the date on which he complies with the requirements of regulation 143; and

(iv) as at the date on which he complies with the requirements of regulation 143, is under the age of 21.◀

<sup>1</sup>In reg. 140, words deleted in para. (2) & inserted in para. (5)(a) by reg. 13(2) & the Sch., of S.I. 1996/1516 as from 7.10.96.

<sup>2</sup>Words in reg. 140(2) and paras. (4A), (4B) & (4C) omitted by reg. 3(2) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Words inserted in reg. 140(2) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>4</sup>Words substituted in reg. 140(2) & (5) by art. 3(12) & Sch. 12 of S.I. 1999/2860 as from 18.10.99.

<sup>5</sup>Words inserted in reg. 140(3) by reg. 3(17) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Words inserted in reg. 140(3) by reg. 25 of S.I. 1996/1517 as from 7.10.96.

<sup>7</sup>Words substituted in reg. 140(4) by Sch. 2, para. 7 of S.I. 2005/2687 as from 24.10.05.

<sup>8</sup>Words substituted in reg. 140(5)(a) by Sch. 2, para. 18 of S.I. 2003/455. See reg. 1 of the S.I. for when to apply in certain situations.

<sup>9</sup>Words inserted in reg. 140(5)(a) by reg. 13(2) & the Sch. of S.I. 1996/1516 as from 7.10.96.

<sup>10</sup>Reg. 140(6) inserted by reg. 4(10) of S.I. 2013/443 as from 2.4.13.

(2) Except in a case to which paragraph (3) ▶<sup>1</sup>◀▶<sup>2</sup>◀ applies ▶<sup>3</sup>or where the person in hardship is a member of a joint-claim couple and regulation 3E does not apply◀ a “person in hardship” means for the purposes of regulation 142, a claimant where ▶<sup>4</sup>the Secretary of State◀ is satisfied that he or his partner will suffer hardship unless a jobseeker's allowance is paid to him.

(3) In paragraphs (1) and (2) a “person in hardship” does not include a claimant who is entitled, or whose partner is entitled, to income support ▶<sup>5</sup>or an income-related employment and support allowance◀ or ▶<sup>6</sup>a claimant or a partner of a claimant◀ who falls within a category of persons prescribed for the purpose of section 124(1)(e) of the Benefits Act.

(4) Paragraph (1)(h) shall not apply in a case where the person being cared for resides in a ▶<sup>7</sup>care home, an Abbeyfield Home or an independent hospital◀.

(4A)-(4C) ▶<sup>2</sup>◀

(5) Factors which, for the purposes of paragraphs (1) and (2), ▶<sup>4</sup>the Secretary of State◀ is to take into account in determining whether a person will suffer hardship are—

- (a) the presence in the claimant's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1 ▶<sup>1</sup>or ▶<sup>8</sup>an element of child tax credit in respect of a child or young person who is disabled or severely disabled within the meaning of regulation 8 of the Child Tax Credit Regulations 2002(a)◀;◀

*Para. (a) is reproduced below as it was before the amdt. in S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply.*

(a)the presence in the claimant's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1 ▶<sup>9</sup>or for disabled child premium specified in paragraph 16 of that Schedule;◀

- (b) the resources which, without a jobseeker's allowance, are likely to be available to the claimant's family, the amount by which these resources fall short of the amount applicable in his case in accordance with regulation 145 (applicable amount in hardship cases), the amount of any resources which may be available to members of the claimant's family from any person in the claimant's household who is not a member of his family, and the length of time for which those factors are likely to persist;
- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the claimant or to a member of the claimant's family, or will be available at considerably reduced levels and the length of time those factors are likely to persist.

▶<sup>10</sup>(6) In paragraph (5)(b), “resources” does not include any sum, where applicable, specified in paragraph 6B(1) and (2) of Schedule 7 (sums to be disregarded in the calculation of income other than earnings - child tax credit and child benefit).◀

[Regulation 140A is revoked by reg. 3(3) of S.I. 2012/2568.]

(a) S.I. 2002/2007.

**Circumstances in which an income-based jobseeker's allowance is payable to a person in hardship**

*See reg. 10(2) & (4) of S.I. 2010/1222 at page 11.7185 for details of the modification of this reg. in certain situations as from 22.11.10.*

**141.**—(1) This regulation applies to persons in hardship within the meaning of regulation 140(1), and is subject to the provisions of regulations 143 and 144.

(2) Subject to paragraph (3) a person in hardship <sup>1</sup>, other than a person to whom regulation 46(1) (waiting days) applies, shall be treated as entitled to an income-based jobseeker's allowance for the period beginning with the <sup>2</sup>8<sup>th</sup> day of the jobseeking period or, <sup>3</sup>if later, from the day he first becomes a person in hardship and ending on the day before the claim is determined where <sup>4</sup>the sole reason for the delay in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement specified in section 1(2)(a) to (c) <sup>5</sup>provided he satisfies the conditions of entitlement specified in paragraph (d)(ii) of subsection (2) of section 1.

<sup>1</sup>Words substituted in reg. 141(2) by reg. 26(2) of S.I. 1996/1517 as from 7.10.96.

<sup>2</sup>Word in reg. 14(2) substituted by reg. 3(2) of S.I. 2014/2309 as from 27.10.14. (See reg. 4(1) for transitional provisions which apply in some circumstances.)

<sup>3</sup>Words substituted in reg. 141(2) by reg. 2(9) of S.I. 1996/2538 as from 28.10.96.

<sup>4</sup>Words added to reg. 141(2) by reg. 2(9) of S.I. 1996/2438 as from 28.10.96

<sup>5</sup>Words deleted and inserted in reg. 141(3) by reg. 26(3) of S.I. 1996/1517 as from 7.10.96.

<sup>6</sup>Words substituted in reg. 141(3) and (5) by paras. 2 and 8 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(3) A person in hardship to whom paragraph (2) applies may be treated as entitled to an income-based jobseeker's allowance for a period after the date <sup>5</sup>referred to in that paragraph <sup>6</sup>which is applicable in his case but before the date the statement mentioned in regulation 143(1) is furnished where <sup>7</sup>the Secretary of State is satisfied that the claimant suffered hardship because of lack of resources during that period.

(4) A person in hardship, except where the person has been treated as not available for employment in accordance with regulations under section 6(4) of the Act shall, subject to the conditions specified in regulation 143 (conditions for hardship payments), be entitled to an income-based jobseeker's allowance without satisfying the requirements of section 1(2)(a) to (c) of the Act provided he satisfies the other conditions of entitlement to that benefit.

<sup>7</sup>Words in reg. 141(6) substituted by reg. 3(4) of S.I. 2012/2568 as from 22.10.12.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with <sup>8</sup>regulation 16 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 on the ground that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income based jobseeker's allowance.

(6) An income-based jobseeker's allowance shall be payable to a person in hardship even though <sup>9</sup>his award of jobseeker's allowance has been reduced in accordance with section 19 or 19A or regulation 69B but the allowance shall be payable only if and for so long as he satisfies the conditions of entitlement to an income-based jobseeker's allowance.

**Further circumstances in which an income-based jobseeker's allowance is payable to a person in hardship**

**142.**—(1) This regulation applies to a person in hardship who falls within paragraph (2) but not paragraph (1) of regulation 140 and is subject to the provisions of regulations 143 and 144.

(2) A person in hardship shall be treated as entitled to an income-based jobseeker's allowance for a period commencing on whichever is the later of—

- <sup>8</sup>(a) the 15th day following the date of claim disregarding any waiting days; or
- (b) <sup>8</sup>
- (c) the day the claimant complies with the requirements of regulation 143,

<sup>8</sup>Reg. 142(2)(a) substituted, and reg. 142(2)(b) deleted, by reg. 2(10) of S.I. 1996/2538 as from 28.10.96.

and ending on the day before the claim is determined where <sup>9</sup>the sole reason for the delay in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement in section 1(2)(a) to (c) <sup>9</sup>provided he satisfies the conditions of entitlement specified in paragraph (d)(ii) of subsection (2) of section 1.

<sup>9</sup>Words added to reg. 142(2) by reg. 2(9)(c) of S.I. 1996/2538 as from 28.10.96.

## Regs. 142-143

<sup>1</sup>Words substituted in reg. 142(3) by para. 9 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(3) An income-based jobseeker's allowance shall be payable subject to paragraph (4) to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with regulations made by virtue of <sup>1</sup>section 21 of the Social Security Act 1998<sup>1</sup> (suspension of benefit) on the ground that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c) but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income-based jobseeker's allowance.

(4) An income-based jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.

<sup>2</sup>Words in reg. 142(5) substituted by reg. 3(5) of S.I. 2012/2568 as from 22.10.12.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though <sup>2</sup>his award of jobseeker's allowance has been reduced in accordance with section 19 or 19A or regulation 69B<sup>2</sup>, but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which <sup>2</sup>the reduction<sup>2</sup> applies; and
- (b) shall be payable thereafter only where the conditions of entitlement to an income-based jobseeker's allowance are satisfied.

**Conditions for hardship payments**

*See reg. 10(2) of S.I. 2010/1222 at page 11.7185 for details of the modifications of regs. 143 & 144 in certain situations as from 22.11.10.*

**143.**—(1) A jobseeker's allowance shall not be payable in accordance with regulation 141 or, as the case may be, 142, except where the claimant has—

- (a) furnished on a form approved for the purpose by the Secretary of State or in such other form as he may in any particular case approve a statement of the circumstances he relies upon to establish entitlement under regulation 141 or as the case may be regulation 142; and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by the claimant to such office as the Secretary of State may specify.



**Provision of information**

**144.** For the purposes of <sup>1</sup>section 20(5) of and <sup>1</sup>paragraph 10(3) of Schedule 1 to the Act, a claimant shall provide to the Secretary of State information as the circumstances of the person alleged to be in hardship.

<sup>1</sup>Words in reg. 144 inserted by reg. 14 of S.I. 1996/1516 as from 7.10.96.

**Applicable amount in hardship cases**

*See reg. 10(2) of S.I. 2010/1222 at page 11.7185 for details of the modifications of regs. 145 & 146 in certain situations as from 22.11.10.*

**145.**—<sup>2</sup>(1) The weekly applicable amount of a person to whom an income-based jobseeker's allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to 40%\* or, in a case where the claimant or any other member of his family is either pregnant or is seriously ill, 20%\* of the following amount—<sup>1</sup>

<sup>2</sup>Words in reg. 145(1) substituted & reg. 145(2) deleted by reg. 15(1) & (2) of S.I. 1996/1516 as from 7.10.96.

- (a) where he is a single claimant aged not less than 18 or a member of a couple or polygamous marriage where all members, in either case are less than 18, the amount specified in paragraph 1(1)(a), (b) or (c), as the case may be, of Schedule 1 (applicable amounts);
- (b) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for an income-based jobseeker's allowance under section 3(1)(f)(iii) or is not subject to a direction under section 16, the amount specified in paragraph 1(1)(d) of Schedule 1;
- (c) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (b) <sup>3</sup>applies) <sup>1</sup>at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1.

<sup>3</sup>Word substituted in reg. 145(1)(c) by reg. 28 of S.I. 1996/1517 as from 7.10.96.

(2) <sup>2</sup>

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

*\*Percentages in reg. 145(1) maintained in force by art. 19(8) and Sch. 12 of S.I. 2014/516. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

**Payments made on account of suspended benefit**

**146.**—(1) This regulation applies to a person to whom—

- (a) payments of a jobseeker's allowance have been suspended in accordance with regulations made under <sup>4</sup>section 21 of the Social Security Act 1998<sup>1</sup>;
- (b) an income-based jobseeker's allowance is paid under regulation 141 or 142.

<sup>4</sup>Words substituted in reg. 146(1)(a) by para. 9 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(2) In the case of a person to whom—

- (a) this regulation applies; and
- (b) payments in respect of the benefit suspended fall to be made,

any benefit paid or payable by virtue of regulation 141(5) or 142(3) shall be treated as having been paid on account of the suspended benefit and only the balance of the suspended benefit (if any) shall be payable.



Reg. 146A

▶<sup>1</sup>PART IXA

HARDSHIP FOR JOINT-CLAIM COUPLES

<sup>1</sup>Part IXA inserted by reg. 2(3) of S.I. 2000/1978 as from 19.3.01.

Meaning of “couple in hardship”

*See reg. 11(2) & (3) of S.I. 2010/1222 at page 11.7185 for details of the modification of reg. 146A in certain situations as from 22.11.10.*

**146A.**—(1) In this Part of these Regulations, a “couple in hardship” means for the purposes of regulation 146C, a joint-claim couple who are claiming a jobseeker’s allowance jointly, other than a couple which includes a member to whom paragraph (3) or (4) applies, where—

- (a) ▶<sup>2</sup>at least one member of the joint-claim couple is a woman who is pregnant◀ and the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship; or
- (b) one or both members of the couple are members of a polygamous marriage, one member of the marriage is pregnant and the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship; or
- (c) the award of a joint-claim jobseeker’s allowance includes, or would, if a claim for a jobseeker’s allowance from the couple were to succeed, have included in their applicable amount a disability premium and—
  - (i) where the couple have an award, a joint-claim jobseeker’s allowance is not payable ▶<sup>3</sup>◀ because it is suspended ▶<sup>3</sup> or the award is reduced in accordance with section 19 or 19A or regulation 69B◀; and
  - (ii) the Secretary of State is satisfied that, unless a joint-claim jobseeker’s allowance is paid, the member of the couple who would have caused the disability premium to be applicable to the couple would suffer hardship; or
- (d) either member of the couple suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Secretary of State is satisfied that—
  - (i) the suffering has already lasted or is likely to last, for not less than 26 weeks; and
  - (ii) unless a joint-claim jobseeker’s allowance is paid, the probability is that the health of the person suffering would, within two weeks of the Secretary of State making his decision, decline further than that of a normally healthy adult and the member of the couple who suffers from that condition would suffer hardship; or
- (e) either member of the couple, or where a member of that couple is married to more than one person under a law which permits polygamy, one member of that marriage, devotes a considerable portion of each week to caring for another person who—
  - (i) is in receipt of an attendance allowance▶<sup>4</sup>, the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act▶<sup>5</sup>, armed forces independence payment◀ or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act◀; or
  - (ii) has claimed either attendance allowance▶<sup>4</sup>, disability living allowance ▶<sup>5</sup>, armed forces independence payment◀ or personal independence payment◀, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier; or

<sup>2</sup>Words substituted in reg. 146A(1) by para. 26(9) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Words in reg. 146A(c)(i) omitted and substituted by reg. 4(2) of S.I. 2012/2568 as from 22.10.12.

<sup>4</sup>Words substituted in reg. 146A(1)(e) & reg. 146A(1)(e)(iv) inserted by para. 16(5) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>5</sup>Words inserted in reg. 146A(1)(e)(i) & (ii) by para. 10(5)(a) & (b) of Sch. to S.I. 2013/591 as from 8.4.13.

## Reg. 146A

- (iii) has claimed either attendance allowance or disability living allowance and has an award of either 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,

<sup>1</sup>Words substituted in reg. 146A(1)(e) & reg. 146A(1)(e)(iv) inserted by para. 16(5) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>2</sup>Word & reg. 146A(1)(e)(v) inserted by para. 10(5)(c) of Sch. to S.I. 2013/591 as from 8.4.13.

►<sup>1</sup>; or

- (iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act for a period commencing after the date on which that claim was made►<sup>2</sup>; or
- (v) has claimed and has an award of armed forces independence payment for a period commencing after the date on which that claim was made,◀◀

and the Secretary of State is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a joint-claim jobseeker's allowance is paid; or

- (f) section 16 applies to either member of the couple by virtue of a direction issued by the Secretary of State, except where the member of the joint-claim couple to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
- (g) section 3A(1)(e)(ii) (member of joint-claim couple under the age of 18) applies to either member of the couple and the Secretary of State is satisfied that unless a joint-claim jobseeker's allowance is paid, the couple will suffer hardship;
- (h) one or both members of the couple is a person—
  - (i) who, pursuant to the Children Act 1989(a), was being looked after by a local authority;
  - (ii) with whom the local authority had a duty, pursuant to that Act, to take reasonable steps to keep in touch; or
  - (iii) who, pursuant to that Act, qualified for advice or assistance from a local authority,

but in respect of whom head (i), (ii) or, as the case may be, (iii) above had not applied for a period of three years or less as at the date on which the requirements of regulation 146F are complied with; and

- (iv) as at the date on which the requirements of regulation 146F are complied with, that member is, or both of those members are, under the age of 21.

<sup>3</sup>Words in reg. 146A(2) & paras. (5), (5A) & (5B) omitted by reg. 4(2)(b)-(c) of S.I. 2012/2568 as from 22.10.12.

(2) Except in a case to which paragraph (3), (4) ►<sup>3</sup>◀ applies, a “couple in hardship” means for the purposes of regulation 146D, a joint-claim couple where the Secretary of State is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the couple will suffer hardship unless a joint-claim jobseeker's allowance is paid.

<sup>4</sup>Words in reg. 146A(3) inserted by reg. 3(18) of S.I. 2008/1554 as from 27.10.08.

(3) In paragraph (1) and (2), a “couple in hardship” does not include a couple one of whose members is entitled to income support ►<sup>4</sup>or an employment and support allowance◀ or who falls within a category of persons prescribed for the purposes of section 124(1)(e) of the Benefits Act.

<sup>5</sup>Words in reg. 146A(4) substituted by para. 8 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(4) Paragraph (1)(e) shall not apply in a case where the person being cared for resides in a ►<sup>5</sup>care home, an Abbeyfield Home or an independent hospital◀

(5)-(5B) ►<sup>2</sup>◀

(6) Factors which, for the purposes of paragraphs (1) and (2), the Secretary of State is to take into account in determining whether a joint-claim couple will suffer hardship are—

- (a) the presence in the joint-claim couple of a person who satisfies the requirements for a disability premium specified in paragraphs 20H and 20I of Schedule 1;

(a) 1989 c. 41.

- (b) the resources which, without a joint-claim jobseeker's allowance, are likely to be available to the joint-claim couple, the amount by which these resources fall short of the amount applicable in their case in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples), the amount of any resources which may be available to the joint-claim couple for any person in the couple's household who is not a member of the family and the length of time for which those factors are likely to persist;
- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the joint-claim couple, or will be available at considerably reduced levels, the hardship that will result and the length of time those factors are likely to persist.

[Regulation 146B is revoked by reg. 4(3) of S.I. 2012/2568.]

### **Circumstances in which a joint-claim jobseeker's allowance is payable where a joint-claim couple is a couple in hardship**

*See reg. 11(2) of S.I. 2010/1222 at page 11.7185 for details of the modification of reg. 146C in certain situations as from 22.11.10.*

**146C.**—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 146A(1) and is subject to the provisions of regulations 146E and 146F.

(2) Subject to paragraph (3), a couple in hardship referred to in paragraph (1), other than a couple in hardship where either or both members are persons to whom regulation 46(1) (waiting days) applies, shall be treated as entitled to a joint-claim jobseeker's allowance for the period—

- (a) beginning with the <sup>1</sup>eighth<sup>4</sup> day of the jobseeking period or, if later, from the day the couple first becomes a couple in hardship; and
- (b) ending on the day before the claim is determined,

<sup>1</sup>Word substituted in reg. 146C(2)(a) by reg. 3(3) of S.I. 2014/2309 as from 27.10.14. (See reg. 4(1) for transitional provisions which apply in some circumstances).

where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A couple in hardship to whom paragraph (2) applies may be treated as entitled to a joint-claim jobseeker's allowance for a period after the date referred to in that paragraph which is applicable in their case but before the date of the statement referred to in regulation 146E(1) is furnished where the Secretary of State is satisfied that that couple suffered hardship because of a lack of resources during that period.

(4) A couple in hardship, except where either or both members have been treated as not available for employment in accordance with regulations under section 6(4) shall, subject to the conditions specified in regulation 146E (conditions for hardship payments), be entitled to a joint-claim jobseeker's allowance without both members satisfying the requirements of section 1(2)(a) to (c) provided the joint-claim couple satisfy the other conditions of entitlement to that benefit.

(5) A joint-claim jobseeker's allowance shall be payable to a joint-claim couple who are a couple in hardship even though payment to the couple of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998(a) on the ground that a doubt has arisen as to whether either joint-claimant satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

(a) 1998 c. 14

**Regs. 146C-146E**

<sup>1</sup>Words in reg. 146C(6) substituted by reg. 4(4) of S.I. 2012/2568 as from 22.10.12.

(6) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though <sup>1</sup>the award of joint-claim jobseeker's allowance has been reduced in accordance with section 19 or 19A or regulation 69B<sup>1</sup> but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

**Further circumstances in which a joint-claim jobseeker's allowance is payable to a couple in hardship**

**146D.**—(1) This regulation applies to a couple in hardship falling within paragraph (2) but not paragraph (1) of regulation 146A and is subject to the provisions of regulations 146E and 146F.

(2) A couple in hardship shall be treated as entitled to a joint-claim jobseeker's allowance for a period commencing on whichever is the later of—

- (a) the 15th day following the date of claim disregarding any waiting days; or
- (b) the day on which regulation 146E is complied with,

and ending on the day before the claim is determined where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members of that couple satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A joint-claim jobseeker's allowance shall be payable, subject to paragraph (4), to a couple in hardship even though payment to them of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998 (suspension of benefit) on the ground that a doubt has arisen as to whether either or both members of that couple satisfy the requirements of section 1(2)(a) to (c) of the Act but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

(4) A joint-claim jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.

(5) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though <sup>2</sup>the award of joint-claim jobseeker's allowance has been reduced in accordance with section 19 or 19A or regulation 69B<sup>2</sup> but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which <sup>2</sup>the reduction<sup>2</sup> applies; and
- (b) shall be payable thereafter only where the conditions of entitlement to a joint-claim jobseeker's allowance are satisfied or where one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

<sup>2</sup>Words in reg. 146D(5) and sub-para. (a) substituted by reg. 4(5) of S.I. 2012/2568 as from 22.10.12.

**Conditions for hardship payments to a joint-claim couple**

*See reg. 11(2) of S.I. 2010/1222 at page 11.7185 for details of the modification of regs. 146E to 146G in certain situations as from 22.11.10.*

**146E.**—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 146C or, as the case may be, 146D, except where either member of the joint-claim couple has—

- (a) furnished on a form approved for the purpose by the Secretary of State or in such other form as he may in any particular case approve, a statement of the circumstances he relies upon to establish entitlement under regulation 146C or, as the case may be, regulation 146D; and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by either member to such office as the Secretary of State may specify.

**Provision of information**

**146F.** For the purposes of section 20B(5) and paragraph 10(3) of Schedule 1 to the Act, a member of a joint-claim couple shall provide to the Secretary of State information as to the circumstances of the alleged hardship of that couple.

**Applicable amount in hardship cases for joint-claim couples**

**146G.**—<sup>1</sup>(1) The weekly applicable amount of the joint-claim couple to whom a joint-claim jobseeker's allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to—

<sup>1</sup>Reg. 146G(1) substituted by reg. 4(11) of S.I. 2010/641 as from 13.4.10.

- (a) 20%\* of the amount specified in paragraph 1(1)(e) of Schedule 1 in a case where a member of a joint-claim couple is—
  - (i) either pregnant or seriously ill, or
  - (ii) a member of a polygamous marriage and one of the members of that marriage is pregnant or seriously ill, or
- (b) 40%\* of the amount specified in paragraph 1(1)(e) of Schedule 1 in all other cases.◀

*\*Percentages in reg. 146G(1) maintained in force by art. 19(8) and Sch. 12 of S.I. 2014/516. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

**Payments made on account of suspended benefit**

*See reg. 11(2) of S.I. 2010/1222 at page 11.7185 for details of the modification of reg. 146H in certain situations as from 22.11.10.*

**146H.**—(1) This regulation applies to a joint-claim couple to whom—

- (a) payments of a joint-claim jobseeker's allowance have been suspended in accordance with regulations made under section 21 of the Social Security Act 1998(a);
- (b) a joint-claim jobseeker's allowance is paid under regulation 146C or 146D.

(2) In the case of a joint-claim couple to whom—

- (a) this regulation applies; and
- (b) payments in respect of the benefit suspended fall to be made,

any benefit paid or payable by virtue of regulation 146C(5) or 146D(3) shall be treated as having been paid on account of the suspended benefit and only the balance of the suspended benefit, if any, shall be payable.◀

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(a) 1998 c. 14.

## Reg. 147

## PART X

## URGENT CASES

## Urgent cases

<sup>1</sup>Regs. 147-149 revoked by reg. 2(1)(b) of S.I. 2009/3228. See reg. 1(3) for the relevant commencement date.

**147.–149.** ▶<sup>1</sup>◀

*Regs. 147-149 continue to be reproduced below as they remain in force in certain cases. See reg. 2 of S.I. 2009/3228 for details.*

147.—(1) In a case which this regulation applies, a claimant's weekly applicable amount and his income and capital shall be calculated for the purposes of an income-based jobseeker's allowance in accordance with the following provisions of this Part.

(2) This regulation applies in accordance with the following provisions to—

▶<sup>2</sup>(a) a claimant to whom paragraph (2A) applies (persons not excluded from income-based jobseeker's allowance under section 115 of the Immigration and Asylum Act);◀

(b) a claimant to whom paragraph (6) (certain persons whose income is not readily available to them) applies.

▶<sup>2</sup>(2A) This paragraph applies to a person not excluded from entitlement to income-based jobseeker's allowance under section 115 of the Immigration and Asylum Act by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 except for a person to whom paragraphs 3 and 4 of Part I to the Schedule to those Regulations applies.◀

(3), (4) and (5) ▶<sup>2</sup>◀

(6) This paragraph shall only apply to a person who is treated as possessing income by virtue of regulation 105(6) and (7) (notional income) where the income he is treated as possessing is not readily available to him; and—

(a) the amount of jobseeker's allowance payable to him otherwise than under this Part is less than the amount of a jobseeker's allowance payable to him under this Part; and

(b) ▶<sup>3</sup>the Secretary of State◀ is satisfied that, unless the provisions of this Part are applied to the claimant, the claimant or his family will suffer hardship.

<sup>2</sup>Sub-para. (a) substituted, para. (2A) inserted and paras. (3) to (5) omitted by reg. 4(5) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Words substituted in reg. 147(6)(b) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.



Applicable amount in urgent cases

148.—(1) For the purposes of calculating any entitlement to an income-based jobseeker's allowance <sup>1</sup>but not a joint-claim jobseeker's allowance<sup>2</sup> under this Part—

- (a) except in a case to which sub-paragraph <sup>2</sup>(c) or (d) applies, a claimant's weekly applicable amount shall be the aggregate of—
  - (i) 90 per cent.<sup>†</sup> of the amount applicable (reduced where appropriate in accordance with regulation 145 (applicable amount in hardship cases)) in respect of himself or, if he is a member of a couple or of a polygamous marriage, of the amount applicable in respect of both of them under paragraph 1(1), (2) or (3) of Schedule 1 or, as the case may be, the amount applicable in respect of them under regulation 84 (polygamous marriages);
  - (ii) <sup>3</sup>

<sup>1</sup>Words inserted in reg. 148(1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words in reg. 148(1)(a) & (d) deleted by para. 15(z)(bb) of Part II to the Sch. of S.I. 2001/3767 as from 8.4.02.

*Reproduced below is head (ii) as it continues to be in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for when to apply.*

- (ii) the amount applicable under paragraph 2 of Schedule 1 in respect of any child or young person who is a member of his family except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, except as provided in regulation 106(1) (modifications in respect of children and young persons), would exceed £3,000;<sup>\*</sup>

<sup>3</sup>In reg. 148(1), sub- paras. (a)(ii) & (d)(i) omitted & words in sub- paras. (a)(iii) & (d)(ii) omitted by para. 19 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>\*</sup>*Amounts in reg. 148(1)(ii) maintained in force by art. 24(2)(a) of S.I. 2009/407. See art. 1(1)(j) of the S.I. for relevant effective dates and when to apply.*

- (iii) the amount, if applicable, specified in Part <sup>3</sup>III of Schedule 1 (premiums);

*Reproduced below is head (iii) as it continues to be in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for when to apply.*

- (iii) the amount, if applicable, specified in Part II or III of Schedule 1 (premiums);
- (iv) any amounts applicable under regulation 83(f) or, as the case may be, 84(1)(g) (housing costs);
- (v) <sup>4</sup>
- (vi) the amount of any protected sum which may be applicable to him in accordance with regulation 87(2);

<sup>4</sup>In reg. 148, para. 1(a)(v) & (c) omitted by para. 7(a) of S.I. 2003/1121 as from 6.10.03.

- (b) <sup>5</sup>
- (c) <sup>4</sup>

<sup>5</sup>Reg. 148(1)(b) omitted by reg. 2(2) of S.I. 2001/3767 as from 8.4.02.

- (d) except where sub-paragraph <sup>2</sup>(c) applies, in the case of a person to whom any paragraph, other than <sup>6</sup>paragraph 13AF in column (1) of Schedule 5 (special cases) applies, the amount shall be 90 per cent.<sup>†</sup> of the amount applicable in column 2 of that Schedule in respect of the claimant and partner (if any), plus, if applicable—
  - (i) <sup>3</sup>

<sup>6</sup>Words substituted in reg. 148(1)(d) by reg. 4(6) of S.I. 2000/636 as from 3.4.00.

*Reproduced below is head (i) as it continues to be in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for when to apply.*

- (i) any amount in respect of a child or young person who is a member of the family except a child or young person whose capital, if calculated in accordance with Part VIII in like manner as for the claimant, except as provided in regulation 106(1) (modifications in respect of children and young persons), would exceed £3,000;
- (ii) any premium under Part <sup>3</sup>III of Schedule 1; and

*Reproduced below is head (ii) as it continues to be in force in certain cases. See reg. 1 of S.I. 2003/455*

- (ii) any premium under Part II or III of Schedule 1; and
- (iii) any amounts applicable under regulation 83(f) or, as the case may be, 84(1)(g); and

- (iv) the amount of the protected sum which may be applicable to him in accordance with regulation 87(2).

<sup>1</sup>Para. (1A) of reg. 148 omitted & paras. (1)(a)(iv), (c) & (1A) of reg. 148A omitted by paras. 7 & 8 of S.I. 2003/1121 as from 6.10.03.

<sup>2</sup>Reg. 148A inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>3</sup>Words in reg. 148A(1) & (1)(d) deleted by para. 16(z) & 16(bb) of Part II to the Sch. of S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Reg. 148A(1)(b) omitted by reg. 2(2) of S.I. 2001/3767 as from 8.4.02.

(1A) ►<sup>1</sup>◄

(2) Where the calculation of a claimant's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.

►<sup>2</sup>Applicable amount in urgent cases: joint-claim couples

148A.—(1) For the purpose of calculating any entitlement to a joint-claim jobseeker's allowance under this Part—

- (a) except in a case to which sub-paragraph ►<sup>3</sup>◄ (c) or (d) applies, a joint-claim couple's weekly applicable amount shall be the aggregate of—

(i) 90 per cent.† of the amount applicable (reduced where appropriate in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples)) in respect of the couple under paragraph 1(3) of Schedule 1 or, as the case may be, the amount applicable in respect of them under regulation 86B (joint-claim couples: polygamous marriages);

(ii) the amount, if applicable, specified in Part IVA of Schedule 1 (premiums);

(iii) any amounts applicable under regulation 86A(d) or, as the case may be, 86B(e) (housing costs); and

(iv) ►<sup>1</sup>◄

(b) ►<sup>4</sup>◄

(c) ►<sup>1</sup>◄

(d) except where sub-paragraph ►<sup>3</sup>◄ (c) applies, in the case of a member of a joint-claim couple to whom any paragraph of Schedule 5A (applicable amounts of joint-claim couples in special cases) applies, the amount shall be 90 per cent. of the amount applicable in column (2) of that Schedule in respect of the joint-claim couple plus, if applicable—

(i) any premium under Part IVA of Schedule 1;

(ii) any amounts applicable under regulation 86A(d) or, as the case may be, 86B(e) (housing costs).

(1A) ►<sup>1</sup>◄

(2) Where the calculation of a joint-claim couple's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.◄

Assessment of income and capital in urgent cases

149.—(1) The claimant's income shall be calculated in accordance with Part VIII subject to the following modifications—

►<sup>5</sup>(a) any income other than—

(i) a payment of income or income in kind made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living ►<sup>6</sup>Fund (2006)◄ or

(ii) income to which paragraph 6, 8 (but only to the extent that a concessionary payment would be due under that paragraph for any non-payment of jobseeker's allowance under regulation 147 of these Regulations or of income support under regulation 70 of the Income Support Regulations ►<sup>7</sup>or of employment and support allowance under regulation 164 of the Employment and Support Allowance Regulations◄ (urgent cases)), 33, 41(2), (3) or (4) or 42 of Schedule 7 (disregard of income other than earnings) applies,

<sup>5</sup>Para. (a) inserted in reg. 149(1) by reg. 19(2) of S.I. 1998/563 as from 6.4.98.

<sup>6</sup>Words substituted in reg. 149(1)(a)(i) by reg. 4(7)(c) of S.I. 2008/2767 as from 17.11.08.

<sup>7</sup>Words in reg. 149(1)(a)(ii) inserted by reg. 3(20) of S.I. 2008/1554 as from 27.10.08.

possessed or treated as possessed by him, shall be taken into account in full notwithstanding any provision in that Part disregarding the whole or any part of that income;◀

- (b) any income to which regulation 116 (calculation of tariff income from capital) applies shall be disregarded;
- (c) income treated as capital by virtue of regulation 110(1), (2), (3) and (9) (income treated as capital) shall be taken into account as income;
- (d) in a case to which paragraph (2)(b) of regulation 147 (urgent cases) applies, any income to which regulation 105(6) and (7) (notional income) applies shall be disregarded.

(2) The claimant's capital calculated in accordance with Part VIII, but including any capital referred to in paragraphs 3 and, to the extent that such assets as are referred to in paragraph 11 consists of liquid assets, 11 and, except to the extent at the arrears referred to in paragraph 12 consist of arrears of housing benefit payable under Part VII of the Benefits Act ▶<sup>1</sup>◀ ▶<sup>2</sup>or any arrears of benefit due under regulation 147 of these Regulations or regulation 70 of the Income Support Regulations (urgent cases)◀, 12, 14(b), 24 and 32 of Schedule 8 (capital to be disregarded) shall be taken into account in full and the amount of a jobseeker's allowance which would, but for this paragraph be payable under this regulation, shall be payable only to the extent that it exceeds the amount of that capital.

<sup>1</sup>Words omitted in reg. 149(2) by reg. 4(13) of S.I. 2008/698 as from 14.4.08.  
<sup>2</sup>Words inserted in reg. 149(2) by reg. 19(2)(b) of S.I. 1998/563 as from 6.4.98.

## PART XI

### PART-WEEKS

#### Amount of a jobseeker's allowance payable

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

- (a) where the claimant has no income—

$$\frac{N \times A}{7} \text{ or}$$

- (b) where the claimant has an income—

$$\left( \frac{N \times (A - I)}{7} \right) - B$$

where—

- A is the claimant's weekly applicable amount in the relevant week;
- B is the amount of any jobseeker's allowance, income support, maternity allowance, incapacity benefit ▶<sup>3</sup>, severe disablement allowance or employment and support allowance◀ payable to any member of the claimant's family other than the claimant in respect of any day in the part-week;
- I is the claimant's weekly income in the relevant week less B;
- N is the number of days in the part-week.

<sup>3</sup>Words in defn. of 'B' in reg. 150(1)(b) substituted by reg. 3(20) of S.I. 2008/1554 as from 27.10.08.

▶<sup>4</sup>(1A) In relation to a joint-claim couple jointly claiming a joint-claim jobseeker's allowance, paragraph (1) shall have effect as if the references to the claimant were references to the joint-claim couple.

<sup>4</sup>Reg. 150(1A) & (1B) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(1B) Where a joint-claim couple become, or cease to be, joint-claim couple on any day other than on the first day of a benefit week, the amount payable by way of a joint-claim jobseeker's allowance in respect of that benefit week shall be calculated by applying the formula in paragraph (1).◀

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

$$\left( \frac{N \times X}{7} \right) - Y$$

where—

<sup>1</sup>Words in reg. 150(2) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

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

Y is the amount of any widow's benefit, <sup>1</sup>carer's allowance<sup>◀</sup>, training allowance and any increase in disablement pension payable in accordance with Part I of Schedule 7 to the Benefits Act (Unemployability Supplement) payable in respect of any day in the part-week;

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

(3) 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 152.

<sup>2</sup>Reg. 151 omitted by reg. 2(2) of, and para. 17 to Part II of the Sch. to, S.I. 2001/3767 as from 8.4.02.

**151.** ▶<sup>2</sup>◀

### Relevant week

*See reg. 18(f) of S.I. 2010/1222 at page 11.7185 for details of the modifications of this reg. in certain situations as from 22.11.10.*

**152.**—(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 ▶<sup>3</sup>is reduced for any period in accordance with regulations 69, 69A or 69B◀, the relevant week is the 7 days ending immediately before the start of the next benefit week to commence for that claimant ▶<sup>4</sup>or the joint-claim couple◀.

<sup>3</sup>Words in reg. 152(1)(c) substituted by reg. 5(20) of S.I. 2012/2568 as from 22.10.12.

<sup>4</sup>Words inserted in reg. 152(1)(c) & (2) by reg. 2(5) & para. 50(b) to Sch. 2 of S.I. 2000/1978 as from 19.3.01.

(2) ▶<sup>4</sup>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.

<sup>5</sup>Reg. 152(3) inserted & words in reg. 153 substituted by reg. 2(5) & para. 50(c) to Sch. 2 of S.I. 2000/1978 as from 19.3.01.

▶<sup>5</sup>(3) Where a joint-claim couple have an award of a joint-claim jobseeker's allowance and their benefit week changes, for the purpose of calculating the amounts of a joint-claim jobseeker's allowance payable for the part-week beginning on the day after their 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

**153.** For the purposes of regulation 150 (amount of jobseeker's allowance payable for part-weeks) a claimant's income and, in determining the amount payable by way of an income-based jobseeker's allowance, the income of any person which the claimant is treated as possessing under section 12(4) ▶<sup>5</sup>, regulation 88(4) or 88ZA(3)◀, shall be calculated in accordance with Parts VIII, and, where applicable, IX and X 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 an income-based jobseeker's allowance, any jobseeker's allowance, income support, maternity allowance, incapacity benefit or severe disablement allowance under the Benefits Act

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- ▶<sup>1</sup>, universal credit◀▶<sup>2</sup>or employment and support allowance◀ payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (c) in determining the amount payable by way of a contribution-based jobseeker's allowance, any widow's benefit, ▶<sup>3</sup>carer's allowance◀, training allowance or any increase in disablement pension payable in accordance with Part I of Schedule 7 to the Benefits Act (Unemployability Supplement) which is payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (d) 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;
- (e) 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;
- (f) where only part of the weekly amount of income is taken into account in the relevant week, the balance shall be disregarded.

<sup>1</sup>Words in reg. 153(b) inserted by reg. 3(7) of S.I. 2013/630 as from 29.4.13.

<sup>2</sup>Words in reg. 153(b) inserted by reg. 3(21) of S.I. 2008/1554 as from 27.10.08.

<sup>3</sup>Words in reg. 153(c) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

**Reduction in certain cases**

**154.** The reduction to be made in accordance with Part IX (Hardship) in respect of an income based jobseeker's allowance shall be an amount equal to one seventh of the reduction which would be made under that Part for a week multiplied by the number of days in the part-week.

**Modification of section 15(2) of the Act**

▶<sup>4</sup>**155.**—(1)◀ In its application to an income-based jobseeker's allowance ▶<sup>4</sup>but not a joint-claim jobseeker's allowance◀ payable for a part-week, section 15(2)(d) shall have effect subject to the following modification—

<sup>4</sup>Reg. 155 renumbered, words in 155(1) and reg. 155(1) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

- “(d) any payment by way of an income-based jobseeker's allowance for that period or any part of it which apart from this paragraph would be made to the claimant—
  - (i) shall not be made, if the amount of an income-based jobseeker's allowance which would be payable for a period of less than a week is equal to or less than the proportion of the prescribed sum appropriate to the number of days in the part-week;
  - (ii) shall be at a rate equal to the difference between the amount which would be payable for a period of less than a week and the prescribed sum where that amount would be more than the prescribed sum.”



►(2) In its application to a joint-claim jobseeker's allowance payable for a part-week, section 15(2)(d) shall have effect subject to the following modification—

Reg. 155(2) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

“(d) any payment by way of a joint-claim jobseeker's allowance for that period or any part of it which apart from this paragraph would be made to the nominated member for the purposes of section 3B—

- (i) shall not be made, if the amount of joint-claim jobseeker's allowance which would be payable for less than a week is equal to or less than the proportion of the prescribed sum appropriate to the number of days in the part-week;
- (ii) shall be at a rate equal to the difference between the amount which would be payable for a period of less than a week and the prescribed sum where that amount would be more than the prescribed sum.”◀





## PART XII

## SPECIAL CATEGORIES

SHARE FISHERMEN, PERSONS OUTSIDE GREAT  
BRITAIN AND  
MEMBERS OF THE FORCES

## CHAPTER I

## SHARE FISHERMEN

**Interpretation**

**156.** In this Chapter–

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

“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;

and other expressions used in this Chapter, unless the context otherwise requires, have the same meanings as in the Social Security (Mariners' Benefits) Regulations 1975(b).

**Special provisions in respect of share fishermen**

**157.** The Act and the foregoing provisions of these Regulations shall have effect in relation to share fishermen subject to the provisions of this Chapter.

**Modifications of section 2**

**158.**—(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◀.”.

<sup>1</sup>Words substituted in defn. “special class 2 contributions” by reg. 13(8) of S.I. 2006/2378 as from 2.10.06.

(a) 1995 c 21.  
(b) S.I. 1975/529.

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**Modifications of sections 19 and 20**

**159.** For the purposes of sections 19 and 20 (circumstances in which a jobseeker's allowance is not payable) employment as a share fisherman shall be treated as employment as an employed earner.

**Modification of section 35**

**160.** 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.

**Additional conditions for payment of a jobseeker's allowance**

**161.—(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 ►<sup>1</sup>benefit week◄, that in respect of any period in that ►<sup>1</sup>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.

<sup>1</sup>Words in reg. 161(1) and 161(3) substituted for "week" by reg. 17(a) of S.I. 1996/1516 as from 7.10.96.

(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 contribution-based jobseeker's allowance to a share fisherman in respect of any ►<sup>1</sup>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 ►<sup>1</sup>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 ►<sup>2</sup>a good reason◄ necessitated abstention from fishing.

<sup>2</sup>Words in reg. 161(3)(d) substituted by reg. 5(21) of S.I. 2012/2568 as from 22.10.12.

<sup>3</sup>Reg. 161(4) added by reg. 17(b) of S.I. 1996/1516 as from 7.10.96.

►<sup>3</sup>(4) In this regulation "benefit week" in relation to a contribution-based jobseeker's allowance has the meaning it has in regulation 164 (share fisherman: amount payable) and in relation to an income-based jobseeker's allowance has the meaning it has in regulation 1(3) (interpretation).◄

**Remunerative work**

**162.** In determining the number of hours in which a person is engaged in remunerative work for the purposes of establishing entitlement to a contribution-based 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**

**163.—(1)** In the calculation of earnings derived from work as a share fisherman for the purposes of establishing entitlement to a contribution-based jobseeker's allowance, the provisions of Part VIII (income and capital) shall apply subject to the following provisions of this regulation.

(2) Regulation 95 (calculation of earnings of self-employed earners) shall be omitted.

(3) For regulation 101 (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**

**101.—(1)** Earnings derived from employment as a share fisherman within the meaning of regulation 156 (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 102 (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 claimant's weekly net profit—

- (a) ~~►<sup>1</sup>£20◄~~; and
- (b) the amount of any earnings specified in paragraphs 4 and 15 of Schedule 6, 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 9, 10, or 12 of Schedule 6—

- (a) if the amount so disregarded is ~~►<sup>1</sup>£20◄~~, paragraph (4)(a) shall not apply;
- (b) if the amount so disregarded is less than ~~►<sup>1</sup>£20◄~~, the amount disregarded under paragraph (4)(a) shall not exceed the difference between the amount disregarded from those other earnings and ~~►<sup>1</sup>£20◄~~.

(6) For the purposes of paragraph (3), the net profit shall be calculated by taking into account the earnings less, subject to paragraph (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.

<sup>1</sup>Amounts in reg. 163(3) in so far as it substitutes regs. 101(4)(a)&(5)(a) & (b) substituted by reg. 3 of S.I. 2000/2545 as from 1.4.01.

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(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.

<sup>1</sup>Words substituted in reg. 101(9) and (11) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(9) <sup>1</sup>The Secretary of State<sup>◀</sup> 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) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (6) in respect of any sum unless it has been incurred for the purposes of the business;
- (b) a deduction shall 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, <sup>1</sup>the Secretary of State<sup>◀</sup> 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 <sup>2</sup>unusually<sup>◀</sup> high or low.

<sup>2</sup>Word in reg. 101(11) as applied to share fishermen by reg. 163(3) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(12) In this regulation “benefit week” has the same meaning as in regulation 164 (share fishermen: amount payable).”.

<sup>3</sup>Reg. 163(4) substituted by reg. 6(13) of S.I. 2013/2536 as from 29.10.13.

<sup>3</sup>(4) In regulation 102 (deduction of tax and contributions for self-employed earners)—

- (a) in paragraphs (1) and (3), for “regulation 101(1)(b)(i)” substitute “regulation 101(3)(a)”;
- (b) omit paragraphs (2) and (4);
- (c) in paragraph (5)(a) for “regulation 101(4)(a) or, as the case may be, (5)” substitute “regulation 101(7)”;
- (d) at the end of the regulation add—

“(6) For the purposes of paragraph (1) and (3) 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 (3)(b), are to be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 101.◀

### Amount payable

**164.**—(1) The amount payable to a share fisherman by way of a contribution-based jobseeker's allowance shall be calculated in accordance with regulation 79 to 81 (weekly amounts of contribution-based jobseekers allowance, deductions in respect of earnings and payments by way of pensions) and this regulation, and Part XI (part-weeks) shall not apply.

(2) Regulations 79 to 81 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.

## CHAPTER II

## PERSONS OUTSIDE GREAT BRITAIN

[Regulation 165(1) introduces amendments to regulation 11 of S.I. 1975/563.]

[Regulation 165(2) inserts regulation 11(1A) in S.I. 1975/563.]

[Regulation 165(3) amends regulation 11(2B) of S.I. 1975/563.]

[Regulation 165(4) amends regulation 11(4) of S.I. 1975/563.]

[Regulation 166(1) introduces amendments to S.I. 1975/529.]

[Regulation 166(2) amends regulation 2 of S.I. 1975/529.]

[Regulation 166(3) inserts regulation 4A in S.I. 1975/529.]

[Regulation 166(4) substitutes regulation 6(1) of S.I. 1975/529.]

**Modification of contribution conditions for volunteer development workers**

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

<sup>1</sup>Words in reg. 167 substituted by reg. 13(9) of S.I. 2006/2378 as from 2.10.06.

## CHAPTER III

## MEMBER OF THE FORCES

[Regulation 168(1) introduces amendments to regulation 3 of S.I. 1975/493.]

[Regulation 168(2) amends regulation 3(1) of S.I. 1975/493.]

[Regulation 168(3) substitutes regulation 3(2) of S.I. 1975/493.]

[Regulation 168(4) amends regulation 3(3) of S.I. 1975/493.]

## PART XIII

## MISCELLANEOUS

## RECOVERY OF MAINTENANCE

**Recovery orders**

**169.**—(1) Where an award of income-based jobseeker's allowance has been made to a person (“the claimant”), the Secretary of State may apply to the court for a recovery order against the claimant's spouse <sup>2</sup>or civil partner<sup>◀</sup> (“the liable person”).

<sup>2</sup>Words inserted in reg. 169(1) by para. 26(10) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(2) On making a recovery order the court may order the liable person to pay such amount at such intervals as it considers appropriate, having regard to all the circumstances of the liable person and in particular his income.

(3) Except in Scotland, a recovery order shall be treated for all purposes as if it were a maintenance order within the meaning of section 150(1) of the Magistrates Courts Act 1980(a).

(4) Where a recovery order requires the liable person to make payments to the Secretary of State, the Secretary of State may, by giving notice in writing to the court which made to order, the liable person, and the claimant, transfer to the claimant the right to receive payments under the order and to exercise the relevant rights in relation to the order.

(5) In this regulation—

the expressions “the court” and “recovery order” have the same meanings as in section 23 of the Act; and

“the relevant rights” means, in relation to a recovery order, the right to bring any proceedings, take any steps or do any other thing under or in relation to the order.

(a) 1980 c. 43.

## TRAINING ALLOWANCE

## Persons in receipt of a training allowance

<sup>1</sup>Words substituted in reg. 170(1) by reg. 2(4)(b) of S.I. 2001/1711 as from 15.10.01.  
<sup>2</sup>Words in reg. 170(1) inserted by reg. 3(8) of S.I. 2006/718 as from 10.4.06.

**170.**—<sup>1</sup>(1) A person who is not receiving training falling within paragraph (2) <sup>2</sup>and is not a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person) <sup>3</sup>may be entitled to an income-based jobseeker's allowance without—

- (a) being available for employment;
- (b) having entered into a jobseeker's agreement; or
- (c) actively seeking employment,

<sup>3</sup>Words omitted in reg. 170(1) by reg. 3(3) of S.I. 2010/424 for relevant commencement date, see reg. 1(3) of S.I. 2010/424.

if he is in receipt of a training allowance <sup>3</sup> <sup>4</sup>.

<sup>4</sup>Words substituted in reg. 170(2) by reg. 5(c) of S.I. 2001/652 as from 26.3.01.

(2) Training falls within this paragraph if it is training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible <sup>4</sup>secured by the <sup>5</sup> <sup>6</sup>Secretary of State <sup>4</sup>, the Chief Executive of Skills Funding <sup>4</sup> or by the <sup>7</sup>Welsh Ministers <sup>4</sup> and, in Scotland, provided <sup>4</sup>, directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, <sup>8</sup>Skills Development Scotland, <sup>4</sup> Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

<sup>5</sup>Words substituted in reg. 170(2) by reg. 5(5) of S.I. 2010/1941 as from 1.9.10.

## TRADE DISPUTES

<sup>6</sup>Words substituted in regulation 170(2) by regulation 5(7) of S.I. 2012/956 as from 1.5.12.

## Trade disputes: exemptions from section 15 of the Act

<sup>7</sup>Words in reg. 170(2) substituted by reg. 3(8) of S.I. 2008/3157 as from 5.1.09.

**171.** Section 15(2) (trade disputes: effect on other claimants) shall not apply to a claimant during any period where—

<sup>8</sup>Words inserted in reg. 170(2) by reg. 4(3)(f) of S.I. 2009/583 as from 6.4.09.

<sup>9</sup>Words in reg. 171(b)(i) omitted & para. (iii) inserted by reg. 3(22)(a) & (b) of S.I. 2008/1554 as from 27.10.08

- (a) a member of the claimant's family is, or would be, prevented by section 14 from being entitled to a jobseeker's allowance; and
- (b) that member is—
  - (i) a child or young person; <sup>9</sup> <sup>4</sup>
  - (ii) <sup>10</sup>incapable of work <sup>4</sup> or within the maternity period, and for this purpose "the maternity period" means the period commencing at the beginning of the 6th week before the expected week of confinement and ending at the end of the 7th week after the week in which confinement takes place; <sup>9</sup> or
  - (iii) has limited capability for work. <sup>4</sup>

<sup>10</sup>Words in reg. 17(b)(ii) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

## Trade disputes: prescribed sum

<sup>11</sup>Amount in reg. 172 substituted by art. 20 of S.I. 2014/516. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.

**172.** The prescribed sum for the purposes of section 15(2)(d) is <sup>11</sup>£40.00 <sup>4</sup>.

Signed for the purposes of Parts II, IV and V and regulation 170 of the Regulations on behalf of the Secretary of State for Education and Employment.

*Eric Forth*  
Minister of State,

1st February 1996

Department for Education and Employment

Signed for the purposes of the remainder of the Regulations on behalf of the Secretary of State for Social Security.

*Roger Evans*  
Parliamentary Under-Secretary of State,  
Department of Social Security

1st February 1996

## SCHEDULES

▶<sup>1</sup>SCHEDULE A1 ▶<sup>2</sup>Regulation 3D(1)(c)◀

CATEGORIES OF MEMBERS OF A JOINT-CLAIM COUPLE  
WHO ARE NOT REQUIRED TO SATISFY THE CONDITIONS IN  
SECTION 1(2B)(b)

<sup>1</sup>Sch. A1 inserted by reg. 2(4) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words in heading substituted, paras. 2(1) & 2(2) substituted, & para. 2(1A) inserted by reg. 2(6) of S.I. 2001/518 as from 19.3.01.

**Interpretation**

1. In this Schedule, “member” means a member of a joint-claim couple.

**Member studying full-time**▶<sup>2</sup>2.—(1) A member—

- (a) who, at the date of claim, is ▶<sup>3</sup>a qualifying young person within the meaning of◀ section 142 of the Benefits Act;
- (b) who, at the date of claim is a full-time student; or
- (c) to whom (a) or (b) does not apply but to whom sub-paragraph (1A) or (2) does apply.

<sup>3</sup>Words substituted in para. 2(1)(a), (1A)(b)(i) & (2)(b)(i) of Sch. A1 by reg. 3(9)(a) of S.I. 2006/718 as from 10.4.06.

## (1A) This sub-paragraph applies to a member who—

- (a) at the date of claim—
- (i) had applied to an educational establishment to commence a full-time course of study commencing from the beginning of the next academic term or, as the case may be, the next academic year after the date of claim and that application has not been rejected; or
- (ii) had been allocated a place on a full-time course of study commencing from the beginning of the next academic term or, as the case may be, the next academic year; and
- (b) is either—
- (i) ▶<sup>3</sup>a qualifying young person within the meaning of◀ section 142 of the Benefits Act; or
- (ii) a full-time student.

(2) This sub-paragraph applies to a member who has applied to an educational establishment to commence full-time course of study (other than a course of study beyond a first degree course or a comparable course)—

- (a) within one month of—
- (i) the last day of a previous course of study; or
- (ii) the day on which the member received examination results relating to a previous course of study; and
- (b) who is either—
- (i) ▶<sup>3</sup>a qualifying young person within the meaning of◀ section 142 of the Benefits Act; or
- (ii) a full-time student.◀

(3) A member to whom any provision of regulation 13(2)(b) to (e) of the Income Support Regulations<sup>(a)</sup> (persons receiving relevant education who are severely handicapped, orphans and persons estranged from their parents or guardian) applies.

**Member caring for another person**

## 3. A member (the carer)—

- (a) who is regularly and substantially engaged in caring for another person if—
- (i) the person being cared for is in receipt of attendance allowance ▶<sup>4</sup>, the care component of disability living allowance at the highest or middle

<sup>4</sup>Words substituted in para. 3(a)(i) by para. 16 of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>(a)</sup> Regulation 13(2) was amended by S.I. 1989/1034, 1991/236 and 1559, 1992/468 and 1996/206.

**Sch. A1**

<sup>1</sup>Words inserted in para. 3(a)(i) of Sch. A1 by para. 10(6) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>2</sup>Word omitted in para. 3(a)(v), words in para. 3(a)(iv) & para. 3(a)(vii) inserted in Sch. A1 by para. 10(6)(b)-(d) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>3</sup>Words & para. 3(a)(vi) inserted by para. 16(6) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Words substituted in para. 3(b) by reg. 3(4) of S.I. 2003/511 as from 1.4.03.

<sup>5</sup>Heading to para. 6 & para. 6(1) & (b) of Sch. A1 revoked & words inserted in para. 6(c) by reg. 4(2)(a)(i) & (b)-(c) of S.I. 2010/2429 as from 1.11.10 in certain circumstances. (See reg. 4(3) & (4) of the S.I. for when to apply).

<sup>6</sup>Para. 6A inserted by reg. 3(23)(a) of S.I. 2008/1554 as from 27.10.08.

rate prescribed in accordance with section 72(3) of the Benefits Act<sup>1</sup>, armed forces independence payment<sup>2</sup> or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act<sup>3</sup>; or

- (ii) the person being cared for has claimed attendance allowance but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or
- (iii) the person being cared for has claimed attendance allowance in accordance with section 65(6)(a) of the Benefits Act (claims in advance of entitlement), an award has been made in respect of that claim under section 65(6)(b) of that Act and, where the period for which the award is payable has begun, that person is in receipt of the allowance;
- (iv) the person being cared for has claimed entitlement to a disability living allowance<sup>2</sup>, armed forces independence payment<sup>2</sup> or personal independence payment<sup>3</sup> but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or
- (v) the person being cared for has claimed entitlement to the care component of a disability living allowance in accordance with regulation 13A of the Claims and Payments Regulations<sup>4</sup> (advance claims and awards), an award at the highest or middle rate has been made in respect of that claim and, where the period for which the award is payable has begun, that person is in receipt of the allowance;

▶<sup>2</sup>◀

- ▶<sup>3</sup>(vi) the person being cared for has claimed entitlement to the daily living component of personal independence payment in accordance with regulation 33 of the Universal Credit etc. claims and Payments Regulations (advance claim for and award of personal independence payment), an award of the standard or enhanced rate of the daily living component has been made in respect of that claim and, where the period for which the award is payable has begun, that person is in receipt of that payment;▶<sup>2</sup>; or
- (vii) the person being cared for has claimed entitlement to armed forces independence payment and an award has been made in respect of that claim and, where the period for which the award is payable has begun, that person is in receipt of that payment;▶

- (b) who is engaged in caring for another person and who is both entitled to, and in receipt of, ▶<sup>4</sup>carer's allowance▶.

**4.** A member to whom paragraph 3 applied, but only for a period of 8 weeks from the date on which that paragraph ceased to apply to him.

**5.** A member who, had he previously made a claim for, and had been entitled to, a jobseeker's allowance, would have fulfilled the conditions of paragraph 3, but only for a period of 8 weeks from the date on which he ceased to fulfil those conditions.

**▶<sup>5</sup>Member treated as capable of work, or member entitled to statutory sick pay▶**

- 6.** A member who—
  - (a)–(b) ▶<sup>5</sup>▶
  - (c) is treated as capable of work by virtue of regulations made under section 171E(1) of ▶<sup>5</sup>the Benefits Act▶ (disqualification etc.); or
  - (d) is entitled to statutory sick pay.

**▶<sup>6</sup>Member has limited capability for work**

- 6A.** A person who—
  - (a) has limited capability for work under section 8 of the Welfare Reform Act; or
  - (b) is treated as having limited capability for work under regulations made under paragraph 1 of Schedule 2 to that Act; or

(a) Regulation 13A was inserted by S.I. 1991/2741.



- (c) is treated as not having limited capability for work under regulations made under section 18(1) of that Act (disqualification).◀

▶<sup>1</sup>6B.—(1) Subject to sub-paragraph (2), a person who provides—

- (a) a statement which complies with the rules in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976(a),
- (b) a self-certificate for a period of limited capability for work which lasts less than 8 days or in respect of any of the first 7 days of limited capability for work, or
- (c) where it would be unreasonable to require a person to provide a statement in accordance with paragraph (a), such other evidence as the Secretary of State considers to be sufficient to show that the person has limited capability for work.

<sup>1</sup>Para. 6B inserted by reg. 11 of S.I. 2011/2425 as from 31.10.11.

(3) For the purposes of this paragraph—

- (a) “limited capability for work” has the meaning given by section 1(4) of the Welfare Reform Act 2007; and
- (b) “self-certificate” means a declaration made by the person in writing on a form approved for the purpose by the Secretary of State that the person has been unfit for work on a date or for a period specified in the declaration and may include a statement that the person expects to continue to be unfit for work on days subsequent to the date on which it is made.◀

**Members in employment living in residential care homes, nursing homes or residential accommodation**

▶<sup>2</sup>◀

*Paras. 7 & 8 of Sch. A1 continues to be reproduced below as it remains in force for certain cases. See reg. 4 of S.I. 2009/3228 for details*

7. A member to whom regulation 53(c) (persons treated as not engaged in remunerative work) applies.

Disabled workers

8. A member to whom regulation 53(h) (persons treated as not engaged in remunerative work) applies.◀

<sup>2</sup>Paras. 7 & 8 of Sch. A1 revoked by reg. 4(1)(b)(ii) of S.I. 2009/3228 as from 25.1.10.

9.–11. ▶<sup>3</sup>◀

12. A member who is a woman and who is incapable of work ▶<sup>4</sup>or who has limited capability for work◀ by reason of pregnancy.

<sup>3</sup>Paras. 9 to 11 of Sch. A1 revoked by reg. 4(2)(ii) to (iv) of S.I. 2010/2429 as from 1.11.10 in certain circumstances (see reg. 4(3) & (4) of the S.I. for when to apply).

▶<sup>5</sup>Members who have attained the qualifying age for state pension credit

13. A member who has attained the qualifying age for state pension credit◀.

<sup>4</sup>Words inserted in para. 12 by reg. 3(23)(b) of S.I. 2008/1554 as from 27.10.08.

**Refugees**

14. A member who is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(b) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(c) and who—

<sup>5</sup>Para. 13 of Sch. A1 substituted by reg. 12(2) of S.I. 2009/1488 as from 6.4.10.

- (a) is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment; and
- (b) on the date on which that course commenced, had been in Great Britain for not more than 12 months,

but only for a period not exceeding nine months.

(a) S.I. 1976/615.  
 (b) Cmnd. 9171.  
 (c) Cmnd. 3906.

**Sch. A1**

<sup>1</sup>Para. 15 of Sch. A1 substituted by reg. 2(6) of S.I. 2006/1402 as from 30.5.06.

**►<sup>1</sup>Members required to attend a court or tribunal**

**15.**—(1) A member who is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.

(2) In this paragraph, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.◀

**Young persons in training**

<sup>2</sup>Words inserted in para. 16 of Sch. A1 by reg. 3(5) of S.I. 2006/718 as from 10.4.06.

<sup>3</sup>Words substituted in para. 16 by reg. 4 of S.I. 2001/652 as from 26.3.01.

<sup>4</sup>Words substituted in para. 16 of Sch. A1 by reg. 5(5) of S.I. 2010/1941 as from 1.9.10.

<sup>5</sup>Words substituted in paragraph 16 of Schedule A1 by regulation 5(8) of S.I. 2012/956 as from 1.5.12.

<sup>6</sup>Words in para. 16 of Sch. A1 substituted by reg. 3(9) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Words inserted in para. 16 of Sch. A1 by reg. 4(3)(g) of S.I. 2009/583 as from 6.4.09.

**16.** A member who ►<sup>2</sup>is not a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person) and who◀ is engaged in training and for this purpose “training” means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible ►<sup>3</sup>secured by the ►<sup>4</sup>►<sup>5</sup>Secretary of State◀, the Chief Executive of Skills Funding◀ or by the ►<sup>6</sup>Welsh Ministers◀◀ and, in Scotland, directly or indirectly by a Local Enterprise Company pursuant to its arrangements with, as the case may be, ►<sup>7</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

**Trade disputes**

**17.** A member who is or would be prevented from being entitled to a jobseeker's allowance by virtue of section 14 (trade disputes) but only where that section does not prevent the other member from being so entitled.◀

SCHEDULE 1

Regulations 83 and 84(1)

APPLICABLE AMOUNTS

PART I

PERSONAL ALLOWANCES

1.—(a) The weekly amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the weekly amounts specified for the purposes of regulations 83, 84(1), 86A and 86B (applicable amounts and polygamous marriages)—

<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
(1) Single claimant aged—	(1)
(a) except where head (b) or (c) of this sub-paragraph applies, less than 18;	(a) £57.90;
(b) less than 18 who falls within paragraph (2) of regulation 57 and who—	(b) £57.90;
(i) is a person to whom regulation 59, 60, or 61 applies; or	
(ii) is the subject of a direction under section 16;	
(c) less than 18 who satisfies the condition in paragraph 13(1)(a) of Part 3;	(c) £57.90;
(d) not less than 18 but less than 25;	(d) £57.90;
(e) not less than 25.	(e) £73.10.
(2) Lone parent aged—	(2)
(a) except where head (b) or (c) of this sub-paragraph applies, less than 18;	(a) £57.90;
(b) less than 18 who falls within paragraph (2) of regulation 57 and who—	(b) £57.90;
(i) is a person to whom regulations 59, 60, or 61 applies; or	
(ii) is the subject of a direction under section 16;	
(c) less than 18 who satisfies the condition in paragraph 13(1)(a) of Part 3;	(c) £57.90;
(d) not less than 18.	(d) £73.10.
(3) Couple—	(3)
(a) where both members are aged less than 18 and—	(a) £87.50;
(i) at least one of them is treated as responsible for a child; or	
(ii) had they not been members of a couple, each would have been a person to whom regulations 59, 60 or 61 (circumstances in which a person aged 16 or 17 is	

(a) Relevant amending instruments are S.I. 1996/1516, 2000/1978, 2005/2877, 2007/719, 2008/698 and 1554, 2009/1575 and 2014/147.

## Sch. 1

<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
<p>eligible for a jobseeker's allowance) applied; or</p> <p>(iii) had they not been members of a couple, the claimant would have been a person to whom regulation 59, 60 or 61 (circumstances in which a person aged 16 or 17 is eligible for a jobseeker's allowance) applied and his partner satisfies the requirements for entitlement to income support or an income-related employment and support allowance other than the requirement to make a claim for it; or</p> <p>(iv) they are married or civil partners, and one member of the couple is a person to whom regulation 59, 60 or 61 applies and the other member is registered in accordance with regulation 62; or</p> <p>(iva) they are married or civil partners, and each member of the couple is a person to whom regulation 59, 60 or 61 applies; or</p> <p>(v) there is a direction under section 16 (jobseeker's allowance in cases of severe hardship) in respect of each member; or</p> <p>(vi) there is a direction under section 16 in respect of one of them and the other is a person to whom regulation 50, 60 or 61 applies; or</p> <p>(vii) there is a direction under section 16 in respect of one of them and the other satisfies requirements for entitlement to income support or an income-related employment and support allowance other than the requirement to make a claim for it;</p>	
<p>(b) where both members are aged less than 18 and head (a) does not apply but one member of the couple falls within paragraph (2) of regulation 57 and either—</p> <p style="padding-left: 2em;">(i) is a person to whom regulation 59, 60 or 61 applies; or</p> <p style="padding-left: 2em;">(ii) is the subject of a direction under section 16 of the Act;</p>	(b) £57.90;
<p>(c) where both members are aged less than 18 and neither heads (a) nor (b) applies but one member of the couple—</p> <p style="padding-left: 2em;">(i) is a person to whom regulation 59, 60 or 61 applies; or</p> <p style="padding-left: 2em;">(ii) is the subject of a direction under section 16;</p>	(c) £57.90;
<p>(d) where both members are aged less than 18 and none of heads (a), (b) or (c) apply but one member of the couple is a person who satisfies the requirements of paragraph 13(1)(a);</p>	(d) £57.90;
<p>(e) where—</p> <p style="padding-left: 2em;">(i) both members are aged not less than 18; or</p>	(e) £114.85;

(1) <i>Person or Couple</i>	(2) <i>Amount</i>
<ul style="list-style-type: none"> <li>(ii) one member is aged not less than 18 and the other member is a person who is—                             <ul style="list-style-type: none"> <li>(aa) under 18, and</li> <li>(bb) treated as responsible for a child;</li> </ul> </li> </ul>	
(f) where paragraph (e) does not apply and one member is aged not less than 18 and the other member is a person under 18 who—	(f) £114.85;
<ul style="list-style-type: none"> <li>(i) is a person to whom regulation 59, 60 or 61 applies; or</li> <li>(ii) is the subject of a direction under section 16;</li> <li>(iii) satisfies requirements for entitlement to income support or who would do so if he were not a member of a couple, other than the requirement to make a claim for it; or</li> <li>(iv) satisfies requirements for entitlement to an income-related employment and support allowance other than the requirement to make a claim for it;</li> </ul>	
(g) where one member is aged not less than 18 but less than 25 and one other member is a person under 18—	(g) £57.90;
<ul style="list-style-type: none"> <li>(i) to whom none of the regulations 59 to 61 applies; or</li> <li>(ii) who is not the subject of a direction under section 16; and</li> <li>(iii) does not satisfy requirements for entitlement to income support or an income-related employment and support allowance disregarding the requirement to make a claim for it;</li> </ul>	
(h) where one member is aged not less than 25 and the other member is a person under 18—	(h) £73.10.
<ul style="list-style-type: none"> <li>(i) to whom none of the regulations 59 to 61 applies; or</li> <li>(ii) who is not the subject of a direction under section 16; and</li> <li>(iii) does not satisfy requirements for entitlement to income support or an income-related employment and support allowance disregarding the requirement to make a claim for it.</li> </ul>	

2. ▶<sup>1</sup>◀

*Para. 2 continues to be reproduced below as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 for details.*

2 ▶<sup>2</sup>—(1)◀(a) The weekly amounts specified in column (2) below in respect of each person specified in column (1) shall▶<sup>2</sup>, for the relevant period specified in column (1),◀ be the weekly amounts specified for the purposes of regulations 83(b) and 84(1)(c).

(1) <i>Child or Young Person</i>	(2) <i>Amount</i>
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<sup>1</sup>Para. 2 omitted by para. 20(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Words inserted in para. 2 by reg. 2 of S.I. 1996/2545 as from 7.4.97.

(a) Relevant amending instruments are S.I. 1996/2545, 1999/2555, 2006/718 and 2010/793.

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<sup>1</sup>Cols. (1) of para. 2(1) substituted by reg. 2(1)(b) of S.I. 1999/2555 as from 10.4.00.  
<sup>2</sup>Amounts in para. 2(1)(a) & (b), col. (2) substituted by art. 19(3) & Sch. 9 of S.I. 2015/457. See art. 1(2)(f) to the S.I. for relevant effective dates and when to apply.  
<sup>3</sup>Words in col. (1) of para. 2(1) substituted by reg. 3(10) of S.I. 2006/718 as from 10.4.06.  
<sup>4</sup>Sub para. (2) inserted by reg. 2(6) of S.I. 1996/2545 as from 1.4.97.

- <sup>1</sup>Person in respect of the period—
- (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (a) ►<sup>2</sup>£66.90;◄
- (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's ►<sup>3</sup>twentieth◄ birthday; (b)►<sup>2</sup>£66.90.◄◄

►<sup>4</sup>(2) In column (1) of the table in paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.◄

[See S.I. 1996/2545 at page 6.6201 for transitional provisions re: para. 2.]

[The table below is reproduced for transitional purposes only.]

(1) Child or Young Person	(2) Amount
Person aged—	
(a) less than 11;	(a) £16.45
(b) not less than 11 but less than 16;	(b) £24.75
(c) not less than 16 but less than 18;	(c) £29.60
(d) not less than 18.	(d) £38.90

3. ►<sup>5</sup>◄

<sup>5</sup>Para. 3 omitted by para. 9 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

PART II

FAMILY PREMIUM

4. ▶<sup>1</sup>◀

*Para 4 continues to be reproduced below as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

4.▶<sup>2</sup>—(1)◀ The weekly amount for the purposes of regulations 83(d) and 84(1)(e) in respect of a family of which at least one member is a child or young person shall be ▶<sup>3</sup>—

- (a) where the claimant is a lone parent ▶<sup>2</sup>to whom the conditions in both sub-paragraphs (2) and (3) apply◀ ▶<sup>4</sup>£17.45◀;
- (b) in any other case,◀ ▶<sup>4</sup>£17.45◀.

▶<sup>5</sup>(2) The first condition for the purposes of sub-paragraph (1)(a) is that the claimant—

- (a) was both a lone parent and entitled to an income-based jobseeker's allowance on 5th April 1998; or
- (b) does not come within head (a) above but—
  - (i) was both a lone parent and entitled to an income-based jobseeker's allowance on any day during the period of 12 weeks ending on 5th April 1998;
  - (ii) was both a lone parent and entitled to an income-based jobseeker's allowance on any day during the period of 12 weeks commencing on 6th April 1998; and
  - (iii) the last day in respect of which (i) above applied was no more than 12 weeks before the first day in respect of which (ii) above applied.

(3) The second condition for the purposes of sub-paragraph (1)(a) is that as from the appropriate date specified in sub-paragraph (4), the claimant has continued, subject to sub-paragraph (5), to be both a lone parent and entitled to an income-based jobseeker's allowance.

(4) The appropriate date for the purposes of sub-paragraph (3) is—

- (a) in a case to which sub-paragraph (2)(a) applies, 6th April 1998;
- (b) in a case to which sub-paragraph (2)(b) applies, the first day in respect of which sub-paragraph 2(b)(ii) applied.

<sup>1</sup>Para. 4 omitted by para. 20(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Para. 4 renumbered 4(1) and words substituted in para. 4(1)(a) by reg. 14 of S.I. 1998/766 as from 6.4.98.

<sup>3</sup>Words in para. 4 inserted by reg. 44(2) of S.I. 1996/1803 as from 7.4.97.

<sup>4</sup>Amounts in para. 4(1)(a) & (b) substituted by art. 19(4) of S.I. 2015/457. See art. 1(2)(h) to the S.I. for the relevant effective dates and when to apply.

<sup>5</sup>Para. 4(2)-(6) added by reg. 14(b) of S.I. 1998/766 as from 6.4.98.

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(5) For the purposes of sub-paragraph (3), where the claimant has ceased, for any period of 12 weeks or less, to be—

- (a) a lone parent; or
- (b) entitled to an income-based jobseeker's allowance; or
- (c) both a lone parent and entitled to an income-based jobseeker's allowance,

the claimant shall be treated, on again becoming both a lone parent and entitled to an income-based jobseeker's allowance, as having continued to be both a lone parent and entitled to an income-based jobseeker's allowance throughout that period.

(6) In determining whether the conditions in sub-paragraphs (2) and (3) apply, entitlement to income support shall be treated as entitlement to an income-based jobseeker's allowance for the purposes of any requirement that a person is entitled to an income-based jobseeker's allowance.◀

▶<sup>1</sup>(7) For the purposes of this paragraph, a claimant shall be treated as having been entitled to an income-based jobseeker's allowance throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).◀

<sup>1</sup>Para. 4(7) added by reg. 4(4)(b) of S.I. 2000/724 as from 3.4.00.

## PART III

## PREMIUMS

**5.** Except as provided in paragraph 6, the weekly premiums specified in Part IV of this Schedule shall for the purposes of regulations 83(e) and 84(1)(f), be applicable to a claimant who satisfies the condition specified in ▶<sup>2</sup>paragraph 9A◀ to 17 in respect of that premium.

<sup>2</sup>Words substituted in para. 5 of Sch. 1 by reg. 3(2)(a) of S.I. 2000/2239 as from 9.4.01.

**6.** Subject to paragraph 7, where a claimant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

▶<sup>3</sup>**7.**—(1) Subject to sub-paragraph (2), the following premiums namely—

- (a) a severe disability premium to which paragraph 15 applies;
- (b) an enhanced disability premium to which paragraph 15A applies;
- (c) ▶<sup>3</sup>◀

*Sub-para. (1)(c) below continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

- (c) a disabled child premium to which paragraph 16 applies; and
- (d) a carer premium in which paragraph 17 applies,

may be applicable in addition to any other premium which may apply under this Part of this Schedule.

(2) An enhanced disability premium in respect of a person shall not be applicable in addition to—

- (a) a pensioner premium under paragraph 10 or 11; or
- (b) a higher pensioner premium under paragraph 12(a).◀

**8.**—(1) Subject to sub-paragraph (2) for the purposes of this Part of this Schedule, once a premium is applicable to a claimant under this Part, a person shall be treated as being in receipt of any benefit—

<sup>3</sup>Para. 7 substituted & sub-para. (1)(c) omitted by reg. 5(c)(i) of S.I. 2000/2629 as from 9.4.01.

(a) Para. 12 is amended by S.I. 1996/2231 and 2538.



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- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(a) applies, for any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- ▶<sup>1</sup>(b) for any period spent by a claimant in undertaking a course of training or instruction provided or approved by the Secretary of State ▶<sup>2</sup>◀ under section 2 of the Employment and Training Act 1973(b), or by ▶<sup>3</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(c) or for any period during which he is in receipt of training allowance.◀

(2) For the purposes of the carer premium under paragraph 17, a person shall be treated as being in receipt of ▶<sup>4</sup>carer's allowance◀ by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, ▶<sup>5</sup> the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act▶<sup>6</sup>, armed forces independence payment◀ or the daily living component of personal independence payment at the standard or enhanced rate prescribed in accordance with section 78(3) of the 2012 Act◀.

**Lone Parent Premium**

9. ▶<sup>7</sup>◀

9A. ▶<sup>8</sup>◀

**Pensioner premium for persons ▶<sup>9</sup>over the qualifying age for state pension credit◀**

10. The condition is that the claimant—

- (a) is a single claimant or lone parent who has attained▶<sup>9</sup>the qualifying age for state pension credit◀; or
- (b) has attained ▶<sup>9</sup>the qualifying age for state pension credit◀ and has a partner; or
- (c) has a partner and the partner has attained ▶<sup>8</sup>the qualifying age for state pension credit◀ but not the age of 75.

**Pensioner premium where claimant's partner has attained the age of 75**

11. The condition is that the claimant has a partner who has attained the age of 75 but not the age of 80.

**Higher Pensioner Premium**

12.—(1) ▶<sup>10</sup>Subject to sub-paragraph (5), the◀ condition is that—

- (a) the claimant is a single claimant or lone parent who has attained ▶<sup>11</sup>the qualifying age for state pension credit◀ and either—
  - (i) satisfies one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or
  - (ii) was entitled to either income support or income-based jobseeker's allowance ▶<sup>12</sup>, or was treated as being entitled to either of those benefits and the disability premium was or, as the case may be, would have been,◀ applicable to him in respect of a benefit week within 8 weeks of ▶<sup>11</sup>the date he attained the qualifying age for state pension credit◀ and he has, subject to sub-paragraph (2), remained continuously entitled to one of those benefits since attaining that age; or
- (b) the claimant has a partner and—
  - (i) the partner has attained ▶<sup>11</sup>the age of 80◀; or

<sup>1</sup>Para. 8(1)(b) substituted by reg. 2(11)(a) of S.I. 1996/2538 as from 28.10.96.

<sup>2</sup>Words in para. 8(1)(b) omitted by reg. 4(14)(c) of S.I. 2008/698 as from 14.4.08.

<sup>3</sup>Words inserted in para. 8(1)(b) by reg. 4(3)(h) of S.I. 2009/583 as from 6.4.09.

<sup>4</sup>Words in para. 8(2) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>5</sup>Words substituted in para. 8(2) by para. 16(7) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Words inserted in para. 8(2) of Sch. 1 by para. 10(7)(a) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>7</sup>Para. 9 deleted by reg. 44(3)(b) of S.I. 1996/1803 as from 7.4.97.

<sup>8</sup>Para. 9A in square bracket, revoked by Sch. to S.I. 2007/2618 as from 1.10.07.

<sup>9</sup>Words substituted in heading to & in para. 10 of Sch. 1 by reg. 13(2)(b) of S.I. 2009/1488 as from 6.4.10.

<sup>10</sup>Words substituted in para. 12(1) by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>11</sup>Words substituted in para. 12(1)(a)-(c) & (2)(b) by reg. 13(2)(c) (i) & (ii) of S.I. 2009/1488 as from 6.4.10.

<sup>12</sup>Words substituted in para. 12(1)(a)(ii), inserted in para. 12(2), and para. 12(4) added, by reg. 4(4)(c) of S.I. 2000/724 as from 3.4.00.

(a) S.I. 1979/597.

(b) 1973 c. 50, as amended by sections 9 and 11 and Schedule 2, Part II paragraph 9 and Schedule 3 to the Employment and Training Act 1981 (c. 57)

(c) 1990 c. 35

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<sup>1</sup>Words substituted in para. 12(1)(a)-(c) & (2)(b) by reg. 13(2)(c) (i) & (ii) of S.I. 2009/1488 as from 6.4.10.

<sup>2</sup>Words in para. 12(1)(c)(ii) substituted by reg. 2(11)(b) of S.I. 1996/2538 as from 28.10.96.

<sup>3</sup>Words substituted in para. 12(1)(a)(ii), inserted in para. 12(2), and para. 12(4) added, by reg. 4(4)(c) of S.I. 2000/724 as from 3.4.00.

<sup>5</sup>Para. 12(3) added to Sch. 1 by reg. 14(3) of S.I. 1998/2231 as from 5.10.98.

<sup>6</sup>Words substituted in para. 12(3) by reg. 13(10) of S.I. 2006/2378 as from 1.10.06

<sup>6</sup>Sub-para. (5) inserted by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

<sup>7</sup>Para. 13 renumbered 13(1), words substituted & para. (2) inserted by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

<sup>8</sup>Words substituted in para. 13(1)(a)-(c) of Sch. 1 by reg. 13(2)(d) of S.I. 2009/1488 as from 6.4.10.

- (ii) the partner has attained ►<sup>1</sup>the qualifying age for state pension credit◄ the age of 60 but not the age of 80, and the additional conditions specified in paragraph 14 are satisfied in respect of him; or
- (c) the claimant—
  - (i) has attained ►<sup>1</sup>the qualifying age for state pension credit◄;
  - (ii) satisfies the requirements ►<sup>2</sup>of either sub-head (i) or (ii) ◄ of paragraph 12(1)(a); and
  - (iii) has a partner.

(2) For the purposes of this paragraph and paragraph 14—

- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of eight weeks or less, to be entitled to either income support or income-based jobseeker's allowance, ►<sup>3</sup>or ceases to be treated as entitled to either of those benefits◄ he shall, on becoming re-entitled to either of those benefits, thereafter be treated as having been continuously entitled thereto;
- (b) in so far as sub-paragraphs (1)(a)(ii) and (1)(c)(ii) are concerned, if a claimant ceases to be entitled to either income support or an income-based jobseeker's allowance, ►<sup>3</sup>or ceases to be treated as entitled to either of those benefits◄ for a period not exceeding eight weeks which includes ►<sup>1</sup>the qualifying age for state pension credit◄, he shall, on becoming re-entitled to either of those benefits, thereafter be treated as having been continuously entitled thereto.

►<sup>4</sup>(3) In this paragraph where a claimant's partner is a welfare to work beneficiary, sub-paragraphs (1)(a)(ii) and (2)(b) shall apply to him as if for the words "8 weeks" there were substituted the words "►<sup>5</sup>104 weeks"◄.◄

►<sup>3</sup>(4) For the purposes of this paragraph, a claimant shall be treated as having been entitled to income support or to an income-based jobseeker's allowance throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to—

- (a) income support because, as a consequence of his participation in that programme, he was engaged in remunerative work or had income in excess of the claimant's applicable amount as prescribed in Part IV of the Income Support Regulations; or
- (b) a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).◄

►<sup>6</sup>(5) The condition is not satisfied if—

- (a) the claimant is a single claimant or a lone parent and (in either case) is a long-term patient;
- (b) the claimant is a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or
- (c) the claimant is a member of a couple or a polygamous marriage and a member of that couple or polygamous marriage is—
  - (i) a long-term patient; and
  - (ii) the only member of the couple or polygamous marriage to whom sub-paragraph (1)(b) or (c) refers.◄

**Disability Premium**

**13.** ►<sup>7</sup>—(1) Subject to sub-paragraph (2), the◄ condition is that the claimant—

- (a) is a single claimant or lone parent who has not attained ►<sup>8</sup>the qualifying age for state pension credit◄ and satisfies any one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or
- (b) has not attained ►<sup>8</sup>the qualifying age for state pension credit◄, has a partner and the claimant satisfies any one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or

- (c) has a partner and the partner has not attained <sup>1</sup>the qualifying age for state pension credit<sup>◀</sup> and also satisfies any one of the additional conditions specified in paragraph 14.
- ▶<sup>2</sup>(2) The condition is not satisfied if–
  - (a) the claimant is a single claimant or a lone parent and (in either case) is a long-term patient;
  - (b) the claimant is a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or
  - (c) the claimant is a member of a couple or a polygamous marriage and a member of that couple or polygamous marriage is–
    - (i) a long-term patient; and
    - (ii) is the only member of the couple or polygamous marriage to whom the condition in sub-paragraph (1)(b) or (c) refers.◀

<sup>1</sup>Words substituted in para. 13(1)(a)-(c) of Sch. 1 by reg. 13(2)(d) of S.I. 2009/1488 as from 6.4.10.

<sup>2</sup>Para. 13(2) of Sch. 1 inserted by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

**Additional Conditions for Higher Pensioner and Disability Premium**

14.—(1) The additional conditions specified in this paragraph are that–

- (a) the claimant or, as the case may be, his partner, is in receipt of <sup>3</sup>the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(a)<sup>◀</sup> or mobility supplement;
- (b) the claimant's partner is in receipt of severe disablement allowance;
- (c) the claimant or, as the case may be, his partner, is in receipt of attendance allowance or disability living allowance or is a person whose disability living allowance is payable, in whole or in part, to another in accordance with regulation 44 of the Claims and Payments Regulations (payment of disability living allowance on behalf of third party);
- ▶<sup>4</sup>(ca) the claimant or, as the case may be, his partner, is in receipt of personal independence payment or is a person whose personal independence payment is payable, in whole or in part, to another in accordance with regulation 58(2) of the Universal Credit etc. Claims and Payments Regulations (payment to another person on the claimant's behalf);◀
- ▶<sup>5</sup>(cb) the claimant or, as the case may be, the claimant's partner, is in receipt of armed forces independence payment or is a person whose armed forces independence payment is payable, in whole or in part, to another in accordance with article 24D of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;◀
- (d) the claimant's partner is in receipt of long-term incapacity benefit or is a person to whom section 30B(4) of the Benefits Act (long term rate of incapacity benefit payable to those who are terminally ill ) applies (b):
- (e) the claimant or, as the case may be, his partner, has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of the Schedule 2 to the National Health Service Act 1977(c) or under section 46 of the National Health Service (Scotland) Act 1978(d) or provided by the Department of Health and Social Services for Northern Ireland under article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(e), or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, under section 46 of the Act of 1978;
- (f) the claimant or, as the case may be, his partner, is a person who is entitled to the mobility component of disability living allowance but to whom the component is not payable in accordance with regulation 42 of the Claims

<sup>3</sup>Words in para. 14(1)(a) substituted by para. 20(b) of Sch. 2 to S.I. 2003/455 as from 7.4.03.

<sup>4</sup>Para. 14(1)(ca) inserted by para. 16(7)(b) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>5</sup>Para. 14(1)(cb) inserted in Sch. 1 by para. 10(7)(b) of Sch. to S.I. 2013/591 as from 8.4.13.

(a) S.I. 2002/2005.

(b) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18) section 2(1).

(c) 1977 c. 49.

(d) 1978 c. 29.

(e) S.I. 1972/1265 (N.I. 14).

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and Payments Regulations (cases where disability living allowance not payable);

<sup>1</sup>Para. 14(1)(fa) inserted by para. 16(7)(b) of Sch. to S.I. 2013/388 as from 8.4.13.

▶<sup>1</sup>(fa) the claimant or, as the case may be, his partner, is a person who is entitled to the mobility component of personal independence payment but to whom the component is not payable in accordance with regulation 61 of the Universal Credit etc. Claims and Payments Regulations (cases where mobility component of personal independence payment not payable);◀

(g) the claimant's partner was either—

<sup>2</sup>Words in para. 14(1)(g) (i) omitted & (g)(iii) inserted & words in para. 15(1)(a) substituted by para. 16(7)(b) & (c) of Sch. to S.I. 2013/388 as from 8.4.13.

(i) in receipt of long term incapacity benefit under section 30A(5) of the Benefits Act<sup>(a)</sup> immediately before attaining pensionable age and he is still alive; ▶<sup>2</sup>◀

<sup>3</sup>Words in para. 14(1)(g)(ii) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(ii) entitled to attendance allowance or disability living allowance but payment of that benefit was suspended in accordance with regulations under section 113(2) of the Benefits Act or otherwise abated as a consequence of ▶<sup>3</sup>the partner◀ becoming a patient within the meaning of regulation 85(4) (special cases), ▶<sup>2</sup>; or

(iii) entitled to personal independence payment but no amount is payable in accordance with regulations made under section 86(1) (hospital in-patients) of the 2012 Act◀

and in either case the higher pensioner premium or disability premium had been applicable to the claimant or his partner;

<sup>4</sup>Para. 14(1)(h) & (2) substituted by reg. 3(3)(a)(i) of S.I. 2014/2888 as from 26.11.14.

▶<sup>4</sup>(h) the claimant or, as the case may be, his partner, is certified as severely sight impaired or blind by a consultant ophthalmologist.◀

▶<sup>4</sup>(2) For the purposes of sub-paragraph (1)(h), a person who has ceased to be certified as severely sight impaired or blind on regaining his eyesight shall nevertheless be treated as severely sight impaired or blind, as the case may be, and as satisfying the addition condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so certified.◀

### Severe Disability Premium

**15.—(1)** In the case of a single claimant, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (3), the condition is that—

<sup>5</sup>Words inserted in para. 15(1)(a) of Sch. 1 by para. 10(7)(c)(i) of Sch. to S.I. 2013/591 as from 8.4.13.

(a) he is in receipt of attendance allowance ▶<sup>2</sup>, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act▶<sup>5</sup>, armed forces independence payment◀ or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◀; and

(b) subject to sub-paragraph (4), there are no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and

<sup>6</sup>Para. 15(1)(c) substituted by reg. 4(3)(a) of S.I. 2000/681 as from 3.4.00.

▶<sup>6</sup>(c) no person is entitled to, and in receipt of, a ▶<sup>7</sup>carer's allowance◀ under section 70 of the Benefits Act in respect of caring for him;◀

<sup>7</sup>Words in para. 15(1)(c) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

▶<sup>8</sup>(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Benefits Act (entitlement after death of child or qualifying young person).◀

<sup>8</sup>Para. 15(1A) inserted by reg. 7(6)(a) of S.I. 2011/674 as from 11.4.11. See reg. 1(3) of the S.I. for when to apply.

(2) Where the claimant has a partner, the condition is that—

(a) Section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 section 1(1).

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- (a) the claimant is in receipt of attendance allowance<sup>1</sup>, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act<sup>2</sup>, armed forces independence payment<sup>3</sup> or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act<sup>4</sup> (the "qualifying benefit"); and
- (b) the partner is also in receipt of a qualifying benefit, or if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of a qualifying benefit; and
- (c) subject to sub-paragraph (4), there is no non-dependant aged 18 or over normally residing with him or with whom he is normally residing; and
- (d) either—
  - (i) <sup>3</sup>no person is entitled to, and in receipt of, a <sup>4</sup>carer's allowance<sup>5</sup> under section 70 of the Benefits Act in respect of <sup>6</sup>caring for either member of the couple or all the members of the polygamous marriage; or
  - (ii) a person is engaged in caring for one member (but not both members) of the couple, or one or more but not all members of the polygamous marriage, and in consequence is <sup>3</sup>entitled to<sup>4</sup> a <sup>4</sup>carer's allowance<sup>5</sup> under section 70 of the Benefits Act.

<sup>1</sup>Words substituted in paras. 15(2)(a) & (4)(a) & para. (5)(aa) inserted by para. 16(7)(c) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>2</sup>Words inserted in para. 15(2)(a) & (4)(a) of Sch. 1 by para. 10(7)(c)(ii) & (iii) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>3</sup>Words in para. 15(2)(d) (i) & para. 15(5)(b) substituted & words omitted in para. 15(5) & inserted in para. 15(5)(a) by reg. 4(3)(a) of S.I. 2000/681 as from 3.4.00.

<sup>4</sup>Words in paras. 15(2)(d), (5)(b) & (7) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>5</sup>Words substituted in para. 15(3) & (4)(c) by reg. 3(3)(a)(ii) of S.I. 2014/2888 as from 26.11.14.

(3) Where the claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b), and that partner is <sup>5</sup>severely sight impaired or blind<sup>6</sup> within the meaning of paragraph 14(1)(h) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.

(4) The following persons shall not be regarded as non-dependant for the purposes of sub-paragraphs (1)(b) and (2)(c)—

- (a) a person in receipt of attendance allowance <sup>6</sup>, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act<sup>2</sup>, armed forces independence payment<sup>3</sup> or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act<sup>4</sup>;
- (b) subject to sub-paragraph (6), a person who joins the claimant's household for the first time in order to care for the claimant or his partner and immediately before so joining the claimant or his partner satisfied the condition in sub-paragraph (1) or as the case may be, (2);
- (c) a person who is <sup>5</sup>severely sight impaired or blind<sup>6</sup> within the meaning of paragraph 14(1)(h) and (2).

<sup>6</sup>Words substituted in para. 1(4)(a) & para. (5)(aa) inserted by para. 16(7)(c) of Sch. to S.I. 2013/388 as from 8.4.13.

(5) For the purposes of sub-paragraph (2), a person shall be treated <sup>3</sup>—

- (a) <sup>3</sup>as being in receipt of<sup>4</sup> attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- <sup>6</sup>(aa) as being in receipt of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act if he would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be so in receipt;<sup>4</sup>
- <sup>3</sup>(b) as being entitled to and in receipt of <sup>4</sup>a carer's allowance<sup>5</sup> if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.<sup>4</sup>

(6) Sub-paragraph (4)(b) shall apply only for the first 12 weeks following the date on which the person to whom that provision applies first joins the claimant's household.

(7) For the purposes of sub-paragraph (1)(c) and (2)(d), no account shall be taken of an award of <sup>4</sup>carer's allowance<sup>5</sup> to the extent that payment of such an award is back-dated for a period before <sup>7</sup>the date on which the award is first paid.<sup>4</sup>

<sup>7</sup>Words substituted in para. 15(7) by reg. 3(8)(d) of S.I. 2007/719 as from 2.4.07.

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(8) A person shall be treated as satisfying this condition if he would have satisfied the condition specified for a severe disability premium in income support in paragraph 13 of Schedule 2 to the Income Support Regulations by virtue only of regulations 4 to 6 of the Income Support (General) Amendment (No. 6) Regulations 1991(a) (savings provision in relation to severe disability premium) and for the purposes of determining whether in the particular case regulation 4 of those Regulations had ceased to apply in accordance with regulation 5(2)(a) of those Regulations, a person who is entitled to an income-based jobseeker's allowance shall be treated as entitled to income support.

<sup>1</sup>Para. 15(9) inserted by reg. 2(2)(a) of S.I. 2002/490 as from 1.4.02.

<sup>2</sup>Words in para. 15(9) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>3</sup>Words inserted in para. 15(9) of Sch. 1 by reg. 11(3)(a) of S.I. 2010/1160 as from 1.4.10.

<sup>4</sup>Para. 15A inserted by reg. 5(c)(ii) of S.I. 2000/2629 as from 9.4.01.

<sup>5</sup>Para. 15A(1) substituted & paras. 15(1ZA) & 16(1)(aa) inserted by paras. 16(7)(d) & (e) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Para. 15A(1AZ)(c) & word inserted in Sch. 1 by para. 10(7)(d) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>7</sup>Para. 15A(1A) inserted by reg. 7(6)(a) of S.I. 2011/674 as from 11.4.11 or later, see reg 1(3) *ibid*.

<sup>8</sup>Para. (2)(a) omitted by regs. 20 of S.I. 2003/455 as from 6.4.04.

<sup>9</sup>Para. 15A(2) substituted by reg. 3(8)(e) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

►<sup>1</sup>(9) In sub-paragraphs (1)(c) and (2)(d), references to a person being in receipt of a ►<sup>2</sup>carer's allowance◄ shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section ►<sup>3</sup>6B or◄ 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).◄

►<sup>4</sup>Enhanced disability premium

**15A.**—►<sup>5</sup>(1) Subject to sub-paragraph (2), the condition is that—

- (a) the claimant; or
- (b) the claimant's partner (if any),

is a person who has not attained the qualifying age for state pension credit and is a person to whom sub-paragraph (1ZA) applies.◄

*Sub-para. (1)(b) reproduced below as it was before amdts. in S.I. 2003/455 were implemented. See reg. 1 of that S.I. on page 6.7203 for when to apply.*

(b) a member of the claimant's family,

►<sup>5</sup>(1ZA) This sub-paragraph applies to the person mentioned in sub-paragraph (1) where—

- (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the Benefits Act or but for an abatement as a consequence of hospitalisation, be payable to that person at the highest rate prescribed under section 72(3) of the Benefits Act; or
- (b) the daily living component of personal independence payment is, or would, but for a suspension of benefits in accordance with regulations under section 86(1) (hospital in-patients) of the 2012 Act, be payable to that person at the enhanced rate in accordance with section 78(2) of the 2012 Act◄►<sup>6</sup>; or
- (c) armed forces independence payment is payable to that person.◄

►<sup>7</sup>(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Benefits Act (entitlement after death of child or qualifying young person).◄

►<sup>8</sup>(2) The condition is not satisfied where the person to whom sub-paragraph (1) refers is—

- (a) ►<sup>9</sup>◄

*Para. (2)(a) continues to be reproduced as it remains in force to certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

(a) a child or young person—

- (i) whose capital, if calculated in accordance with Part 8 of these Regulations in like manner as for the claimant, except as provided in regulation 106(1), would exceed \*£3,000; or
- (ii) who is a long-term patient;

*\*Amount of £3,000 in para. 15A(2)(a) maintained in force by art. 19(2)(b) of S.I. 2014/516. See art. 1(2)(f) of the S.I. for relevant effective dates and when to apply.*

(a) S.I. 1991/2334.

- (b) a single claimant or a lone parent and (in either case) is a long-term patient;
- (c) a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or
- (d) a member of a couple or polygamous marriage who is—
  - (i) a long-term patient; and
  - (ii) the only member of the couple or polygamous marriage to whom sub-paragraph (1) refers. ◀

**Disabled Child Premium**

**16. ▶<sup>1</sup>◀**

*Para. 16 continues to be reproduced as it remains in force to certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

▶<sup>2</sup>16.—(1) Subject to sub-paragraph (2), the condition is that where the child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household is—

- (a) in receipt of disability living allowance or is no longer in receipt of that allowance because he is a patient provided that the child or young person continues to be a member of the family; ▶<sup>3</sup>◀
- ▶<sup>4</sup>(aa) a young person who is in receipt of personal independence payment or who would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be so in receipt, provided that the young person continues to be a member of the family; ◀

<sup>1</sup>Para. 15A(2) substituted by reg. 3 (8)(e) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.  
<sup>2</sup>Para. 16 substituted by reg. 3(8)(f) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>3</sup>Word omitted in para. 16(1)(a) by reg. 7(6)(b) of S.I. 2011/674 as from 11.4.11.  
<sup>4</sup>Para. 16(1)(aa) inserted by para. 16(7)(e) of Sch. to S.I. 2013/388 as from 8.4.13.





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- ▶<sup>1</sup>(ab) a young person who is in receipt of armed forces independence payment;◀
  - (b) ▶<sup>2</sup>severely sight impaired or blind or treated as severely sight impaired or blind◀ within the meaning of paragraph 14(1)(h) and (2) ▶<sup>3</sup>; or
  - (c) a child or young person in respect of whom section 145A of the Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount because of that child or young person's death.◀
- (2) The condition ▶<sup>3</sup>in sub-paragraph (1)(a)▶<sup>4</sup>, (aa)◀▶<sup>1</sup>, (ab)◀ or (b)◀ is not satisfied in respect of a child or young person—
- (a) whose capital, if calculated in accordance with Part 8 of these Regulations in like manner as for the claimant, except as provided in regulation 106(1), would exceed \*£3,000; or
  - (b) who is a long-term patient.◀

<sup>1</sup>Para. 16(1)(ab) & word in 16(2) inserted in Sch. 1 by para. 10(7)(e) of Sch. to S.I. 2013/591 as from 8.4.13.  
<sup>2</sup>Words substituted in para. 16(1)(b) by reg. 3(3)(a)(iii) of S.I. 2014/2888 as from 26.11.14.  
<sup>3</sup>Word in para. 16(1)(b) & (2) & para. 16(c) inserted by reg. 7(6)(b) (i) & (ii) of S.I. 2011/674 as from 11.4.11.  
<sup>4</sup>Words inserted in para. 16(2) by para. 16(7)(e)(ii) of Sch. to S.I. 2013/388 as from 8.4.13.

*\*Amount of £3,000 in para. 16(2)(a) maintained in force by art. 19(2)(b) of S.I. 2015/457. See art. 1(2)(f) of the S.I. for the relevant effective dates and when to apply.*

**Carer Premium**

17.—(1) Subject to sub-paragraphs (3) and (4), the condition is that the claimant or his partner is, or both of them are, ▶<sup>5</sup>entitled to◀▶<sup>6</sup>carer's allowance◀ under section 70 of the Benefits Act.

(2) ▶<sup>7</sup>◀

▶<sup>8</sup>(3) Where a carer premium is awarded but—

- (a) the person in respect of whose care the ▶<sup>6</sup>carer's allowance◀ has been awarded dies; or
- (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled ▶<sup>7</sup>◀ to a ▶<sup>6</sup>carer's allowance◀,

<sup>5</sup>Words substituted in para. 17(1) by reg. 4(3)(b) of S.I. 2000/681 as from 3.4.00.  
<sup>6</sup>Words in para. (17)(1), (3)(a) & (b), (3A)(a) & (c), (4) and (4)(a) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.  
<sup>7</sup>In para. 17, sub-para. (2) omitted, words in (3)(b) omitted, words in (3A)(a) inserted, (3A)(b) & (4)(b) omitted & (4)(c) substituted by reg. 3(3) of S.I. 2003/2279 as from 1.10.03.  
<sup>8</sup>In para. 17, sub-para. (3) substituted by (3) & (3A) & sub-para. (4)(a) substituted by (4)(a)-(c) by reg. 3 of S.I. 2002/2020 as from 28.10.02.  
<sup>9</sup>Para. 17(4) substituted by reg. 4(3)(b) of S.I. 2000/681 as from 3.4.00.

the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3A) below.

(3A) The relevant date for the purposes of sub-paragraph (3) above shall be—

- (a) ▶<sup>7</sup>where sub-paragraph (3)(a) applies,◀ the Sunday following the death of the person in respect of whose care a ▶<sup>6</sup>carer's allowance◀ has been awarded or the date of death if the death occurred on a Sunday;
- (b) ▶<sup>7</sup>◀
- ▶<sup>7</sup>(c) in any other case, the date on which the person who has been entitled to a ▶<sup>6</sup>carer's allowance◀ ceases to be entitled to that allowance.◀

▶<sup>9</sup>(4) Where a person who has been entitled to a ▶<sup>6</sup>carer's allowance◀ ceases to be entitled to that allowance and makes a claim for income support, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- ▶<sup>8</sup>(a) the person in respect of whose care ▶<sup>6</sup>carer's allowance◀ has been awarded dies;
- (b) ▶<sup>7</sup>◀
- ▶<sup>7</sup>(c) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.◀◀◀

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**Persons in receipt of concessionary payments**

**18.** For the purpose of determining whether a premium is applicable to a person under paragraphs 14 to 17, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

**Person in receipt of benefit**

**19.** For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

## PART IV

## WEEKLY AMOUNTS OF PREMIUMS SPECIFIED IN PART III

(1) <i>Premium</i>	(2) <i>Amount</i>
20.—(1) ▶ <sup>1</sup> ◀	(1) ▶ <sup>1</sup> ◀
(1A) ▶ <sup>2</sup> ◀	
(2)(a) Pensioner premium for persons ▶ <sup>3</sup> who have attained the qualifying age for state pension credit◀—	(2) (a) ▶ <sup>4</sup> £78.10;◀
(a) where the claimant satisfies the condition in paragraph 10(a);	
(b) where the claimant satisfies the condition in paragraph 10(b);	(b) ▶ <sup>4</sup> £116.00;◀
(c) where the claimant satisfies the condition in paragraph 10(c);	(c) ▶ <sup>4</sup> £116.00;◀
(3) Pensioner premium for claimants whose partner has attained the age of 75 where the claimant satisfies the condition in paragraph 11.	(3) ▶ <sup>4</sup> £116.00.◀
(4) Higher Pensioner Premium—	(4) (a) ▶ <sup>4</sup> £78.10;◀
(a) where the claimant satisfies the condition in paragraph 12(1)(a);	
(b) where the claimant satisfies the condition in paragraph 12(1)(b) or (c).	(b) ▶ <sup>4</sup> £116.00.◀
(5)(b) Disability Premium—	(5) (a) ▶ <sup>4</sup> £32.25;◀
(a) where the claimant satisfies the condition in paragraph ▶ <sup>5</sup> 13(1)(a)◀;	
(b) where the claimant satisfies the condition in paragraph ▶ <sup>5</sup> 13(1)(b)◀ or (c).	(b) ▶ <sup>4</sup> £45.95.◀
(6) Severe Disability Premium—	(6) (a) ▶ <sup>4</sup> £61.85;◀
(a) where the claimant satisfies the condition in paragraph 15(1);	
(b) where the claimant satisfies the condition in paragraph 15(2)—	(b)(i)▶ <sup>4</sup> £61.85;◀

(a) Relevant amending instruments are S.I. 2009/1488 and 2010/793.

(b) Relevant amending instrument is 2007/719.

(1) Premium	(2) Amount	
(i) if there is someone in receipt of a <sup>1</sup> carer's allowance <sup>2</sup> or <sup>2</sup> if any partner of the claimant <sup>2</sup> satisfies that condition by virtue of paragraph 15(5);		<sup>1</sup> Words in col. (1) of para. 20(6)(b)(i) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.
(ii) if no-one is in receipt of such an allowance.	(ii) <sup>3</sup> £123.70.	<sup>2</sup> Words in col. (1) of para. 20(6)(b)(i) substituted by Pt. 11 of Sch. to S.I. 1996/1516 as from 7.10.96.
(7) <sup>4</sup>		<sup>3</sup> Amounts in para. 20(2)-(6) col. (2) substituted by art. 19(5) & Sch. 10 of S.I. 2015/457. See art. 1(2)(h) to the S.I. for the relevant effective dates and when to apply.
<i>Sub-para. (7) continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details</i>		
(7) Disabled Child Premium.	<sup>5</sup> (7) <sup>6</sup> £60.06 in respect of each child or young person in respect of whom the conditions specified in paragraph 16 are satisfied.	<sup>4</sup> Paras. 20(7) & (9)(a) omitted by para. 20(d) of Sch. 2 to S.I. 2003/455 as from 6.4.04.
(8) Carer Premium.	(8) <sup>6</sup> £34.60 in respect of each person who satisfied the condition specified in paragraph 17.	<sup>5</sup> Sub-para. (7) & (9)(a) substituted by art. 24(5) & sch. 14 of S.I. 2012/780. See reg. 1(2)(k) of this S.I. for the relevant effective dates.
<sup>7</sup> (9)(a) Enhanced disability premium where the conditions in paragraph 15A are satisfied.	(9) (a) <sup>4</sup>	<sup>6</sup> Amounts in para. 20(7) & (8), col. (2) substituted by art. 19(5) & Sch. 10 of S.I. 2015/457. See art. 1(2)(h) to the S.I. for the relevant effective dates and when to apply.
<i>Sub-para. (9)(a) continues to be reproduced as it remains in force for certain cases. See reg. 1 of S. I. 2003/455 at page 6.7203 for details.</i>		
	(9) <sup>5</sup> (a) <sup>6</sup> £24.43 in respect of each child or young person in respect of whom the conditions specified in paragraph 15A are satisfied;	<sup>7</sup> Para. 20(9) inserted by reg. 5(c)(iii) of S.I. 2000/2629 as from 9.4.01.
	(b) <sup>6</sup> £15.75 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage,  in respect of whom the conditions specified in paragraph 15A are satisfied;	
	(c) <sup>6</sup> £22.60 where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 15A are satisfied in respect of a member of that couple or polygamous marriage.	

(a) Sub-paragraph (9) was added by S.I. 2000/2629 and amended by S.I. 2003/455.

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<sup>1</sup>Part IVA inserted by reg. 2(5) of S.I. 2000/1978 as from 9.3.01.

▶<sup>1</sup>PART IVA

## PREMIUMS FOR JOINT-CLAIM COUPLES

**20A.** Except as provided in paragraph 20B, the weekly premium specified in Part IVB of this Schedule shall, for the purposes of regulations 86A(c) and 86B(d), be applicable to a joint-claim couple where either or both members of a joint-claim couple satisfy the condition specified in paragraphs 20E to 20J in respect of that premium.

**20B.** Subject to paragraph 20C, where a member of a joint-claim couple satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to the joint-claim couple in respect of that member and, if they are different amounts, the higher or highest amount shall apply.

<sup>2</sup>Para. 20C substituted by reg. 5(c)(iv) of S.I. 2000/2629 as from 9.4.01.

▶<sup>2</sup>**20C.**—(1) Subject to sub-paragraph (2), the following premiums, namely—

- (a) a severe disability premium to which paragraph 20I applies;
- (b) an enhanced disability premium to which paragraph 20IA applies; and
- (c) a carer premium to which paragraph 20J applies,

may be applicable in addition to any other premium which may apply under this Part of this Schedule.

(2) An enhanced disability premium in respect of a person shall not be applicable in addition to—

- (a) a pensioner premium under paragraph 20E; or
- (b) a higher pensioner premium under paragraph 20F.◀

**20D.**—(1) Subject to sub-paragraph (2) for the purposes of this Part of this Schedule, once a premium is applicable to a joint-claim couple under this Part, a person shall be treated as being in receipt of any benefit—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(a) applies, for any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) for any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973(b), or by ▶<sup>3</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(c), or for any period during which he is in receipt of a training allowance.

<sup>3</sup>Words inserted in para. 20D(1)(b) by reg. 4(3)(h) of S.I. 2009/583 as from 6.4.09.

(2) For the purposes of the carer premium under paragraph 20J, a person shall be treated as being in receipt of ▶<sup>4</sup>carer's allowance◀ by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, ▶<sup>5</sup>the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act▶<sup>6</sup>or armed forces independence payment◀◀.

<sup>4</sup>Words in para. 20D(2) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>5</sup>Words substituted in para. 20D(2) by para. 16(7)(f) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Words inserted in para. 20D(2) of Sch. 1 by para. 10(7)(f) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>7</sup>Words substituted in the heading to & in para. 20E by reg. 13(4)(a) & (b) of S.I. 2009/1488 as from 6.4.10.

<sup>8</sup>Words substituted in para. 20F(1) by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

**Pensioner premium where one member of a joint-claim couple has attained ▶<sup>7</sup>the qualifying age for state pension credit◀**

**20E.** The condition is that one member of a joint-claim couple has attained ▶<sup>7</sup>the qualifying age for state pension credit◀ but not the age of 75.

**Higher Pensioner Premium**

**20F.**—(1) ▶<sup>8</sup>Subject to sub-paragraph (5), the◀ condition is that one member of a joint-claim couple—

- (a) S.I. 1979/597.
- (b) 1973 c. 50, section 2 was substituted by the Employment Act 1988, section 25(1) and amended by the Employment Act 1989 (c. 38), section 29(4), Schedule 7 Part I and by the Trade Union Reform and Employment Rights Act 1993 (c. 19) section 47(1).
- (c) 1990 c. 35.

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- (a) has attained ►<sup>1</sup>the qualifying age for state pension credit◄ but not the age of 80, and either the additional conditions specified in paragraph 20H are satisfied in respect of him; or
- (b) has attained ►<sup>1</sup>the qualifying age for state pension credit◄ and—
  - (i) was entitled to or was treated as entitled to either income support or an income-based jobseeker's allowance and the disability premium was or, as the case may be, would have been applicable to him in respect of a benefit week within 8 weeks of ►<sup>1</sup>the date he attained the qualifying age for state pension credit◄ and he has, subject to sub-paragraph (2), remained continuously entitled to one of those benefits since attaining that age; or
  - (ii) was a member of a joint-claim couple who had been entitled to, or who had been treated as entitled to, a joint-claim jobseeker's allowance and the disability premium was or, as the case may be, would have been applicable to that couple in respect of a benefit week within 8 weeks of ►<sup>1</sup>the date either member of that couple attained the qualifying age for state pension credit◄ and the couple have, subject to that sub-paragraph (2), remained continuously entitled to a joint-claim jobseeker's allowance since that member attained that age.

<sup>1</sup>Words substituted in paras. 20F(1)(a) & (b) & (2)(b) & 20G(1) by reg. 13(4)(c)(i)-(iii) & (d) of S.I. 2009/1488 as from 6.4.10.

(2) For the purpose of this paragraph and paragraph 20H—

- (a) once the higher pensioner premium is applicable to a joint-claim couple, if that member then ceases, for a period of eight weeks or less, to be entitled or treated as entitled to either income support or income-based jobseeker's allowance or that couple cease to be entitled to or treated as entitled to a joint-claim jobseeker's allowance, he shall or, as the case may be, that couple shall, on becoming re-entitled to any of those benefits, thereafter be treated as having been continuously entitled thereto;
- (b) in so far as sub-paragraph (1)(b)(i) or (ii) is concerned, if a member of a joint-claim couple ceases to be entitled or treated as entitled to either income support or an income-based jobseeker's allowance or that couple cease to be entitled to or treated as entitled to a joint-claim jobseeker's allowance for a period not exceeding eight weeks which includes ►<sup>1</sup>the date either member of that couple attained the qualifying age for state pension credit◄, he shall or, as the case may be, the couple shall, on becoming re-entitled to either of those benefits, thereafter be treated as having been continuously entitled thereto.

(3) In this paragraph, where a member of a joint-claim couple is a welfare to work beneficiary, sub-paragraphs (1)(b)(i) and (2)(b) shall apply to him as if for the words “8 weeks” there were substituted the words “►<sup>2</sup>104 weeks◄”.

<sup>2</sup>Words substituted in para. 20F(3) by reg. 13(10) of S.I. 2006/2378 as from 1.10.06.

(4) For the purposes of this paragraph, a member of a joint-claim couple shall be treated as having been entitled to income support or to an income-based jobseeker's allowance or the couple of which he is a member shall be treated as having been entitled to a joint-claim jobseeker's allowance throughout any period which comprises only days on which a member was participating in an employment zone scheme and was not entitled to—

- (a) income support because, as a consequence of his participation in that scheme, he was engaged in remunerative work or had income in excess of the claimant's applicable amount as prescribed in Part IV of the Income Support Regulations; or
- (b) a jobseeker's allowance because, as a consequence of his participation in that scheme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or the couple of which he was a member failed to satisfy the condition in section 3A(1)(a).

►<sup>3</sup>(5) The condition is not satisfied if the member of the joint-claim couple to whom sub-paragraph (1) refers to is a long-term patient.◄

<sup>3</sup>Para. 20F(5) inserted & 20G substituted by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

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## Disability Premium

**20G.**—(1) Subject to sub-paragraph (2), the condition is that a member of a joint-claim couple has not attained ►<sup>1</sup>the qualifying age for state pension credit◄ and satisfies any one of the additional conditions specified in paragraph 20H.

(2) The condition is not satisfied if—

- (a) paragraph (1) only refers to one member of a joint-claim couple and that member is a long-term patient; or
- (b) paragraph (1) refers to both members of a joint-claim couple and both members of the couple are long-term patients.◄

<sup>1</sup>Words substituted in para. 20G(1) by reg. 13(4)(c)(i)-(iii) & (d) of S.I. 2009/1488 as from 6.4.10.

## Additional Conditions for Higher Pensioner and Disability Premium

**20H.**—(1) The additional conditions specified in this paragraph are that a member of a joint-claim couple—

- (a) is in receipt of ►<sup>2</sup>the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002◄ or mobility supplement;
- (b) is in receipt of severe disablement allowance;
- (c) is in receipt of attendance allowance or disability living allowance or is a person whose disability living allowance is payable, in whole or in part, to another in accordance with regulation 44 of the Claims and Payments Regulations (payment of disability living allowance on behalf of third party);
- <sup>3</sup>(ca) is in receipt of personal independence payment or is a person whose personal independence payment is payable, in whole or in part, to another in accordance with regulation 58(2) of the Universal Credit etc. Claims and Payments Regulations (payment to another person on the claimant's behalf);◄
- <sup>4</sup>(cb) is in receipt of armed forces independence payment or is a person whose armed forces independence payment is payable, in whole or in part, to another in accordance with article 24D of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;◄
- (d) is in receipt of long-term incapacity benefit or is a person to whom section 30B(4) of the Benefits Act (long-term rate of incapacity benefit payable to those who are terminally ill) applies(a);
- (e) has been entitled to statutory sick pay, has been incapable of work or has been treated as incapable of work for a continuous period of not less than—
  - (i) 196 days in the case of a member of a joint-claim couple who is terminally ill within the meaning of section 30B(4) of the Benefits Act; or
  - (ii) 364 days in any other case,
 and for these purposes, any two or more periods of entitlement or incapacity separated by a break of not more than 56 days shall be treated as one continuous period;
- <sup>5</sup>(ee) has had limited capability for work or has been treated as having limited capability for work for a continuous period of not less than—
  - (i) 196 days in the case of a member of a joint-claim couple who is terminally ill within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations; or
  - (ii) 364 days in any other case,
 and for these purposes any two or more periods of limited capability for work separated by a break of not more than 12 weeks is to be treated as one continuous period;◄
- (f) has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of, and Schedule 2 to, the National Health Service Act 1977(b) or under section 46 of the National Health Service (Scotland) Act 1978(c) or provided by the Department of Health and Social Services for Northern Ireland under article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(d), or receives payments by way of grant from

<sup>2</sup>Words in para. 20H(1)(a) substituted by para. 20(e) of Sch. 2 to S.I. 2003/455 as from 7.4.03.

<sup>3</sup>Para. 20H(1)(ca) inserted by para. 16(7)(g) of Sch. 2 to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Para. 20H(1)(cb) inserted in Sch. 1 by para. 10(7)(g) of Sch. 2 to S.I. 2013/591 as from 8.4.13.

<sup>5</sup>Para. 20H(1)(ee) inserted by reg. 3(24)(e) of S.I. 2008/1554 as from 27.10.08.

(a) Section 30B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18) section 2(1).

(b) 1977 c. 49.

(c) 1978 c. 29.

(d) S.I. 1972/1265 (N.I. 14).

the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, under section 46 of the Act of 1978;

(g) is a person who is entitled to the mobility component of disability living allowance but to whom the component is not payable in accordance with regulation 42 of the Claims and Payments Regulations (cases where disability living allowance not payable);

▶<sup>1</sup>(ga) is a person who is entitled to the mobility component of personal independence payment but to whom the component is not payable in accordance with regulation 61 of the Universal Credit etc. Claims and Payments Regulations (case where mobility component of personal independence payment not payable);◀

<sup>1</sup>Paras. 20H(1)(ga) & (h)(iii) inserted & words substituted in para. 20I(1)(a) by para. 16(7)(g)-(h) of Sch. to S.I. 2013/388 as from 8.4.13.

(h) was either—

(i) in receipt of long-term incapacity benefit under section 30A(5) of the Benefits Act<sup>(a)</sup> immediately before attaining pensionable age and he is still alive; or

(ii) entitled to attendance allowance or disability living allowance but payment of that benefit was suspended in accordance with regulations under section 113(2) of the Benefits Act or otherwise abated as a consequence of either member of the joint-claim couple becoming a patient within the meaning of regulation 85(4) (special cases), or

▶<sup>1</sup>(iii) entitled to personal independence payment but no amount is payable in accordance with regulations under section 86(1) (hospital in-patients) of the 2012 Act,◀

and in either case, the higher pensioner premium or disability premium had been applicable to the joint-claim couple; or

▶<sup>2</sup>(i) is certified as severely sight impaired or blind by a consultant ophthalmologist.◀

<sup>2</sup>Paras. 20H(1)(i) & (3) substituted by reg. 3(3)(iv) of S.I. 2014/2888 as from 26.11.14.

(2) In the case of a member of a joint-claim couple who is a welfare to work beneficiary, the reference in sub-paragraph (1)(e) to a period of 56 days shall be treated as a reference to a period of ▶<sup>3</sup>104 weeks◀.

<sup>3</sup>Words substituted in para. 20H(2) by reg. 13(10) of S.I. 2006/2378 as from 1.10.06.

▶<sup>2</sup>(3) For the purposes of sub-paragraph (1)(i), a person who has ceased to be certified as severely sight impaired or blind on regaining his eyesight shall nevertheless be treated as severely sight impaired or blind, as the case may be, and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so certified.◀

**Severe Disability Premium**

**20I.**—(1) The condition is that—

(a) a member of a joint-claim couple is in receipt of attendance allowance▶<sup>1</sup>, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act▶<sup>4</sup>, armed forces independence payment◀ or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◀ (“the qualifying benefits”); and

<sup>4</sup>Words inserted in para. 20I(1)(a) of Sch. 1 by para. 10(7)(h)(i) of Sch. to S.I. 2013/591 as from 8.4.13.

(b) the other member is also in receipt of such an allowance, or if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of a qualifying benefit; and

(c) subject to sub-paragraph (3), there is no non-dependant aged 18 or over normally residing with the joint-claim couple or with whom they are normally residing; and

(a) Section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 1(1).

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<sup>1</sup>Words in para. 201(1)(d) substituted by reg. 3(4) of S.I. 2003/511 as from 1.4.03

(d) either—

- (i) no person is entitled to, and in receipt of, a ►<sup>1</sup>carer's allowance◄ under section 70 of the Benefits Act in respect of caring for either member or the couple or all the members of the polygamous marriage; or
- (ii) a person is engaged in caring for one member (but not both members) of the couple, or one or more but not all members of the polygamous marriage, and in consequence is entitled to a ►<sup>1</sup>carer's allowance◄ under section 70 of the Benefits Act.

<sup>2</sup>Words substituted in paras. 20I(2) & (3)(c) by reg. 3(3)(a)(v) of S.I. 2014/2888 as from 26.11.14.

(2) Where the other member does not satisfy the condition in sub-paragraph (1)(b), and that member is ►<sup>2</sup>severely sight impaired or blind or treated as severely sight impaired or blind◄ within the meaning of paragraph 20H(1)(i) and (2), that member shall be treated for the purposes of sub-paragraph (1) as if he were not a member of the couple.

(3) The following persons shall not be regarded as non-dependant for the purposes of sub-paragraph (1)(c)—

<sup>3</sup>Words substituted in paras. 20I(3)(a) & 201A(2) & para. 20I(4)(c) inserted by para. 16(7)(h)-(i) of Sch. to S.I. 2013/388 as from 8.4.13.

- (a) a person in receipt of attendance allowance►<sup>3</sup>, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act►<sup>4</sup>, armed forces independence payment◄ or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◄;
- (b) subject to sub-paragraph (5), a person who joins the joint-claim couple's household for the first time in order to care for a member of a joint claim couple and immediately before so joining, that member satisfied the condition in sub-paragraph (1);
- (c) a person who is ►<sup>2</sup>severely sight impaired or blind or treated as severely sight impaired or blind◄ within the meaning of paragraph 20H(1)(i) and (2).

<sup>4</sup>Words inserted in para. 20I(3)(a) of Sch. 1 by para. 10(7)(h)(ii) of Sch. to S.I. 2013/591 as from 8.4.13.

(4) For the purposes of sub-paragraph (1), a member of a joint-claim couple shall be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a ►<sup>5</sup>carer's allowance◄ if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.
- <sup>3</sup>(c) as being in receipt of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act of he would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be so in receipt.◄

<sup>5</sup>Words in paras. 20I(4)(b), (6), (7) by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

(5) Sub-paragraph (3)(b) shall apply only for the first 12 weeks following the date on which the person to whom that provision applies first joins the joint-claim couple's household.

(6) For the purposes of sub-paragraph (1)(d), no account shall be taken of an award of ►<sup>5</sup>carer's allowance◄ to the extent that payment of such an award is back-dated for a period before ►<sup>6</sup>the date on which the award is made.◄

<sup>6</sup>Words substituted in 20I(6) by reg. 3(8) of S.I. 2007/719 as from 2.4.07.

<sup>7</sup>Para. 20I(7) inserted by reg. 2(2)(7)(b) of S.I. 2002/490 as from 1.4.02.

►<sup>7</sup>(7) In sub-paragraph (1)(d), the reference to a person being in receipt of a ►<sup>5</sup>carer's allowance◄ shall include a reference to a person who would have been in receipt of that allowance but for the application of a restriction under section ►<sup>8</sup>6B or◄ 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).◄

<sup>8</sup>Words inserted by para. 20I(7) of Sch. 1 by reg. 11(3)(b) of S.I. 2010/1160 as from 1.4.10.



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►<sup>1</sup>Enhanced disability premium

**20IA.**—►<sup>2</sup>(1) Subject to sub-paragraph (2), the condition is that in respect of a member of a joint-claim couple who has not attained the qualifying age for state pension credit—

- (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the Benefits Act or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of the Benefits Act; or
- (b) the daily living component of personal independence payment is, or would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be payable at the enhanced rate in accordance with section 78(2) of the 2012 Act ►<sup>3</sup>or armed forces independence payment is payable◄.◄

►<sup>4</sup>(2) The condition is not satisfied if—

- (a) paragraph (1) only refers to one member of a joint-claim couple and that member is a long-term patient; or
- (b) paragraph (1) refers to both members of a joint-claim couple and both members of the couple are long-term patients.◄

**Carer Premium**

**20J.**—(1) Subject to sub-paragraphs (3) and (4), the condition is that either or both members of a joint-claim couple are entitled to ►<sup>5</sup>◄ a ►<sup>6</sup>carer's allowance◄ under section 70 of the Benefits Act.

(2) ►<sup>5</sup>◄

►<sup>7</sup>(3) Where a carer premium is awarded but—

- (a) the person in respect of whose care the ►<sup>6</sup>carer's allowance◄ has been awarded dies; or
- (b) in any other case the member of the joint-claim couple in respect of whom a carer premium has been awarded ceases to be entitled ►<sup>5</sup>◄ to a ►<sup>6</sup>carer's allowance◄,

the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3A) below.

(3A) The relevant date for the purposes of sub-paragraph (3) above shall be—

- (a) ►<sup>5</sup>where sub-paragraph (3)(a) applies,◄ the Sunday following the death of the person in respect of whose care a ►<sup>6</sup>carer's allowance◄ has been awarded or ►<sup>8</sup>◄ the date of death if the death occurred on a Sunday;
- (b) ►<sup>5</sup>◄
- (c) in any other case, the date on which that member ceased to be entitled to a ►<sup>6</sup>carer's allowance◄.◄

(4) Where a member of a joint-claim couple who has been entitled to a ►<sup>6</sup>carer's allowance◄ ceases to be entitled to that allowance and makes a claim for a jobseeker's allowance jointly with the other member of that couple, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- <sup>9</sup>(a) the person in respect of whose care the ►<sup>6</sup>carer's allowance◄ has been awarded dies;
- (b) ►<sup>10</sup>◄
- <sup>10</sup>(c) in any other case, the member who has been entitled to a carer's allowance ceased to be entitled to that allowance.◄◄

**Member of a joint-claim couple in receipt of concessionary payments**

**20K.** For the purpose of determining whether a premium is applicable to a joint-claim couple under paragraphs 20H to 20J, any concessionary payment made to compensate a person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

<sup>1</sup>Para. 20I(7) inserted by reg. 2(2)(7)(b) of S.I. 2002/490 as from 1.4.02.

<sup>2</sup>Words substituted in paras. 20(1)(3)(a) & 201A(2) & para. 20(1)(4)(c) inserted by para. 16(7)(h)-(i) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>3</sup>Words inserted in para. 20IA(1)(b) of Sch. 1 by para. 10(7)(i) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>4</sup>Para. 20IA(2) substituted by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>5</sup>In para. 20J, words omitted in sub-para. (1); (2) omitted; words in (3)(b) omitted; words inserted in (3A)(a); (3A)(b) omitted by reg. 3(3)(b) of S.I. 2003/2279 as from 1.10.03.

<sup>6</sup>Words in paras. 20J substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>7</sup>Sub-paras. (3) & (3A) substituted for (3) by reg. 3(2) of S.I. 2002/2020 as from 28.10.02.

<sup>8</sup>Words in para. 20J(3A)(a) omitted by reg. 3(a) of S.I. 2002/2380 as from 29.10.02.

<sup>9</sup>Sub-paras. (4)(a)-(c) substituted in para. 20J by reg. (2) of S.I. 2002/2020 as from 8.10.02.

<sup>10</sup>Sub-para. (4)(b) omitted & (4)(c) substituted in para. 20J by reg. 3(3)(b)(v) of S.I. 2003/2279 as from 1.10.03.

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## Person in receipt of benefit

**20L.** For the purposes of this Part of this Schedule, a member of a joint-claim couple shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

## PART IVB

## WEEKLY AMOUNTS OF PREMIUM SPECIFIED IN PART IVA

	(1) <i>Premium</i>	(2) <i>Amount</i>
<sup>1</sup> Amounts in col. (2) of para. 20M(1)-(6) substituted by art. 19(6) & Sch. 11 of S.I. 2015/457. See art. 1(2)(b) for relevant effective dates and when to apply.	<b>20M.—(1)(a)</b> Pensioner premium where one member of a joint-claim couple $\blacktriangleright^2$ has attained the qualifying age for state pension credit $\blacktriangleleft$ and the condition in paragraph 20E is satisfied.	(1) $\blacktriangleright^1$ £116.00. $\blacktriangleleft$
<sup>2</sup> Words substituted in para. 20M(1), Col. 1 by reg. 13(5) of S.I. 2009/1488 as from 6.4.10.	(2) Higher Pensioner Premium where one member of a joint-claim couple satisfies the condition in paragraph 20F.	(2) $\blacktriangleright^1$ £116.00. $\blacktriangleleft$
<sup>3</sup> Words substituted in para. 20M(3) by reg. 3(8) of S.I. 2007/719 as from 9.4.07 or later see reg. 1 <i>ibid</i> .	(3)(b) Disability Premium where one member of a joint-claim couple satisfies the condition in $\blacktriangleright^3$ paragraph 20G(1) $\blacktriangleleft$ .	(3) $\blacktriangleright^1$ £45.95 $\blacktriangleleft$
<sup>4</sup> Words in para. 20M(4)(i) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.	(4) Severe Disability Premium where one member of a joint-claim couple satisfies the condition in paragraph 20I(1)–	(4)
<sup>5</sup> Ref. in col. 1 of para. 20M(4)(i) substituted by reg. 2(7) of S.I. 2001/518 as from 19.3.01.	(i) if there is someone in receipt of $\blacktriangleright^4$ a carer's allowance $\blacktriangleleft$ or if either member satisfies that condition only by virtue of paragraph $\blacktriangleright^5$ 20I(4)(c) $\blacktriangleleft$ ;	(i) $\blacktriangleright^1$ £61.85; $\blacktriangleleft$
	(ii) if no-one is in receipt of such an allowance.	(ii) $\blacktriangleright^1$ £123.70. $\blacktriangleleft$
	(5) Carer Premium.	(5) $\blacktriangleright^1$ £34.60 $\blacktriangleleft$ in respect of each person who satisfied the condition specified in paragraph 20J.
<sup>6</sup> Para. 20M(6) inserted by reg. 5(c)(vi) of S.I. 2000/2629 as from 9.4.01.	$\blacktriangleright^6$ (6)(d) Enhanced disability premium where the conditions in paragraph 20IA are satisfied.	(6) $\blacktriangleright^1$ £22.60 $\blacktriangleleft$ where the conditions specified in paragraph 20IA are satisfied in respect of a member of a joint-claim couple. $\blacktriangleleft$

## PART V

## ROUNDING OF FRACTIONS

**21.** Where an income-based jobseeker's allowance is awarded for a period which is not a complete benefit week and the applicable amount in respect of that period results in an amount which includes a fraction of one penny that fraction shall be treated as one penny.

(a) Relevant amending instrument is S.I. 2009/1488.

(b) Relevant amending instrument is S.I. 2007/719.

(c) Relevant amending instruments are S.I. 2001/518 and 2003/511.

(d) Sub-paragraph (6) was added by S.I. 2000/2629.

**SCHEDULE 2**      Regulations 83(f) and 84(1)(g)  
**HOUSING COSTS**

**Housing Costs**

1.—(1) Subject to the following provisions of this Schedule, the housing costs applicable to a claimant are those costs—

- (a) which he or, where he is a member of a family, he or any member of that family is, in accordance with paragraph 2, liable to meet in respect of the dwelling occupied as the home which he or any other member of his family is treated as occupying; and
- (b) which qualify under paragraphs 14 to 16.

(2) In this Schedule—

“housing costs” means those costs to which sub-paragraph (1) refers;

“existing housing costs” means housing costs arising under an agreement entered into before 2nd October 1995, or under an agreement entered into after 1st October 1995 (“the new agreement”)—

- ▶<sup>1</sup>(a) which replaces an existing agreement, provided that the person liable to meet the housing costs—
  - (i) remains the same in both agreements, or
  - (ii) where in either agreement more than one person is liable to meet the housing costs, the person is liable to meet the housing costs in both the existing agreement and the new agreement;◀
- (b) where the existing agreement was entered into before 2nd October 1995; and
- (c) which is for a loan of the same amount as or less than the amount of the loan under the agreement it replaces, and for the purposes of determining the amount of the loan under the new agreement, any sum payable to arrange the new agreement and included in the loan shall be disregarded;

“new housing costs” means housing costs arising under an agreement entered into after 1st October 1995 other than an agreement referred to in the definition of “existing housing costs”;

“standard rate” means the rate for the time being ▶<sup>1</sup>determined in accordance with◀ paragraph 11.

(3) For the purposes of this Schedule a disabled person is a person—

- (a) in respect of whom a disability premium, a disabled child premium, a pensioner premium where the claimant’s partner has attained the age of 75 or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him; or
- (b) who, had he in fact been entitled to a jobseeker’s allowance or to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium where the claimant’s partner has attained the age of 75 or a higher pensioner premium; or
- (c) who satisfies the requirements of paragraph 9A of Schedule 2 to the Income Support ▶<sup>2</sup>Regulations◀(a) (pensioner premium for person aged 75 or over) ▶<sup>3</sup>; ▶<sup>4</sup>◀
- (d) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002. ▶<sup>4</sup>or

<sup>1</sup>Head (a) and words in defn. of “standard rate” substituted by reg. 2(5) and (2) of S.I. 2004/2825 as from 28.11.04.

<sup>2</sup>Words in para. 1(3)(c) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96

<sup>3</sup>Word “or” and sub-para (d) added to reg. 1(3) by reg. 13(11)(a) of S.I. 2006/2378 as from 2.10.06.

<sup>4</sup>Words omitted in para. 1(3)(c), sub-para. (e) inserted by reg. 3(25)(a)(i) & (ii) of S.I. 2008/1554 as from 27.10.08.

(a) Paragraph 9A was inserted by S.I. 1989/534.

## Sch. 2

<sup>1</sup>Para. 1(3)(e) of Sch. 2 substituted by reg. 4 of S.I. 2012/913 as from 1.5.12.

<sup>2</sup>Para. 1(3)(f) inserted by reg. 30(7) of S.I. 2013/630 as from 29.4.13.

<sup>3</sup>Words added to para. 1(4) by reg. 3(25)(a)(i) & (ii) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Para. 1A inserted by reg. 3(2)(a) of S.I. 1997/2305 as from 22.10.97.

<sup>5</sup>Heading to para. 1A & words substituted in sub-para. (1)(a) & sub-paras. (1ZA) & (1B) inserted by reg. 4(2)(a)(i)-(iv) of S.I. 2007/3183 as from 17.12.07.

<sup>6</sup>Words in heading to para. 1A & sub-paras. (1), (1A) & (1B) inserted by reg. 3(25)(b)(i)-(iv) of S.I. 2008/1554 as from 27.10.08.

<sup>7</sup>Para. (1A) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

▶<sup>1</sup>(e) who—

- (i) is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components); or
- (ii) would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of that Act (duration of contributory allowance).◀▶<sup>2</sup>; or

(f) who is entitled to an award of universal credit the calculation of which includes an amount under regulation 27(1) of the Universal Credit Regulations 2013 in respect of the fact that he has limited capability for work or limited capability for work and work-related activity, or would include such an amount but for regulation 27(4) or 29(4) of those regulations.◀

(4) For the purposes of sub-paragraph (3), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 171E of the Benefits Act(a) (incapacity for work, disqualification etc.)▶<sup>3</sup>or disqualified for receiving employment and support allowance or treated as not having limited capability for work in accordance with regulations made under section 18 of the Welfare Reform Act (disqualification).◀

▶<sup>4</sup>▶<sup>5</sup>**Previous entitlement to income support ▶<sup>6</sup>, income-related employment and support allowance◀ or state pension credit◀**

**1A.**—(1) Where a claimant or his partner was in receipt of or treated as being in receipt of income support ▶<sup>6</sup>or income-related employment and support allowance◀ not more than 12 weeks before one of them becomes entitled to income-based jobseeker's allowance or, where the claimant or his partner is a person to whom paragraph 13(2) or (10) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

- (a) the applicable amount for income support ▶<sup>6</sup>or income-related employment and support allowance◀ included an amount in respect of housing costs under ▶<sup>5</sup>paragraphs 15 or 17◀ of Schedule 3 to the Income Support Regulations ▶<sup>5</sup>or paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations◀; and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for income-based jobseeker's allowance shall be the applicable amount in respect of those costs current when entitlement to income support ▶<sup>6</sup>or income-related employment and support allowance◀ was last determined.

▶<sup>5</sup>(1ZA) Where a claimant or his partner was in receipt of state pension credit not more than 12 weeks before one of them becomes entitled to income-based jobseeker's allowance or, where the claimant or his partner is a person to whom paragraph 13(2) or (10) (linking rules) refers, not more than 26 weeks before becoming so entitled, and—

- (a) the appropriate minimum guarantee included an amount in respect of housing costs under paragraphs 11 to 13 of Schedule II to the State Pension Credit Regulations 2002; and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for income-based jobseekers allowance shall be the amount applicable in respect of those costs current when entitlement to state pension credit was last determined.◀

▶<sup>7</sup>(1A) Where either member of a joint-claim couple was in receipt of or treated as being in receipt of income support ▶<sup>6</sup>or income-related employment and support allowance◀ not more than 12 weeks before the couple becomes entitled to a joint-claim jobseeker's allowance, or, where either member is a person to whom paragraph 13(2) or (10) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

(a) Section 171E was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 6(1).

- (a) the applicable amount for income support ►<sup>1</sup>or income-related employment and support allowance◄ included an amount in respect of housing costs under paragraph 15 or 16 of Schedule 3 to the Income Support Regulations ►<sup>1</sup>or paragraphs 16 to 17 of Schedule 6 to the Employment and Support Allowance Regulations◄; and
- (b) the circumstances affecting the calculations of those housing costs remain unchanged since the last calculation of those costs,

<sup>1</sup>Words in heading to para. 1A & sub-paras. (1), (1A) & (1B) inserted by reg. 3(25)(b)(i)-(iv) of S.I. 2008/1554 as from 27.10.08.

the applicable amount in respect of housing costs for joint-claim jobseeker's allowance shall be the applicable amount in respect of those costs current when entitlement to income support ►<sup>1</sup>or income-related employment and support allowance◄ was last determined.◄

►<sup>2</sup>(1B) Where either member of a joint-claim couple was in receipt of state pension credit not more than 12 weeks before the couple becomes entitled to a joint-claim jobseeker's allowance, or, where either member is a person to whom paragraph 13(2) or (10) (linking rules) refers, not more than 26 weeks before becoming so entitled, and—

<sup>2</sup>Sub-para. (1B) inserted by reg. 4 (2)(a)(iv) of S.I. 2007/3183 as from 17.12.07.

- (a) the appropriate minimum guarantee included an amount in respect of housing costs under paragraphs 11 to 13 of Schedule II to the State Pension Credit Regulations 2002; and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for joint-claim jobseeker's allowance shall be the amount applicable in respect of those costs current when entitlement to state pension credit was last determined.◄

(2) Where, in the period since housing costs were last calculated for income support ►<sup>3</sup>or income-related employment and support allowance◄, ►<sup>2</sup>or (as the case may be) state pension credit◄ there has been a change of circumstance, other than a reduction in the amount of an outstanding loan, which increases or reduces those costs, the amount to be met under this Schedule shall, for the purposes of the claim for income-based jobseeker's allowance, be recalculated so as to take account of that change.◄

<sup>3</sup>Words in para. 1A(2) inserted by reg. 3(25)(b)(ii) of S.I. 2008/1554 as from 27.10.08.

**Circumstances in which a person is liable to meet housing costs**

2.—(1) A person is liable to meet housing costs where—

- (a) the liability falls upon him or his partner ►<sup>4</sup>or, where that person is a member of a joint-claim couple, the other member of that couple,◄ but not where the liability is to a member of the same household as the person on whom the liability falls;
- (b) because the person liable to meet the housing costs ►<sup>5</sup>is not meeting them◄, the claimant has to meet those costs in order to continue to live in the dwelling occupied as the home and it is reasonable in all the circumstances to treat the claimant as liable to meet those costs;
- (c) he in practice shares the housing costs with other members of the household none of whom are close relatives either of the claimant or his partner ►<sup>6</sup>or, where that person is a member of a joint-claim couple, the other member of that couple◄, and
  - (i) one or more of those members is liable to meet those costs, and
  - (ii) it is reasonable in the circumstances to treat him as sharing responsibility.

<sup>4</sup>Words in para. 2(1)(a) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>5</sup>Words in para. 2(1)(b) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96

<sup>6</sup>Words inserted in para. 2(1)(c) by reg. 2(5) of S.I. 1978/2000 as from 19.3.01.

(2) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the housing costs shall be treated as wholly the responsibility of those members of the family not so affected.

## Sch. 2

**Circumstances in which a person is to be treated as occupying a dwelling as his home**

3.—(1) Subject to the following provisions of this paragraph, a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he is a member of a family, by himself and his family and he shall not be treated as occupying any other dwelling as his home.

(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard shall be had to any other dwelling occupied by the claimant or by him and his family whether or not that other dwelling is in Great Britain.

(3) Subject to sub-paragraph (4), where a single claimant or a lone parent is a full-time student or is on a training course and is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(4) A full-time student shall not be treated as occupying a dwelling as his home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(5) Where a claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as his home and he is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make those payments.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, he shall be treated as occupying both dwellings as his home only—

- (a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or by a former member of his family and it is reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home; or
- (b) in the case of a couple or a member of a polygamous marriage where a partner is a full-time student or is on a training course and it is unavoidable that he or they should occupy two separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding four benefit weeks <sup>1</sup>from the first day of the benefit week in which the move occurs <sup>1</sup>if his liability to make payments in respect of two dwellings is unavoidable.

<sup>1</sup>Words inserted in para. 3(6)(c) by reg. 3 of S.I. 2006/3274 as from 8.1.07.

(7) Where—

- (a) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) he had claimed a jobseeker's allowance before moving in and either that claim has not yet been determined or it has been determined but an amount has not been included under this Schedule and if the claim has been refused a further claim has been made within four weeks of the date on which the claimant moved into the new dwelling occupied as the home; and
- (c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—

- (i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant or any member of his family; or
  - ▶<sup>1</sup>(ii) the move was delayed pending ▶<sup>2</sup>local welfare provision or◀ the outcome of an application under Part 8 of the Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and–
    - (aa) a member of the claimant's family is aged five or under,
    - (bb) the claimant's applicable amount includes a premium under paragraph 10, 11, 12, 13, 15 or 16 of Schedule 1 (applicable amounts), or
    - (cc) a child tax credit is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002; or◀
  - (iii) the person became liable to make payments in respect of the dwelling while he was a patient or was in residential accommodation, he shall be treated as occupying the dwelling as his home for any period not exceeding four weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.
- (8) This sub-paragraph applies to a person who enters residential accommodation–
- (a) for the purpose of ascertaining whether the accommodation suits his needs; and
  - (b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event, the residential accommodation prove not to suit his needs,

and while in the accommodation, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.

(9) A person to whom sub-paragraph (8) applies shall be treated as occupying the dwelling he normally occupies as his home during any period (commencing with the day he enters the accommodation) not exceeding 13 weeks in which the person is resident in the accommodation, but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and only if–

- (a) he intends to return to occupy the dwelling as his home; and
- (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and–

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) he is–
  - ▶<sup>3</sup>(i) required, as a condition of bail, to reside–
    - (aa) in a dwelling, other than the dwelling he occupies as his home; or
    - (bb) in premises approved under ▶<sup>4</sup>section 13 of the Offender Management Act 2007◀, or◀
  - (ii) resident in a hospital or similar institution as a patient and is treated under regulation 55 as capable of work, or

<sup>1</sup>Para. 3(7)(c)(ii) substituted by reg. 13(11)(b) of S.I. 2006/2378 as from 2.10.06.

<sup>2</sup>Words in para. 3(7)(c)(ii) inserted by reg. 4(11) of S.I. 2013/443 as from 2.4.13.

<sup>3</sup>Para. 3(11)(c)(i) substituted by reg. 6(a) of S.I. 2004/2327 as from 4.4.05.

<sup>4</sup>Words in para. 3(11)(c)(i)(bb) substituted by reg. 4(10) of S.I. 2008/2767 as from 17.11.08.

## Sch. 2

- (iii) undergoing or, as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
  - (iv) following, in the United Kingdom or elsewhere, a training course, or
  - (v) undertaking medical approved care of a person residing in the United Kingdom or elsewhere, or
  - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
  - (vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or
  - (viii) a full-time student to whom sub-paragraph (3) or (6)(b) does not apply, or
  - (ix) a person other than a person to whom sub-paragraph (8) applies, who is receiving care provided in residential accommodation, or
  - (x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling or by a person who was formerly a member of <sup>1</sup>his family, and
- (d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

<sup>1</sup>Words substituted in para. 3(11)(c)(x) by Part II of Sch. to S.I. 1996/1516 as from 7.10.96.

(12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.

(13) In this paragraph—

- (a) “medically approved” means certified by a registered medical practitioner;
- (b) “patient” means a person who is undergoing medical or other treatment as an in-patient in a hospital or similar institution;
- <sup>2</sup>(c) “residential accommodation” means accommodation which is a care home, an Abbeyfield Home or an independent hospital; ◀
- (d) “training course” means such a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with or approved by or on behalf of, <sup>3</sup>Skills Development Scotland, ◀ Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

<sup>2</sup>In para. 3, sub-para (13)(c) substituted & in para. 4(1)(b) words substituted by para. 9 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Words inserted in para. 3(13)(d) by reg. 4(3)(i) of S.I. 2009/583 as from 6.4.09.

#### Housing costs not met

4.—(1) No amount may be met under the provisions of this Schedule—

- (a) in respect of housing benefit expenditure; or
- (b) where <sup>4</sup>a claimant ◀ is <sup>2</sup>living in a care home, an Abbeyfield Home or an independent hospital except where he is living in such a home or hospital ◀ during a temporary absence from the dwelling he occupies as his home and in so far as they relate to temporary absences. the provisions of paragraph 3(8) to (12) apply to him during that absence.

(2) Subject to the following provisions of this paragraph, loans which, apart from this paragraph, qualify under paragraph 14 shall not so qualify where the loan was incurred during the relevant period and was incurred—

- (a) after 7th October 1996 or
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met in income support by virtue of the former paragraph 5A of Schedule 3 to the Income Support Regulations (a) or paragraph 4(2)(a) of that Schedule in any one or more of the 26 weeks <sup>5</sup>preceding ◀ 7th October 1996, or

<sup>4</sup>Words substituted in sub-para. (1) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>5</sup>Words substituted in para. 4(2)(b) by reg. 2(12)(a) of S.I. 1996/2538 as from 28.10.96.

(a) Paragraph 5A of Schedule 3 was inserted by S.I. 1994/1004 and is revoked by regulation 3 of Schedule 4 to S.I. 1995/1613.



(c) subject to sub-paragraph (2)(c) shall not apply in respect of a loan where ►<sup>1</sup>a claimant◄ has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 7th October 1996.

(i) who was not at that time entitled to income support; and

►<sup>1</sup>(ii) who becomes, or whose partner becomes or, where that person is a member of a joint-claim couple, that couple become, entitled to a jobseeker's allowance after 6th October 1996 and that entitlement is within 26 weeks of an earlier entitlement to income support for the claimant or his partner or, as the case may be, either member of the joint-claim couple.◄

<sup>1</sup>Words substituted in sub-paras. (2), (3) & (4A) & sub-para. (2)(c)(ii) substituted by para. 54(4)(a)-(c) of Sch. 2 to S.I. 2000/1978 as from 19.3.01.

(3) Sub-paragraph (2)(c) shall not apply in respect of a loan where ►<sup>1</sup>a claimant◄ has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 7th October 1996.

(4) The "relevant period" for the purposes of this paragraph is any period during which the person to whom the loan was made—

(a) is entitled to a jobseeker's allowance, or

(b) is living as a member of a family one of whom is entitled to a jobseeker's allowance,

together with any linked period, that is to say a period falling between two such periods of entitlement to a jobseeker's allowance, separated by not more than 26 weeks.

*See reg. 11 of S.I. 2008/3195 at page 6.4809 for details of modifications to this reg. in certain situations.*

►<sup>2</sup>(4A) For the purposes of sub-paragraph (4), a person shall be treated as entitled to a jobseeker's allowance during any period when he ►<sup>1</sup>, his partner or, where that person is a member of a joint-claim couple, the other member of that couple◄ was not so entitled because—

<sup>2</sup>Sub-para. (4A) inserted in para. 4 by reg. 13(2) of S.I. 1997/2863 as from 5.1.98.

(a) that person ►<sup>1</sup>, his partner or, where that person is a member of a joint-claim couple, the other member of that couple◄ was participating in an employment



programme specified in regulation 75(1)(a)(ii) <sup>1</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) <sup>2</sup>; and

- (b) in consequence of such participation that person, <sup>3</sup>, his partner or, where that person is a member of a joint-claim couple, the other member of that couple <sup>4</sup>, was engaged in remunerative work or <sup>4</sup> had income equal to or in excess of the amount of earnings calculated under regulation 56 or the applicable amount determined in accordance with regulation 83 to 86C, whichever applies <sup>4</sup>.

<sup>5</sup>(4B) A person treated by virtue of paragraph 13 as being in receipt of a jobseeker's allowance for the purposes of this Schedule is not to be treated as entitled to a jobseekers's allowance for the purposes of sub-paragraph (4).

(5) For the purposes of sub-paragraph (4)–

- (a) any week in the period of 26 weeks ending on 7th October 1996 on which there arose an entitlement to income support shall be taken into account in determining when the relevant period.
- (b) two or more periods of entitlement and any intervening linked periods shall together form a single relevant period.

(6) Where the loan to which sub-paragraph (2) refers has been applied–

- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 14 <sup>6</sup> during the relevant period <sup>4</sup>; or
- <sup>5</sup>(b) to finance the purchase of a property where an earlier loan, which qualified under paragraphs 14 and 15 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property; <sup>4</sup>

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(7) Notwithstanding the preceding provisions of this paragraph, housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11) below, but–

- (a) those costs shall be subject to any additional limitations imposed by the sub-paragraph; and
- (b) where <sup>7</sup> a claimant <sup>4</sup> satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him <sup>6</sup> or, as the case may be, to the joint-claim couple of which he is a member <sup>4</sup>.

(8) The conditions specified in this sub-paragraph are that–

- (a) during the relevant period <sup>7</sup> a claimant <sup>4</sup> or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies or continues to occupy as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to <sup>7</sup> a claimant <sup>4</sup> or a member of his family;

so however that the amount to be met by way of housing costs shall initially not exceed the aggregate of–

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8) (b); and
- (ii) any amount included in the applicable amount of <sup>7</sup> a claimant <sup>4</sup> or a member of his family in accordance with regulation 83(f) <sup>7</sup>, 84(1)(g), 86A(d) or 86B(e) <sup>4</sup> in that week;

and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 16 (other housing costs).

(9) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by <sup>7</sup> a claimant <sup>4</sup>.

<sup>1</sup>Words inserted in para. 4(4A)(a) by reg. 11(a) of S.I. 2001/1029 as from 9.4.01.

<sup>2</sup>Words omitted in para. 4(4A)(a) by reg. 4(15) of S.I. 2008/698 as from 14.4.08.

<sup>3</sup>Words substituted in sub-paras. (2), (3) & (4A) & sub-para. (2)(c)(ii) substituted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>4</sup>Words in para. 4(4A)(b) of Sch. 2 substituted by reg. 10(13)(a) of S.I. 2011/2425 as from 31.10.11.

<sup>5</sup>Sub-para. (4B) inserted in para. 4 by reg. 4(2)(b) of S.I. 2007/3183 as from 17.12.07.

<sup>6</sup>Words in para. 4(6)(a) inserted, and para 4(6)(b) substituted by reg. 29(2)(a) and (b) respectively of S.I. 1996/1517 as from 7.10.96.

<sup>7</sup>Words in sub-paras. (7) to (9) substituted and inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

## Sch. 2

<sup>1</sup>Words substituted in para. 4(10)(b) by reg. 4(10)(b)(d) of S.I. 2008/2767 as from 17.11.08.

<sup>2</sup>Words in sub-para. (11) substituted and inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

- (10) The conditions specified in this sub-paragraph are that—
- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
  - (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for <sup>1</sup>persons of different sexes aged 10 or over <sup>1</sup>but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.
- (11) The conditions specified in this sub-paragraph are that—
- (a) during the relevant period <sup>2</sup>a claimant or a member of his family acquires an interest ("the relevant interest") in a dwelling which he then occupies as his home; and
  - (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of <sup>2</sup>a claimant or a member of his family included an amount determined by reference to paragraph 16 and did not include any amount specified in paragraph 14 or paragraph 15;

so however that the amount to be met by way of housing costs shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 16 (other housing costs).

(12) The following provisions of this Schedule shall have effect subject to the provisions of this paragraph.

#### Apportionment of housing costs

5.—(1) Where the dwelling occupied as the home is a composite hereditament and—

- (a) before 1st April 1990 for the purposes of section 48(5) of the General Rate Act 1967(a) (reduction of rates on dwellings), it appeared to a rating authority or it was determined in pursuance of subsection (6) of section 48 of that Act that the hereditament, including the dwelling occupied as the home, was a mixed hereditament and that only a proportion of the rateable value of the hereditament was attributable to use for the purpose of a private dwelling; or
- (b) in Scotland, before 1st April 1989 an assessor acting pursuant to section 45(1) of the Water (Scotland) Act 1980(b) (provision as to valuation roll) has apportioned the net annual value of the premises including the dwelling occupied as the home between the part occupied as a dwelling and the remainder,

the amounts applicable under this Schedule shall be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy or, in Scotland, the proportion of the net annual value of the premises apportioned to the part occupied as a dwelling house.

(2) Subject to sub-paragraph (1) and the following provisions of this paragraph, where the dwelling occupied as the home is a composite hereditament. the amount applicable under this Schedule shall be the relevant fraction of the amount which would otherwise be applicable under this Schedule in respect of the dwelling occupied as the home.

(3) For the purposes of sub-paragraph (2), the relevant fraction shall be obtained in accordance with the formula—

$$\frac{A}{A+B} *$$

- 
- (a) 1967 c. 9; s. 48(5) and (6) were amended by the Local Government, Planning and Land Act 1980 (c. 65), s. 33; s. 48(6) was also amended by the Rates Act 1984 (c. 33), s. 16 and Sch. 1, para. 10.
- (b) 1980 c. 45.

where—

“A” is the current market value of the claimant’s interest in that part of the composite hereditament which is domestic property within the meaning of section 66 of the Act of 1988;

“B” is the current market value of the claimant’s interest in that part of the composite hereditament which is not domestic property within that section.

*\*Formula in para. 5(3) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

(4) In this paragraph—

“composite hereditament” means—

- (a) as respect England and Wales, any hereditament which is shown as a composite hereditament in a local non-domestic rating list;
- (b) as respects Scotland, any lands and heritages entered in the valuation roll which are part residential subjects within the meaning of section 26(1) of the Act of 1987;

“local non-domestic rating list” means a list compiled and maintained under section 41(1) of the Act of 1988;

“the Act of 1987” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a);

“the Act of 1988” means the Local Government Finance Act 1988(b).

(5) Where responsibility for expenditure which relates to housing costs met under this Schedule is shared, the amounts applicable shall be calculated by reference to the appropriate proportion of that expenditure for which the claimant is responsible.

### Existing housing costs

6.—(1) Subject to the provisions of this Schedule the existing housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to a jobseeker’s allowance for a continuous period of 26 weeks or more, the aggregate of—
  - (i) an amount determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 14 or 15; and
  - (ii) an amount equal to any payments which qualify under paragraph 16(1)(a) to (c);
- (b) where the claimant has been entitled to a jobseeker’s allowance for a continuous period of not less than 8 weeks but less than 26 weeks, an amount which is half the amount which would fall to be met by applying the provisions of sub-paragraph (a)\*;
- (c) in any other case, nil\*.

(2) For the purposes of sub-paragraph (1) ►<sup>1</sup>and subject to sub-paragraph (3)◀, the eligible capital for the time being owing shall be determined on the date the existing housing costs are first met and thereafter on each anniversary of that date.

►<sup>2</sup>(3) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income support►<sup>3</sup>, state pension credit or income-related employment and support allowance◀ and one of them becomes entitled to income-based jobseeker’s allowance in a case to which paragraph 1A applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.◀

<sup>1</sup>Words inserted in para. 6(2) by reg. 3(2)(b) of S.I. 1997/2305 as from 22.10.97.

<sup>2</sup>Sub-paragraph 6(3) inserted by reg. 3(2)(c) of S.I. 1997/2305 as from 22.10.97.

<sup>3</sup>Words in para. 6(3) substituted by reg. 3(25)(c)(i) of S.I. 2008/1554 as from 27.10.08.

*\*Amounts in para. 6(1)(b) & (c) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for the relevant effective dates and when to apply.*

(a) 1987 c. 47.

(b) 1988 c. 41.

## Sch. 2

<sup>1</sup>Para. 6(4) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>2</sup>Words in para. 6(4) inserted by reg. 3(25) (c)(ii) of S.I. 2008/1554 as from 27.10.08.

►<sup>1</sup>(4) Where either member of a joint-claim couple ceases to be in receipt of or treated as being in receipt of income support►<sup>2</sup>, or income-related employment and support allowance◀ and that couple then become entitled to a joint-claim jobseeker's allowance in a case to which paragraph 1A(1A) applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned either member of the couple was first entitled to.◀

**New housing costs**

7.—(1) Subject to the provisions of this Schedule, the new housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to a jobseeker's allowance for a continuous period of 39 weeks or more, and amount—
  - (i) determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualify under paragraph 16(1)(a) to (c);
- (b) in any other case, nil\*.

<sup>3</sup>Words inserted in sub-para. 7(2) & sub-para. (2A) inserted by regs. 3(2)(d) & (e) of S.I. 1997/2305 as from 22.10.97.

<sup>4</sup>Words inserted in paras. 7(2A) & (2B) by reg. 3(25)(d)(i) & (ii) of S.I. 2008/1554 as from 27.10.08.

(2) For the purposes of sub-paragraph (1) ►<sup>3</sup>and subject to sub-paragraph (2A)◀, the eligible capital for the time being owing shall be determined on the date the new housing costs are first met and thereafter on each anniversary of that date.

►<sup>3</sup>(2A) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income support►<sup>4</sup>, or income-related employment and support allowance◀ and one of them becomes entitled to income-based jobseeker's allowance in a case to which paragraph 1A applied, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.◀

<sup>5</sup>Para. 7(2B) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

►<sup>5</sup>(2B) Where either member of a joint-claim couple ceases to be in receipt of or treated as being in receipt of income support►<sup>4</sup>, or income-related employment and support allowance◀ and that couple then become entitled to a joint-claim jobseeker's allowance in a case to which paragraph 1A(1A) applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned either member of the couple was first entitled to.◀

(3) This sub-paragraph applies to a claimant who at the time the claim is made has been refused payments under a policy of insurance on the grounds that—

- (a) the claim under the policy is the outcome of a pre-existing medical condition which, under the terms of the policy, does not give rise to any payment by the insurer; or
- (b) he was infected by the Human Immunodeficiency Virus,

and the policy was taken out to insure against the risk of being unable to maintain repayments on a loan which is secured by a mortgage or a charge over land, or (in Scotland) by a heritable security.

<sup>6</sup>Words in para. 7(4) & (5) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(4) This sub-paragraph applies subject to ►<sup>6</sup>sub-paragraph (7)◀ where a person claims a jobseeker's allowance because of—

- (a) the death of a partner; or
- (b) being abandoned by his partner,

and where the persons family includes a child.

(5) This sub-paragraph applies to a person who at the time the claim is made is engaged in caring for a person who falls within any of the circumstances specified in ►<sup>6</sup>heads (i) to (iv) of sub-paragraph (c)◀ of paragraph (3) of regulation 51 (remunerative work).

(6) In the case of a claimant to whom sub-paragraph (3), (4) or (5) applies, any new housing costs shall be met as though they were existing housing costs and paragraph 6 applied to them.

*\*Amount in para. 7(1)(b) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.*

(7) Sub-paragraph (4) shall cease to apply to a person who subsequently becomes one of a couple.

**General exclusions from paragraphs 6 and 7**

8.—(1) Paragraphs 6 and 7 shall not apply where—

- (a) the claimant or his partner <sup>1</sup>or either member of a joint-claim couple <sup>2</sup>has attained the qualifying age for state pension credit;
- (b) the housing costs are payments—
  - (i) under a co-ownership agreement;
  - (ii) under or relating to a tenancy or licence of a Crown tenant; or
  - (iii) where the dwelling occupied as the home is a tent, in respect of the tent and the site on which it stands.

<sup>1</sup>Words inserted in para. 8(1) by reg. 2(5) of S.I. 2000/2978 as from 19.3.01.

<sup>2</sup>Words substituted in para. 8(1)(a) of Sch. 2 by reg. 14(2) of S.I. 2009/1488 as from 6.4.10.

(2) In a case falling within sub-paragraph (1), the housing costs to be met are—

- (a) where head (a) of sub-paragraph (1) applies, an amount—
  - (i) determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 14 or 15; and
  - (ii) equal to the payments which qualify under paragraph 16;
- (b) where head (b) of sub-paragraph (1) applies, an amount equal to the payments which qualify under paragraph 16(1)(d) to (f).

**<sup>3</sup>The calculation for loans**

9. The weekly amount of existing housing costs or, as the case may be, new housing costs to be met under this Schedule in respect of a loan which qualifies under paragraph 14 or 15 shall be calculated by applying the formula—

$$\frac{A \times B}{52} *$$

where—

A = the amount of the loan which qualifies under paragraph 14 or 15;

B = the standard rate for the time being <sup>4</sup>applicable in respect of that loan. <sup>4</sup>

\*Formula in para. 9 maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.

<sup>3</sup>Para. 9 substituted by reg. 2(2) of S.I. 2001/3651 as from 10.12.01.

<sup>4</sup>Words in para. 9 substituted by reg. 2(3)(b) of S.I. 2004/2825 as from 28.11.04.

**General provisions applying to new and existing housing costs**

10.—(1) Where a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 (“the earlier agreement”) continues in force independently of the new agreement, then—

- (a) the housing costs applicable to the new agreement shall be calculated by reference to the provisions of paragraph 7 (new housing costs);
- (b) the housing costs applicable to the earlier agreement shall be calculated by reference to the <sup>5</sup>provisions of paragraph 6 (existing housing costs); and the resulting amounts shall be aggregated.

<sup>5</sup>Word in para. 10(1)(b) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(a) 1988 c. 1.





(2) Sub-paragraph (1) does not apply in the case of a claimant to whom paragraph 8 applies.

(3) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (4), then the amount of the loan or, as the case may be, the aggregate amount of those loans, shall for the purposes of this Schedule, be the appropriate amount.

(4) Subject to the following provisions of this paragraph, the appropriate amount is £100,000\*.

(5) Where a person is treated under paragraph 3(6) (payments in respect of two dwellings) as occupying two dwellings as his home, then the restrictions imposed by sub-paragraph (3) shall be applied separately to the loans for each dwelling.

(6) In a case to which paragraph 5 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (3) shall be the lower of—

(a) a sum determined by applying the formula—

$$P \times Q^*$$

where—

P = the relevant fraction for the purposes of paragraph 5, and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

(b) the sum for the time being specified in sub-paragraph (4).

(7) In a case to which paragraph 14(3) or 15(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (3) shall be the lower of—

(a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 14(1) or (as the case may be) paragraph 15(1); or

(b) the sum for the time being specified in sub-paragraph (4).

(8) In the case of any loan to which paragraph 15(2)(k) (loan taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, shall be disregarded in determining whether the amount for the time being specified in sub-paragraph (4) is exceeded.

(9) Where in any case the amount for the time being specified for the purposes of sub-paragraph (4) is exceeded and there are two or more loans to be taken into account under either or both <sup>1</sup>paragraphs 14 and 15<sup>2</sup>, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

<sup>1</sup>Word in para. 10(9) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(10) For the purposes of sub-paragraph (9), the qualifying portion of a loan shall be determined by applying the following formula—

$$\frac{R \times S^*}{T}$$

where—

R = the amount for the time being specified for the purposes of sub-paragraph (4);

S = the amount of the outstanding loan to be taken into account;

T = the aggregate of all outstanding loans to be taken into account under paragraphs 14 and 15.

\*Figure & Formula in para. 10(4), (6)(a) & (10) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.

## Sch. 2

## The standard rate

<sup>1</sup>Para. 11(1) & (3) of Sch. 2 substituted by reg. 2(4)(b) of S.I. 2004/2825 as from 28.11.04.

<sup>2</sup>Para. 11(2) substituted by art. 25(8) & Sch. 16 of S.I. 2011/821 as from 1.4.11. (See art. 1(2)(l) of this S.I. for when to apply).

<sup>3</sup>Words in para. 11(2B) substituted by reg. 4(5) of S.I. 2014/591 as from 24.4.14.

<sup>4</sup>Para. 11(4)-(6) omitted by reg. 4(2)(c) of S.I. 2007/3183 as from 17.12.07.

**11.—**<sup>1</sup>(1) The standard rate is the rate of interest applicable per annum to a loan which qualifies under this Schedule.

*\*Sch. 2, para. 11(2) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for the relevant effective dates and when to apply.*

<sup>2</sup>(2) The standard rate is to be the average mortgage rate published by the Bank of England in August 2010. It is to be varied each time that sub-paragraph (2B) applies such that the average mortgage rate published on the reference day then becomes the new standard rate in accordance with sub-paragraph (2D).◀

(2A) The standard rate is to be varied each time that sub-paragraph (2B) applies.

(2B) This sub-paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by <sup>3</sup>0.5 percentage points◀ or more from the standard rate that applies on that reference day (whether by virtue of sub-paragraph (2) or of a previous application of this sub-paragraph).

(2C) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with sub-paragraph (2D).

(2D) Any variation in the standard rate by virtue of sub-paragraphs (2A) to (2C) comes into effect—

- (a) for the purposes of sub-paragraph (2B) (in consequence of its first and any subsequent application), on the day after the reference day referred to in sub-paragraph (2C);
- (b) for the purpose of calculating the weekly amount of housing costs to be met under the Schedule, on the day specified by the Secretary of State<sup>(a)</sup>.

(2E) In this paragraph—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings published by the Bank of England in respect of the most recent period for that rate specified at the time of publication<sup>(b)</sup>;

“reference day” means any day falling after 1st October 2010.◀

(3) The Secretary of State shall determine the date from which the standard rate calculated in accordance with sub-paragraph (2) takes effect<sup>(c)</sup>.◀

(4)-(6) ▶<sup>4</sup>◀

*\*Sch. 2, para. 11(2) maintained in force by art. 19(8) & Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for the relevant effective dates and when to apply.*

## Excessive Housing Costs

**12.—**(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule shall be met only to the extent specified in sub-paragraph (3) where—

- (a) the dwelling occupied as the home, excluding any part which is let, is larger than is required by the claimant and his family and any child or young person to whom regulation 78(4) applies (foster children) and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size; or

(a) The new standard rate, and the day specified by the Secretary of State as the day on which it comes into effect for the purpose of calculating the weekly amount of housing costs, will be made available at: [http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/On\\_a\\_low\\_income/DG\\_180321](http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/On_a_low_income/DG_180321) at least seven days before the variation comes into effect.

(b) This is available on the Bank of England website: <http://www.bankofengland.co.uk/statistics/bankstats/current/index.htm>. The effective rate appears in Table G1.4 in the column headed “HSDE”.

(c) The date determined by the Secretary of State and the amount of the standard rate are available from the Department for Work and Pensions at the following address: DWP, Housing Support Division, 5th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT. The date determined and the standard rate are published on the DWP website ([www.dwp.gov.uk](http://www.dwp.gov.uk)) at least seven days before the new standard rate becomes applicable.

- (b) the immediate area in which the dwelling occupied as the home is located is more expensive than other areas in which suitable alternative accommodation exists; or
- (c) the outgoings of the dwelling occupied as the home which are met under paragraphs 14 or 16 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of heads (a) to (c) of sub-paragraph (1), no regard shall be had to the capital value of the dwelling occupied as the home.

(3) Subject to the following provisions of this paragraph, the amount of the loan which falls to be met shall be restricted and the excess over the amounts which the claimant would need to obtain suitable alternative accommodation shall not be allowed.

(4) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and his family to seek alternative cheaper accommodation, no restriction shall be made under sub-paragraph (3).

(5) In sub-paragraph (4) “the relevant factors” are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and
- (b) the circumstances of the family including in particular the age and state of health of its members, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 78(4) (foster children).

(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the first 26 weeks of any period of entitlement to a jobseeker's allowance nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation or, as the case may be, no restriction shall be made under this paragraph on <sup>1</sup>supersession<sup>1</sup> during the 26 weeks from the date of the <sup>1</sup>supersession<sup>1</sup> nor during the next 26 weeks if and so long as the claimant uses his best endeavours.

<sup>1</sup>Words substituted in para. 12(6) & (8)(b) by paras. 5 and 10 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to a jobseeker's allowance for any period of 12 weeks or less in respect of which he was not in receipt of a jobseeker's allowance and which fell immediately between periods in respect of which he was in receipt thereof.

(8) Any period in respect of which—

- (a) a jobseeker's allowance was paid to a person, and
- (b) it was subsequently determined on appeal <sup>1</sup>, revision or supersession<sup>1</sup> that he was not entitled to a jobseeker's allowance for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of a jobseeker's allowance.

(9) Heads (c) to (f) of sub-paragraph (1) of paragraph 13 shall apply to sub-paragraph (7) as they apply to paragraphs 6 and 7 but with the modification that the words “Subject to sub-paragraph (2)” are omitted and as if references to “the claimant” were references to the person mentioned in sub-paragraph (7).

## Sch. 2

## Linking rule

<sup>1</sup>Words in para. 13(1) substituted by reg. 7(7)(a) of S.I. 2011/674 as from 11.4.11. See reg. 1(3) of the S.I. for when to apply.

<sup>2</sup>Word in para 13(1) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

<sup>3</sup>Words substituted in para. 13(1)(a)(i) & (b) by para. 10 & 11 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>4</sup>Words inserted in paras. 13(1)(a)(ii), (c)(iv) & (d) by reg. 12(b) of S.I. 2001/488 as from 9.4.01.

<sup>5</sup>Words deleted in, and (aa)-(cc) added to, para. 13(1)(a)(ii) by reg. 29(4) of S.I. 1996/1517 as from 7.10.96.

<sup>6</sup>Para. 13(1)(dd) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>7</sup>Sub-para. (ee) inserted in para. 13(1) by reg. 13(3)(a) of S.I. 1997/2863 as from 5.1.98.

<sup>8</sup>Words inserted in para. 13(1)(ee)(i) by reg. 11(b) of S.I. 2001/1029 as from 9.4.01.

**13.—**(1) Subject to ►<sup>1</sup>sub-paragraph (2A)◄ for the ►<sup>2</sup>purposes◄ of this Schedule—

(a) a person shall be treated as being in receipt of a jobseeker's allowance during the following periods—

(i) any period in respect of which it was subsequently held, on appeal or ►<sup>3</sup>revision◄, that he was so entitled to a jobseeker's allowance; and

(ii) any period of 12 weeks or less ►<sup>4</sup>or, as the case may be, 52 weeks or less,◄ in respect of which he was not in receipt of a jobseeker's allowance and which fell immediately between periods in respect of which ►<sup>5</sup>◄

►<sup>5</sup>(aa) he was, or was treated as being, in receipt of a jobseeker's allowance,

(bb) he was treated as entitled to a jobseeker's allowance for the purposes of sub-paragraphs(5), (6) and (7), or

(cc) (i) above applies;◄

(b) a person shall be treated as not being in receipt of a jobseeker's allowance during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently held on appeal ►<sup>3</sup>, revision or supersession◄ that he was not so entitled;

(c) where—

(i) the claimant was a member of a couple or a polygamous marriage; and

(ii) his partner was, in respect of a past period, in receipt of a jobseeker's allowance for himself and the claimant; and

(iii) the claimant is no longer a member of that couple or polygamous marriage; and

(iv) the claimant made his claim for a jobseeker's allowance within twelve weeks ►<sup>4</sup>or, as the case may be, 52 weeks,◄ of ceasing to be a member of that couple or polygamous marriage,

he shall be treated as having been in receipt of a jobseeker's allowance for the same period as his former partner had been or had been treated, for the purposes of this Schedule, as having been;

(d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimant) or paragraph 1(2) (lone parent) of Schedule 1 (applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks ►<sup>4</sup>or, as the case may be, 52 weeks,◄ of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;

►<sup>6</sup>(dd) where the applicable amount of a member of a joint-claim couple was determined in accordance with paragraph 1(1) (single claimant) or paragraph 1(2) (lone parent) of Schedule 1 (applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks of the joint-claimant becoming a member of the joint-claim couple, the joint-claim couple shall be treated as having been in receipt of a jobseeker's allowance for the same period as that member of the joint-claim couple had been treated, for the purposes of this Schedule, as having been;◄

(e) where the claimant is a member of a couple or a polygamous marriage and his partner was, in respect of a past period, in receipt of a jobseeker's allowance for himself and the claimant, and the claimant has begun to receive a jobseeker's allowance as a result of an election by the members of the couple or polygamous marriage, he shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;

►<sup>7</sup>(ee) where the claimant—

(i) is a member of a couple or a polygamous marriage and the claimant's partner was, immediately before the participation by any member of that couple or polygamous marriage in an employment programme specified in regulation 75(1)(a)(ii) ►<sup>8</sup>, in the Intensive Activity Period

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specified in regulation 75(1)(a)(iv) <sup>1</sup> or in the Flexible New Deal. <sup>2</sup> in receipt of income-based jobseeker's allowance and his applicable amount included an amount for the couple or for the partners of the polygamous marriage; and

<sup>1</sup>Words omitted in para. 13(ee)(i) by reg. 4(15) of S.I. 2008/698 as from 14.4.08.

- (ii) has, immediately after that participation in that programme, begun to receive income-based jobseeker's allowance as a result of an election under regulation 4(3B) of the Claims and Payments Regulations(a) by the members of the couple or polygamous marriage,

<sup>2</sup>Words inserted in para. 13(1)(ee)(i) to Sch. 2 by reg. 2(12)(a) of S.I. 2009/480 as from 5.10.09.

the claimant shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;

(f) where—

- (i) the claimant was a member of a family of a person (not being a former partner) entitled to a jobseeker's allowance and at least one other member of that family was a child or young person; and
- (ii) the claimant becomes a member of another family which includes that child or young person; and
- (iii) the claimant made his claim for a jobseeker's allowance within 12 weeks <sup>3</sup> or, as the case may be, 52 weeks, of the date on which the person entitled to a jobseeker's allowance mentioned in head (i) above ceased to be so entitled,

<sup>3</sup>Words inserted in para. 13(f)(iii) by reg. 12(b) of S.I. 2001/488 as from 9.4.01.

the claimant shall be treated as being in receipt of a jobseeker's allowance for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) <sup>4</sup>

<sup>4</sup>Para. 13(2) deleted by reg. 7(7)(b) of S.I. 2011/674 of S.I. 2011/674 as from 11.4.11.

<sup>5</sup>(2A) Where a joint-claim jobseeker's allowance is payable to one member of a joint-claim couple in accordance with section 3B, both members of the couple shall be treated as receiving, or having received, a jobseeker's allowance for the purpose of this paragraph.

<sup>5</sup>Paras. 13(2A) & (2B) & words in para. 13(3) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

(2B) Where both joint-claimants claiming a jobseeker's allowance in respect of themselves have not been in receipt of a jobseeker's allowance for a period before they became a joint-claim couple, sub-paragraph (1) shall have effect in respect of that couple in relation to the period which is most favourable to the couple for the purposes of this Schedule.

<sup>6</sup>(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to a jobseeker's allowance because he or his partner <sup>5</sup> or, where a claimant is a member of a joint-claim couple, the other member of that couple, the other member of that couple is participating in arrangements for training made under section 2 of the Employment and Training Act 1973(b) or attending a course at an employment rehabilitation centre established under that section, <sup>7</sup> or under the Enterprise and New Towns (Scotland) Act 1990, he shall be treated as if he had been in receipt of a jobseeker's allowance for the period during which he or his partner <sup>5</sup> or, where a claimant is a member of a joint-claim couple, the other member of that couple was participating in such a course.

<sup>6</sup>Para. 13(3) substituted by reg. 4(2) of S.I. 1997/827 as from 7.4.97.

<sup>7</sup>Words substituted in para. 13(3) by reg. 4(10)(c) of S.I. 2008/2767 as from 17.11.08.

(a) Regulation 4(3B) was inserted by S.I. 1996/1460.

(b) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19) section 25(1) and repealed in part by the Employment Act 1989 (c. 38), section 29(4), Schedule 7, Part I.

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<sup>1</sup>Para. 13(3A) inserted by reg. 13(b) of S.I. 1997/2863 as from 5.1.98.

<sup>2</sup>Words inserted & substituted in para. 13(3A) by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

<sup>3</sup>Words inserted in para. 13(3A) by reg. 4(4)(d) of S.I. 2000/724 as from 3.4.00.

<sup>4</sup>Words omitted in para. 13(3A)(a) by reg. 4(15) of S.I. 2008/698 as from 14.4.08.

<sup>5</sup>Words inserted in para. 13(3A) by reg. 11(b) of S.I. 2001/1029 as from 9.4.01.

<sup>6</sup>Words inserted in para. 13(3A)(a) to Sch. 2 by reg. 2(12)(b) of S.I. 2009/480 as from 5.10.09.

<sup>7</sup>Words substituted in para. 13(4) by reg. 13(3)(c) of S.I. 1997/2863 as from 5.1.98.

<sup>8</sup>Words inserted in para. 13(4) & para. 13(4A) inserted by reg. 2, 2(a) & (b) by S.I. 1999/1921 as from 2.8.99.

<sup>9</sup>Words substituted in para. 13(4A)(b) by reg. 13(10) of S.I. 2006/2378 as from 1.10.06.

<sup>10</sup>Amount £16,000 substituted for £8,000 in para. 13(5)(a) of Sch. 2 by reg. 3(7) of S.I. 2005/2465 as from 10.4.06.

<sup>11</sup>Words in para. 13(5)(b) inserted by reg. 7(7)(c) of S.I. 2011/674 as from 11.4.11.

<sup>12</sup>Para. 13(5)(bb) inserted by reg. 2(12)(b) of S.I. 1996/2538 as from 28.10.96.

<sup>13</sup>Words substituted in para. 13(6)(a) by reg. 3(25)(e) of S.I. 2008/1554 as from 27.10.08.

<sup>14</sup>Words in para. 13(6)(b) substituted by reg. 2(2) of S.I. 1999/714 as from 6.4.99.

<sup>15</sup>In para. 13(8)(b) reference substituted by reg. 3(5) of S.I. 2008/1826 as from 9.7.08.

▶<sup>1</sup>(3A) For the purposes of this Schedule, a claimant who has ceased to be entitled to a jobseeker's allowance because—

- (a) that claimant or his partner ▶<sup>2</sup>or, where a claimant is a member of a joint-claim couple, the other member of that couple◀ was participating in an employment programme specified in regulation 75(1)(a)(ii) ▶<sup>3</sup>in the Intensive Activity Period specified in regulation 75(1)(a)(iv) ▶<sup>4</sup>◀◀, ▶<sup>5</sup>or in an employment zone programme◀ ▶<sup>6</sup>or in the Flexible New Deal.◀ and
- (b) in consequence of such participation the claimant or his partner ▶<sup>2</sup>or, where a claimant is a member of a joint-claim couple, the other member of that couple◀ was engaged in remunerative work or failed to satisfy the condition specified either in section 2(1)(c) ▶<sup>2</sup>, 3(1)(a) or 3A(1)(a)◀.

shall be treated as if he had been in receipt of a jobseeker's allowance for the period during which he or his partner ▶<sup>2</sup>or, where a claimant is a member of a joint-claim couple, the other member of that couple◀ was participating in that programme ▶<sup>5</sup>or activity◀.◀

(4) Where, for the purposes of sub-paragraphs ▶<sup>7</sup>(1), (3) and (3A)◀, a person is treated as being in receipt of a jobseeker's allowance, for a certain period, he shall ▶<sup>8</sup>subject to sub-paragraph (4A),◀ be treated as being entitled to a jobseeker's allowance for the same period.

▶<sup>8</sup>(4A) Where the appropriate amount of a loan exceeds the amount specified in paragraph 10(4), sub-paragraph (4) shall not apply except—

- (a) for the purposes of paragraph 6(1) or 7(1); or
- (b) where a person has ceased to be in receipt of a jobseeker's allowance for a period of ▶<sup>9</sup>104 weeks◀ or less because he or his partner is a welfare to work beneficiary.◀

(5) For the purposes of this Schedule, sub-paragraph (6) applies where a person is not entitled to an income-based jobseeker's allowance by reason only that he has—

- (a) capital exceeding ▶<sup>10</sup>£16,000◀; or
- (b) income ▶<sup>11</sup>equal to or◀ exceeding the applicable amount which applies in his case; or

▶<sup>12</sup>(bb) a personal rate of contribution-based jobseeker's allowance that is equal to, or exceeds, the applicable amount in his case; or◀

- (c) both capital exceeding £16,000 and income exceeding the applicable amount which applies in his case.

(6) A person to whom sub-paragraph (5) applies shall be treated as entitled to a jobseeker's allowance throughout any period of not more than 39 weeks which comprises only days—

- (a) on which he is entitled to a contribution-based jobseeker's allowance, statutory sick pay ▶<sup>13</sup>, incapacity benefit or employment and support allowance◀; or
- (b) on which he is, although not entitled to any of the benefits mentioned in head (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with ▶<sup>14</sup>regulation 8A or 8B of the Social Security (Credits) Regulations 1975(a).◀

(7) Subject to sub-paragraph (8), a person to whom sub-paragraph (5) applies and who is either a person to whom regulation 13(4) applies (persons with caring responsibilities) or a lone parent shall, for the purposes of this Schedule, be treated as entitled to a jobseeker's allowance throughout any period of not more than 39 weeks following the refusal of a claim for a jobseeker's allowance made by or on behalf of that person.

(8) Sub-paragraph (7) shall not apply in relation to a person mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

- (a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;
- (b) is treated as not available for employment by virtue of regulation ▶<sup>15</sup>15(1)(a)◀ (circumstances in which students are not treated as available for employment);

(a) 1975/556; regulations 8A and 8B were inserted by regulation 2 of S.I. 1996/2367.

(c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 50 (temporary absence from Great Britain).

(9) In a case where—

- (a) sub-paragraphs (6) and (7) apply solely by virtue of sub-paragraph (5)(b), and
- (b) the claimant's income includes payments under a policy taken out insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 14 to 16,

sub-paragraphs (6) and (7) shall have effect as if for the words "throughout any period of not more than 39 weeks" there are substituted the words "throughout any period that payments are made in accordance with the terms of the policy".

(10) This sub-paragraph applies—

- (a) to a person who claims a jobseeker's allowance, or in respect of whom a jobseeker's allowance is claimed, and who—
  - (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted; and
  - (ii) had a previous award of a jobseeker's allowance where the applicable amount included an amount by way of housing costs; and
- (b) where the period in respect of which the previous award of a jobseeker's allowance was payable ended not more than 26 weeks before the date the claim was made.

(11) Where sub-paragraph (10) applies, in determining—

- (a) for the purposes of paragraph 6(1) whether a person has been entitled to a jobseeker's allowance for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 7(1) whether a claimant has been entitled to a jobseeker's allowance for a continuous period of 39 weeks or more,

any week falling between the date of the termination of the previous award and the date of the new claim shall be ignored.

►<sup>1</sup>(12) Where the claimant's partner to whom this paragraph applies is a welfare to work beneficiary, sub-paragraphs (1)(a)(ii), ►<sup>2</sup>(1)(c)(iv), ◀ (1)(d) and (1)(f)(iii) shall apply to him as if for the words "twelve weeks" there were substituted the words "►<sup>3</sup>104 weeks◀."◀

<sup>1</sup>Para. 13(12) added to Sch. 2 by reg. 14(4) of S.I. 1998/2231 as from 5.10.98.

►<sup>2</sup>(13) For the purposes of sub-paragraph (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(f)(iii), the relevant period shall be—

<sup>2</sup>Ref. inserted in para. 13(12) & sub-paras. (13) to (15) inserted by reg. 12(b) of S.I. 2001/488 as from 9.4.01.

- (a) 52 weeks in the case of a person to whom sub-paragraph (14) applies;
- (b) subject to sub-paragraph (12), 12 weeks in any other case.

<sup>3</sup>Words substituted in para. 13(12) by reg. 13(10) of S.I. 2006/2378 as from 1.10.06.

(14) This sub-paragraph applies, subject to sub-paragraph (15), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to a jobseeker's allowance because he or his partner or, where that person is a member of a joint-claim couple, the other member of that couple—

- (a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;
- (b) is taking active steps to establish himself in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(r)(i) to (iii); or
- (c) is participating in—
  - (i) New Deal option;
  - (ii) an employment zone programme;
  - (iii) the self-employment route, ►<sup>4</sup>or
  - (iv) the Intensive Activity Period specified in regulation 75(1)(a)(iv) ►<sup>5</sup>◀

<sup>4</sup>Words inserted in para. 13(14)(c) by reg. 11(b) of S.I. 2001/1029 as from 9.4.01.

and, as a consequence, ►<sup>6</sup>that person, their partner or, where that person is a member of a joint-claim couple, the other member of that couple, was engaged in remunerative work or had income equal to or in excess of the amount of earnings calculated under regulation 56 or the applicable amount determined in accordance with regulations 83 to 86C, whichever applies◀.

<sup>5</sup>Words omitted in para. 13(14)(c)(iv) by reg. 4(15) of S.I. 2008/698 as from 14.4.08.

(15) Sub-paragraph (14) shall only apply to the extent that immediately before the day on which the person ceased to be entitled to an income-based jobseeker's allowance or the joint-claim couple of which he was a member ceased to be entitled to a joint-claim jobseeker's allowance, his housing costs were being met in accordance with

<sup>6</sup>Words in para. 13(14) of Sch. 2 substituted by reg. 10(13)(b) of S.I. 2011/2425 as from 31.10.11.

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<sup>1</sup>Figure in para. 15(15) inserted by reg. 6 of S.I. 2002/841 as from 8.4.02.

<sup>2</sup>Sub-para. (16) added to para. 13 by reg. 30(b) of S.I. 2002/3019 as from 6.10.03.

paragraph 6 (1)(a) <sup>1</sup>, 6(1)(b) <sup>1</sup> or 7(1)(a) or would have been so met but for any non-dependant deduction under paragraph 17. <sup>1</sup>

<sup>2</sup>(16) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where a claimant's former partner was entitled to state pension credit, any reference to income-based jobseeker's allowance in this Schedule shall be taken to include also a reference to state pension credit. <sup>1</sup>

**Loans on residential property**

**14.—(1)** A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under head (a) above had the loan not been paid off.

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in heads (a) and (b) of sub-paragraph (1) above.

(3) Where a loan is applied only in part for the purposes specified in heads (a) and (b) of sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

**Loans for repairs and improvements to the dwelling occupied as the home**

**15.—(1)** A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) of this sub-paragraph had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt or such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) "repairs and improvements" means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating system;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for <sup>3</sup>persons <sup>1</sup> of different sexes aged 10 or over <sup>3</sup>but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible <sup>1</sup>.

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

<sup>3</sup>Words in para. 15(2)(l) substituted by reg. 4(10)(d) of S.I. 2008/2767 as from 17.11.08.



**Other housing costs**

16.—(1) Subject to the deduction specified in sub-paragraph (2) and the reduction applicable in sub-paragraph (5), there shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) payments by way of rent or ground rent relating to a long tenancy <sup>1</sup>◀;
- (b) service charges;
- (c) payments by way of the rentcharge within the meaning of section 1 of the Rentcharges Act 1977(a);
- (d) payments under a co-ownership scheme;
- (e) payments under or relating to a tenancy or licence of a Crown tenant;
- (f) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.

<sup>1</sup>Words omitted in para. 16(1)(a) by reg. 13(11)(c) of S.I. 2006/2378 as from 2.10.06.

(2) Subject to sub-paragraph (3), the deductions to be made from the weekly amounts to be met under this paragraph are—

- (a) where the costs are inclusive of any of the items mentioned in <sup>2</sup>paragraph 6(2) of Schedule 1 to the Housing Benefit Regulations 2006◀ (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount;
- (b) where the costs are inclusive of ineligible service charges within the meaning of <sup>2</sup>paragraph 1 of Schedule 1 to the Housing Benefit Regulations 2006◀ (ineligible service charges) the amounts attributable to those ineligible service charges or where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services;
- (c) any amount for repairs and improvements, and for this purpose the expression “repairs and improvements” has the same meaning it has in paragraph 15(2).

<sup>2</sup>Words substituted in para. 16(2)(a) & (b) by para. 8(4)(a) & (b) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

(3) Where arrangements are made for the housing costs, which are met under this paragraph and which are normally paid for a period of 52 weeks, to be paid instead for a period of 53 weeks, or to be paid irregularly, or so that no such costs are payable or collected in certain periods, or so that the costs for different period in the year are of different amounts, the weekly amount shall be the amount payable for the year divided by 52.

(4) Where the claimant or a member of his family—

- (a) pays for reasonable repairs or redecoration to be carried out to the dwelling they occupy; and
- (b) that work was not the responsibility of the claimant or any member of his family; and
- (c) in consequence of that work being done, the costs which are normally met under this paragraph are waived,

then those costs shall, for a period not exceeding 8 weeks, be treated as payable.

(5) Where in England and Wales an amount calculated on a weekly basis in respect of housing costs specified in sub-paragraph (1)(e) (Crown tenants) includes water charges, that amount shall be reduced—

- (a) where the amount payable in respect of water charges is known, by that amount;
- (b) in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

**Non-dependant deductions**

17.—(1) Subject to the following provisions of this paragraph, the following deductions from the amount to be met under the preceding paragraphs of this Schedule in respect of housing costs shall be made—

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(a) 1977 c. 30.

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<sup>1</sup>Sub-paras. (a) & (b) substituted for (a)-(c) by reg. 6(b) of S.I. 2004/2327 as from 4.4.05.

<sup>2</sup>Amounts in para. 17(1)(a)-(2)(e) of Sch. 2 substituted by art. 19(7)(a)-(g) of S.I. 2015/???. See art. 1(2)(h) of the S.I. for the relevant effective dates and when to apply.

<sup>3</sup>Words substituted in para. 17(2) & 17(7)(a) by para. 2 of Sch. 12 to S.I. 1999/2860 as from 18.10.99.

<sup>4</sup>Sub-paras. (d) & (e) inserted into para. 17(2) by reg. 4(b) of S.I. 1996/2518 as from 6.4.98.

<sup>5</sup>Words in para. 17(6)(a) substituted by reg. 3(3)(b) of S.I. 2014/2888 as from 26.11.14.

<sup>6</sup>Para. 17(6)(b)(iii) inserted by para. 16(8)(a) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>7</sup>Word omitted & inserted in para. 17(6)(b)(ii), (iii) with para. 17(6)(b)(iv) in Sch. 2 by para. 10(8)(a) & (b) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>8</sup>Words in para. 17(7)(b) substituted by reg. 2(12)(c)(ii) of S.I. 1996/2538 as from 28.10.96.

<sup>9</sup>Words substituted in para. 17(7)(b) by reg. 4(10)(e) of S.I. 2008/2767 as from 17.11.08.

- ▶<sup>1</sup>(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, ▶<sup>2</sup>£93.80◀;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, ▶<sup>2</sup>£14.55◀;◀

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because he is in remunerative work, where the claimant satisfies ▶<sup>3</sup>the Secretary of State◀ that the non-dependant's gross weekly income is—

- (a) less than ▶<sup>2</sup>£129.00◀, the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);
- (b) not less than ▶<sup>2</sup>£129.00◀ but less than ▶<sup>2</sup>£189.00◀, the deduction to be made under this paragraph shall be ▶<sup>2</sup>£33.40◀;
- (c) not less than ▶<sup>2</sup>£189.00◀ but less than ▶<sup>2</sup>£246.00◀, the deduction to be made under this paragraph shall be ▶<sup>2</sup>£44.85◀;
- ▶<sup>4</sup>(d) not less than ▶<sup>2</sup>£246.00◀ but less than ▶<sup>2</sup>£328.00◀, the deduction to be made under this paragraph shall be ▶<sup>2</sup>£75.05◀;
- (e) not less than ▶<sup>2</sup>£328.00◀ but less than ▶<sup>2</sup>£408.00◀, the deduction to be made under this paragraph shall be ▶<sup>2</sup>£85.45◀.◀◀

(3) Only one deduction shall be made under this paragraph in respect of a couple or, as the case may be, the members of a polygamous marriage, and where, but for this sub-paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other member, the higher amount shall be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of sub-paragraph (2), to the couple's or, as the case may be all the members of the polygamous marriage's, joint weekly income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple or members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the housing costs in respect of the dwelling occupied as the home payable by each of them.

(6) No deduction shall be made in respect of any non-dependants occupying the dwelling occupied as the home of the claimant, if the claimant or any partner of his is—

- (a) ▶<sup>5</sup>severely sight impaired or blind or treated as severely sight impaired or blind◀ within the meaning of paragraph 14(1)(h) and (2) of Schedule 1 (additional condition for the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
  - (i) an attendance allowance, or
  - (ii) the care component of the disability living allowance▶<sup>6</sup>, ▶<sup>7</sup>◀
  - (iii) the daily living component of personal independence payment▶<sup>7</sup>; or
  - (iv) armed forces independence payment.◀◀

(7) No deduction shall be made in respect of a non-dependant—

- (a) if, although he resides with the claimant, it appears to ▶<sup>3</sup>the Secretary of State◀ that the dwelling occupied as his home is normally elsewhere; or
- (b) if he is in receipt of ▶<sup>8</sup>a training allowance paid in connection with ▶<sup>9</sup>Youth Training◀ established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or◀

- (c) if he is a full-time student during a period of study or, if he is not in remunerative work, during a recognised summer vacation appropriate to his course; or
- (d) if he is aged under 25 and in receipt of ►<sup>1</sup>an income-based jobseeker's allowance◄ or income support; or
- (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under ►<sup>2</sup>regulation 74 of the Housing Benefit Regulations 2006◄ (non-dependant deductions); or
- (f) to whom, but for paragraph (5) of regulation 2 (definition of non-dependant) paragraph (4) of that regulation would apply; or
- (g) if he is not residing with the claimant because he has been a patient for a period in excess of ►<sup>3</sup>52◄ weeks, or is a prisoner, and for these purposes—
  - <sup>4</sup>(i) “patient” has the meaning given in paragraph 3(13)(b) and “prisoner” has the meaning given in regulation 85(4), and
  - (ii) in calculating any period of 52 weeks as a patient, any two or more distinct periods separated by one or more intervals each not exceeding 28 days shall be treated as a single period; ►<sup>5</sup>◄◄
  - <sup>6</sup>(h) if he is in receipt of state pension credit ►<sup>5</sup>or
    - (i) he is aged less than 25 and is in receipt of ►<sup>7</sup>income-related◄ employment and support allowance which does not include an amount under section ►<sup>8</sup>◄ 4(4) or (5) of the Welfare Reform Act (components)◄◄►<sup>9</sup>; or
    - (j) if he is aged less than 25 and is entitled to an award of universal credit which is calculated on the basis that he does not have any earned income◄
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in remunerative work, there shall be disregarded from his gross income—
  - (a) any attendance allowance►<sup>10</sup>, disability living allowance►<sup>11</sup>, armed forces independence payment◄ or personal independence payment◄ received by him;
  - (b) any payment made under ►<sup>12</sup>or by◄ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust ►<sup>12</sup>, MFET Limited◄ or the Independent Living ►<sup>13</sup>Fund (2006)◄ which, had his income fallen to be calculated under regulation 103 (calculation of income other than earnings), would have been disregarded under paragraph 22 of Schedule 7 (income in kind); and
  - (c) any payment which, had his income fallen to be calculated under regulation 103 would have been disregarded under paragraph 41 of Schedule 7 (payments made under certain trusts and certain other payments).

►<sup>9</sup>(9) For the purposes of sub-paragraph (7)(j), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.◄

**Continuity with Income Support ►<sup>5</sup>or income-related employment and support allowance◄**

**18.—(1)** For the purpose of providing continuity between income support►<sup>5</sup>, or income-related employment and support allowance◄ and a jobseeker's allowance—

- (a) any housing costs which would, had the claimant been entitled to income support, have been existing housing costs and not new housing costs shall, notwithstanding the preceding provisions of this Schedule, be treated as existing housing costs, and any qualifications or limitations which would have applied to those costs had the award been an award of income support shall likewise apply to the costs in so far as they are met in jobseeker's allowance;
- (b) had the award of a jobseeker's allowance been an award to income support and the housing costs which would then have been met would have included an additional amount met in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (add back), an amount equal to that additional amount shall be added to the housing costs to be met under this Schedule, but that amount shall be subject to the same qualifications and limitations as it would have been had the award been of income support; and

<sup>1</sup>Words in para. 17(7)(d) substituted by reg. 4(3) of S.I. 1997/827 as from 7.4.97.

<sup>2</sup>Words substituted in para. 17(7)(e) by para. 8(4)(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>3</sup>Words substituted in para. 17(7)(g) by reg. 6 of S.I. 2003/1195. For coming into force date see reg. 1 of S.I. 2003/1195.

<sup>4</sup>Sub-paras. (7)(g)(i) & (ii) substituted by reg. 6(4) of S.I. 2005/3360 as from 10.4.06.

<sup>5</sup>Words omitted in para. 17(7)(g)(ii), and inserted in paras. 17(7)(h), heading to para. 18 & sub-paras. (1) & (1)(c) by reg. 3(25)(f) & (g) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Para. 17(7)(h) inserted by reg. 6(b) of S.I. 2004/2327 as from 4.4.05.

<sup>7</sup>Words in para. 17(7)(i) inserted by reg. 4(11)(b) of S.I. 2013/443 as from 2.4.13.

<sup>8</sup>Words in para. 17(7)(h)(i) omitted by reg. 41(3) of S.I. 2008/2428 as from 27.10.08.

<sup>9</sup>Para. 17(7)(j) & 17(9) inserted by reg. 30(7)(b)(i) & (ii) of S.I. 2013/630 as from 29.4.13.

<sup>10</sup>Words substituted in para. 17(8)(a) by para. 16(8)(b) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>11</sup>Words inserted in para. 17(8)(a) of Sch. 2 by para. 10(8)(c) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>12</sup>Words inserted in para. 17(8)(b) of Sch. 2 by reg. 4(3) & (8)(d) of S.I. 2010/641 as from 1.6.10.

<sup>13</sup>Words substituted in para. 17(8)(b) by reg. 4(7)(d) of S.I. 2008/2767 as from 17.11.08.

**Sch. 2**

<sup>1</sup>Words in para. 18(1)(c) added by reg. 29(6) of S.I. 1996/1517 as from 7.10.96.

<sup>2</sup>Words in para. 18(1)(c) inserted by reg. 3(25)(g) of S.I. 2008/1554 as from 27.10.08.

(c) for the purposes of any linking rule <sup>1</sup>or for determining whether any qualifying or other period is satisfied<sup>2</sup>, any reference to a jobseeker's allowance in this Schedule shall be taken also to include a reference to income support <sup>2</sup>or income-related employment and support allowance<sup>2</sup>.

(2) Any loan which, had the claimant been entitled to income support and not a jobseeker's allowance, would have been a qualifying loan for the purposes of Schedule 3 to the Income Support Regulations by virtue of regulation 3 of the Income Support (General) Amendment and Transitional Regulations 1995(a) shall be treated also as a qualifying loan for the purposes of paragraph 14 or 15, or as the case may be, of this Schedule; and for the purpose of determining whether a claimant would satisfy the provision of regulation 3(2) of those Regulations, a person in receipt of an income-based jobseeker's allowance shall be treated as being in receipt of income support.

**Rounding of Fractions**

**19.** Where any calculation made under this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

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(a) S.I. 1995/2287.

▶<sup>1</sup>◀

<sup>1</sup>Sch. 3 omitted by para. 10 of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

▶<sup>2</sup>◀

<sup>2</sup>Schs. 4 and 4A omitted by reg. 2(2) of, and para. 19 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

## Sch. 5

<sup>1</sup>Reference in heading substituted in reg. 3(a) of S.I. 2007/719 as from 2.4.07.

## SCHEDULE 5

▶<sup>1</sup>Regulation 85 and 85A◀

## APPLICABLE AMOUNTS IN SPECIAL CASES

Column (1)	Column (2)
<p>1. ▶<sup>2</sup>◀</p> <p>1A. ▶<sup>3</sup>◀</p> <p>2. ▶<sup>4</sup>◀</p> <p>▶<sup>5</sup>◀</p> <p><u>Claimant Without Accommodation</u></p> <p>3. A claimant who is without accommodation.</p> <p><u>Members of Religious Orders</u></p> <p>4. A claimant who is a member of and fully maintained by a religious order.</p> <p><u>Specified Cases of Temporarily Separated Couples</u></p> <p>5. A claimant who is a member of a couple and who is temporarily separated from his partner, where—</p> <p>(a) one member of the couple is—</p> <p>▶<sup>6</sup>(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or◀</p>	<p>3. The amount applicable to him under regulation 83(a) (personal allowance) only.</p> <p>4. Nil*.</p> <p><i>*Nil amount maintained in force by art. 19(8) &amp; Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.</i></p> <p>5. Either—</p> <p>(a) the amount applicable to him as a member of a couple under regulation 83; or</p>

<sup>2</sup>Para. 1 omitted by reg. 6(5) of S.I. 2005/3360 as from 10.4.06.

<sup>3</sup>Para. 1A omitted by reg. 3(a) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

<sup>4</sup>Para. 2 omitted by para. 21(a) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>5</sup>Para. 2, as it had remained in force, omitted by reg. 3(a) of S.I. 2007/719 as from 8.4.07, see reg. 1 *ibid.*

<sup>6</sup>In para. 5, col. 1 head (i) substituted for (i) & (ii) by para. 10(a)(i) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

Column (1)	Column (2)
<p>(iii) resident in premises used for the rehabilitation of alcoholics or drug addicts, or</p> <p>(iv) resident in accommodation provided under section 3 of and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps)(a),</p> <p>(v) or participating in arrangements for training made under section 2 of the Employment and Training Act 1973(b), or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (c) or participating in an employment rehabilitation programme established under that section of the Act of 1973, where the course requires him to live away from the dwelling occupied as the home, or</p> <p>(vi) in a probation or bail hostel approved for the purpose by the Secretary of State, and</p> <p>(b) the other member of the couple is—</p> <p>(i) living in the dwelling occupied as the home, or</p> <p>(ii) a patient, or</p> <p>▶ (iii) residing in a care home, an Abbeyfield Home or an independent hospital. ◀</p> <p><u>Polygamous Marriages where one or more partners are temporarily separated</u></p> <p>6. A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner of his, where one of them is living in the home while the other member is—</p> <p>▶ (a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or ◀</p> <p>(b) resident in a residential care home; or</p> <p>(c) resident in premises used for the rehabilitation of alcoholics or drug addicts; or</p> <p>(d) attending a course of training or instruction provided or approved by the Secretary of State where the course requires him to live away from home; or</p>	<p>(b) the aggregate of his applicable amount and that of his partner assessed under the provisions of these Regulations if each of them were a single claimant, or a lone parent.</p> <p>whichever is the greater.</p> <p>6. Either—</p> <p>(a) the amount applicable to the members of the polygamous marriage under regulation 84; or</p> <p>(b) the aggregate of the amount applicable for the members of the polygamous marriage who remain in the home under regulation 84 and the amount applicable in respect of those members not in the home calculated as if each of them were a single claimant, or a lone parent.</p> <p>whichever is the greater.</p>

In para. 5(b), head (iii) substituted for (iii) & (iv) & in para. 6 sub-para. (a) substituted for (a) & (b) by para. 10(a)(ii) & (b) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(a) 1947 c. 19; amended by Sch. 4 of the Social Security Act 1980 (c. 30) and by S.I. 1951/174 and 1968/1699.

(b) 1973 c. 50; s. 2 was substituted by the Employment Act 1988 (c. 19), s. 25(1).

(c) 1990 c. 35.

Sch. 5

Paras. 7 - 9 omitted by para. 11(b) of Sch. 2 of S.I. 2003/1121 as from 6.10.03.

Para. 10 renumbered by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

Words omitted in Col. 2 of para. 10(1) by para. 20(b) of Part II to the Sch. in S.I. 2001/3767 as from 8.4.02.

Column (1)	Column (2)
<p>(e) in a probation or bail hostel approved for the purpose by the Secretary of State.</p> <p><u>Single claimants temporarily in local authority accommodation</u></p> <p>7. - 9. ►◄</p> <p><u>Couples where one member is absent from the United Kingdom</u></p> <p>►10.—(1)◄ Subject to paragraph 11, a claimant who is a member of a couple and whose partner is temporarily absent from the United Kingdom.</p>	<p>10.—(1) For the first four weeks of that absence, the amount applicable to them as a couple under regulation 83 ►◄ as the case may be and thereafter the amount applicable to the claimant in Great Britain under regulation 83 ►◄ as the case may be as if the claimant were a single claimant or, as the case may be, a lone parent.</p>



Column (1)	Column (2)
<p>▶(2) A claimant who is a member of a joint-claim couple and whose partner is temporarily absent from the United Kingdom—</p> <p>(a) in the circumstances prescribed in regulation 50(6A);</p> <p>(b) in any other circumstances.</p>	<p>(2)</p> <p>(a) For the first four weeks of that absence, the amount applicable to them as a couple under regulation 83 ▶◀ and thereafter the amount applicable to the claimant in Great Britain under regulation 83 ▶◀ as if the claimant were a single claimant;</p> <p>(b) the amount which would be applicable to the claimant under regulation 83 ▶◀ if that claimant was a single claimant for the period commencing on the date of claim and ending on the day after the day on which the partner returns to the United Kingdom.◀</p>
<p><u>Couple or member of couple taking child or young person abroad for treatment</u></p> <p>11.—(1) A claimant who is a member of a couple where either—</p> <p>(a) he or his partner is, or</p> <p>(b) both he and his partner are absent from ▶United Kingdom◀ in the circumstances specified in sub-paragraph (2).</p> <p>(2) For the purpose of a sub-paragraph (1), the specified circumstances are—</p> <p>(a) the claimant is absent from the United Kingdom but is treated as ▶available for and actively seeking◀ employment in accordance with regulations 14(1) and 19(1);</p> <p>(b) the claimant's partner is absent from the United Kingdom and Regulation 50(5) would have applied to him if he had claimed a jobseeker's allowance.</p>	<p>11. For the first 8 weeks of that absence, the amount applicable to the claimant under regulation 83 ▶◀, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulation 83 ▶◀, as the case may be, as if the claimant were a single claimant, or, as the case may be, a lone parent.</p>
<p><u>Polygamous marriages where any member is abroad</u></p> <p>12. Subject to paragraph 13 a claimant who is a member of a polygamous marriage where—</p> <p>(a) he or one of his partners is, or</p> <p>(b) he and one or more of his partners are, or</p> <p>(c) two or more of his partners are, temporarily absent from the United Kingdom.</p>	<p>12. For the first four weeks of that absence, the amount applicable to the claimant under regulations 84 to 87, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulations 84 to 87, as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.</p>

Para 10(2) inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

Words omitted in col.(2) of paras. 10 and 11 by reg. 2(2) of, and para. 20 of the Sch. to S.I. 2001/3767 as from 8.4.02.

Words in col. (1) para. 11(1)(b) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

Words in para. 11(2)(a) substituted by reg. 2(15) of S.I. 1997/454 as from 7.4.97.

## Sch. 5

Column (1)	Column (2)
<p><u>Polygamous marriage taking child or young person abroad for treatment</u></p> <p>13.—(1) A claimant who is a member of a polygamous marriage—</p> <p>(a) he or one of his partners is,</p> <p>(b) he and one more of his partners are, or</p> <p>▶(c) two or more of his partners are, absent from the United Kingdom in the circumstances specified in sub-paragraph (2).◀</p> <p>(2) For the purposes of sub-paragraph (1) the specified circumstances are—</p> <p>(a) in respect of the claimant, ▶◀ he is absent from the United Kingdom but is treated as available for and actively seeking employment in accordance with regulations 14(1) and 19(1); or</p> <p>▶(b)◀ one or more of the members of the polygamous marriage is absent from the United Kingdom and regulation 50(5) would have applied to the absent partner ▶ if he had claimed a jobseeker's allowance. ◀▶ had claimed a jobseeker's allowance.◀</p> <p>▶ <u>Partner of a person subject to immigration control</u></p> <p>13A.</p> <p>(a) A claimant who is the partner of a person subject to immigration control.</p> <p>(b) where regulations 84 (polygamous marriage) applies and the claimant is a person—</p> <p>(i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act; or</p> <p>(ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000; and</p> <p>(iii) who is member of a couple and one or more of his partners is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to her for the purposes of exclusion from entitlement to income-based jobseeker's allowance.◀</p>	<p>13. For the first 8 weeks of that absence, the amount applicable to the claimant under regulation 84 to 87, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulation 84 to 87, as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.</p> <p>▶13A.</p> <p>(a) the amount applicable in respect of the claimant only under regulation 83(a) plus any amount which may be applicable to him under regulation 83(e) or (f) plus the amount applicable to him under regulation 87(2) or (3) or, as the case may be, regulation 85;</p> <p>(b) the amount determined in accordance with that regulation or regulation 85 in respect of the claimant and any partners of his who are not subject to immigration control within the meaning of the Immigration and Asylum Act and to whom section 115 of that Act does not apply for the purposes of exclusion from entitlement to jobseeker's allowance;◀</p>

(a) Words in col. (1) para. 13(1) and (2)(b) substituted by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

Ref. (b) deleted, and "(b)" substituted for "(c)", in para. 13(2) of col. (1) by reg. 2(13)(b) of S.I. 1996/2538 as from 28.10.96.

See note (a) above.

Words added to col. (1), para. 13(2)(b), by reg. 2(13)(b)(iii) of S.I. 1996/2538 as from 7.10.96.

Para. 13A inserted in cols. (1) and (2) by reg. 4(7) of S.I. 2000/636 as from 3.4.00.

Para. 13A(a) & (b) in col. 2 substituted by para. 21(c) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

Column (1)	Column (2)
<p><i>Para. 13A(a) &amp; (b) col. 2 is reproduced as it was before being substituted by S.I. 2003/455. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.</i></p>	<p>13A.</p> <p>(a) The amount applicable in respect of the claimant only under regulation 83(a) plus that in respect of any child or young person who is a member of his family and who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and to whom section 115 of that Act does not apply for the purposes of exclusion from entitlement to jobseeker’s allowance, any amounts which may be applicable to him under regulation 83(b), (d) and (e) plus the amount applicable to him under regulation 87(2) or (3) or, as the case may be, regulation 85 ►<sup>1</sup>◄.</p> <p>(b) The amount determined in accordance with that regulation or regulation 85 ►<sup>1</sup>◄ in respect of the claimant and any partners of his and any child or young person for whom he or his partner is treated as responsible, who are not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act to whom section 115 of that Act does not apply for the purposes of exclusion from entitlement to jobseeker’s allowance.</p>
<p><u>Persons from Abroad</u></p>	
<p>14. ►<sup>2</sup>Person from Abroad◄</p>	<p>14. ►<sup>2</sup>Nil◄*</p>
<p><u>Persons in residential accommodation</u></p>	
<p>15.(1) ►<sup>3</sup>◄</p>	<p>*Nil amount maintained in force by art. 19(8) &amp; Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.</p>
<p>16. &amp; 17. ►<sup>4</sup>◄</p>	<p>►<sup>4</sup>◄</p>
<p>►<sup>5</sup><u>Joint-claim couples where a claim is made other than jointly by both members</u></p>	
<p>17A. A joint claim couple and one member—</p> <p>(a) is a person to whom regulation 3E(2)(a) applies,</p>	<p>(a) The amount which would be applicable to the claimant under regulation 83 ►<sup>3</sup>◄ if that claimant was a single claimant for the period commencing on the day on which the member of the couple who is not the claimant fails to attend at the time and place specified by the</p>

<sup>1</sup>Words omitted in col. (2) of para. 13A by reg. 2(2) of, and para. 20(d) of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words in col. (1) & (2) of para. 14 substituted by reg. 4(8) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Para. 15(1) omitted & words in col. (2) of para. 17A omitted by para. 11(c) & (d) of S.I. 2003/1121 as from 6.10.03.

<sup>4</sup>Paras. 16 & 17 omitted by reg. 2(2) of, & para. 20(e) of Part II of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>5</sup>Para. 17A inserted by reg. 2(5) of S.I. 2000/1978 as from 19.3.01.

## Sch. 5

<i>Column (1)</i>	<i>Column (2)</i>
(b) is a person to whom regulation 3E(2)(b) applies;	Secretary of State for the purposes of regulation 6 of the Claims and Payments Regulations and ending on the day on which that member does so attend;  (b) the amount which would be applicable to the claimant under regulation 83 <sup>1</sup> if that claimant was a single claimant.

<sup>1</sup>Words omitted in col. (2) of para. 17A by para. 11(d) of S.I. 2003/1121 as from 6.10.03.

**Rounding of fractions**

**18.** Where any calculation under this Schedule or as a result of a jobseeker's allowance being awarded for a period less than one complete benefit week results in a fraction of a penny that fraction shall be treated as a penny.

►<sup>1</sup>SCHEDULE 5A

Regulation 86C

APPLICABLE AMOUNTS OF JOINT-CLAIM COUPLES IN SPECIAL CASES

<sup>1</sup>Sch. 5A inserted by reg. 2(5) of, and para. 57 of Sch. 2 to S.I. 2000/1978 as from 19.3.01. N.B. Para. 12 does not exist.

Column (1)	Column (2)
<p><u>Patients</u></p> <p>1. ►<sup>2</sup>◄</p> <p>1A. ►<sup>3</sup>◄</p> <p><u>Joint-Claim Couple Without Accommodation</u></p> <p>2. A joint-claim couple who are without accommodation.</p> <p><u>Members of Religious Orders</u></p> <p>3. A joint-claim couple who are both members of and fully maintained by a religious order.</p> <p><u>Specified Cases of Temporarily Separated Joint-Claim Couples</u></p> <p>4. A joint-claim couple who are temporarily separated where—</p> <p>(a) one member is—</p> <p>►<sup>4</sup>(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital; or ◄</p> <p>(iii) resident in premises used for the rehabilitation of alcoholics or drug addicts;</p> <p>(iv) resident in accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps(a));</p>	<p>2. The amount applicable to the couple under regulation 86A(a) (personal allowance) only.</p> <p>3. Nil.*</p> <p><i>*Nil amount maintained in force by art. 19(8) &amp; Sch. 12 of S.I. 2015/457. See art. 1(2)(h) of the S.I. for relevant effective dates and when to apply.</i></p> <p>4. Either</p> <p>(a) the amount applicable to the joint-claim couple under regulation 86A; or</p> <p>(b) the aggregate of the applicable amounts of both claimants assessed under the the provisions of these Regulations as if each of them were a single claimant, whichever is the greater.</p>

<sup>2</sup>Para. 1 omitted by reg. 6(5) of S.I. 2005/3360 as from 10.4.06.  
<sup>3</sup>Para. 1A omitted by reg. 3(10) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>4</sup>In para. 4, col. 1, heads (i) & (ii) of sub-para. (a) substituted by head (i) by para. 11(a)(i) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(a) 1947 c. 19; S. 3(1) was amended by the Ministry of Social Security Act 1966 (c. 20), s. 39(1) and Sch. 6 and by the Social Security Act 1980 (c. 30), s. 20(1) and Sch. 4, para. 1(1)(a).

Sch. 5A

Column (1)	Column (2)
<p>(v) participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a), or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) or participating in an employment rehabilitation programme established under that section of the Act of 1973, where the course requires him to live away from the dwelling occupied as the home; or</p> <p>(vi) in a probation or bail hostel approved for the purpose by the Secretary of State, and</p> <p>(b) the other member is—</p> <p>(i) living in the dwelling occupied as the home;</p> <p>(ii) a patient;</p> <p>▶<sup>1</sup>(iii) residing in a care home, an Abbeyfield Home or an independent hospital.◀</p> <p><u>Polygamous Marriages where one or more members of the marriage are temporarily separated</u></p> <p>5. A joint-claim couple where one member is a member of a polygamous marriage and is temporarily separated from a partner of his, where one of them is living in the home while the other member is—</p> <p>▶<sup>1</sup>(a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or◀</p> <p>(c) resident in premises used for the rehabilitation of alcoholics or drug addicts;</p> <p>(d) attending a course of training or instruction provided or approved by the Secretary of State where the course requires him to live away from home; or</p> <p>(e) in a probation or bail hostel approved for the purpose by the Secretary of State.</p> <p>6. ▶<sup>2</sup>◀</p>	<p>5. Either—</p> <p>(a) the amount applicable to the joint-claim couple under regulation 86B; or</p> <p>(b) the aggregate of the amount applicable for the joint-claim couple in respect of the members of the polygamous marriage who remain in the home under regulation 86B and the amount applicable in respect of those members not in the home calculated as if each of them were a single claimant, whichever is the greater.</p>

<sup>1</sup>In para. 4(b), col. 1, heads (iii) & (iv) substituted by head (iii) & in para. 5, sub-paras. (a) & (b) substituted by (a) by para. 11 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

<sup>2</sup>Para. 6 of Sch. 5A omitted by reg. 6(3) of S.I. 2004/565 as from 1.4.04.

(a) 1973 c. 50, s. 2 was substituted by the Employment Act 1988 (c. 19), s. 25(1) and amended by s. 29(4) of, and Part I of Sch. 7 to, the Employment Act 1989 (c. 38) and s. 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).  
 (b) 1990 c. 35.

Column (1)	Column (2)
<p><u>Joint-claim couples where one member is absent from the United Kingdom</u></p> <p>7. A joint-claim couple where one member is temporarily absent from the United Kingdom—</p> <p>(a) in the circumstances prescribed in regulation 50(6B);</p> <p>(b) in any other circumstances.</p>	<p>7.</p> <p>(a) The amount applicable to them as a couple under regulation 86A <sup>1</sup> for the relevant period prescribed in regulation 50(6B).</p> <p>(b) For the first four weeks of that absence, the amount applicable to them as a couple under regulation 86A <sup>1</sup> as the case may be and thereafter the amount applicable to the claimant in Great Britain under regulation 83 <sup>1</sup> as the case may be as if that claimant were a single claimant.</p>
<p><u>Polygamous marriages where any member of the marriage is abroad</u></p> <p>8. A joint-claim couple where one member is a member of a polygamous marriage and—</p> <p>(a) he, the other member or one of his partners is;</p> <p>(b) he, the other member and one or more of his partners are; or</p> <p>(c) the other member and one or more of his partners or two or more of his partners are,</p> <p>temporarily absent from the United Kingdom.</p>	<p>8. For the first four weeks of that absence, the amount applicable to the joint-claim couple, under regulations 86B to 86C, as the case may be, and thereafter, if the joint-claim couple are in Great Britain the amount applicable to them under regulations 86B to <sup>1</sup>86C<sup>1</sup>, as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.</p>
<p><u>Members of joint-claim couples in residential accommodation</u></p> <p>9. <sup>2</sup></p> <p>10.-11. <sup>3</sup></p>	<p><sup>3</sup></p>

<sup>1</sup>Words omitted and substituted in col. (2) of paras. 7 and 8 by reg. 2(2) of, and para. 21 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Para. 9 omitted by para. 12(b) of Sch. 2 to S.I. 2003/1121 as from 6.10.03.

<sup>3</sup>Paras. 10 and 11 omitted by reg. 2(2) of, and para. 21(d) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

**Rounding of Fractions**

13. Where any calculation under this Schedule or as a result of a joint-claim jobseeker's allowance being awarded for a period of less than one complete benefit week results in a fraction of a penny, that fraction shall be treated as a penny.

## SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

<sup>1</sup>Paras. 1 & 2 of Sch. 6 & words in para. 3(b) substituted by reg. 8(14)(a) & (b) of S.I. 2007/2618 as from 1.10.07.

<sup>2</sup>In Sch. 6, words in para. 1(1)(b) & para. 1(2)(a) substituted by reg. 4(14)(a) & (b) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

►<sup>1</sup>1.—(1) In the case of a claimant who has been engaged in remunerative work as an employed earner or, had 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 ►<sup>2</sup>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—

- <sup>2</sup>(a) any payment of the nature described in—
  - (i) regulation 98(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 98(1)(f) or (g), or
  - (ii) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals)(a),
 including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings.

**1A.** If the claimant's partner has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged, any earnings paid or due to be paid on termination of that employment by way of retirement but only if—

- (a) on retirement the partner is entitled to a retirement pension under the Benefits Act, or
- (b) the only reason the partner is not entitled to a retirement pension under the Benefits Act is because the contribution conditions are not satisfied.

**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 98(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 ►<sup>1</sup>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 95(2) (royalties etc.) applies.

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(a) 1996 c. 18.



5.—(1) In a case to which this paragraph applies, ►<sup>1</sup>£20◄; but notwithstanding regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than ►<sup>1</sup>£20◄.

<sup>1</sup>Amounts substituted in para. 5(1) by reg. 3 of S.I. 2000/2545 as from 1.4.01.

(2) This paragraph applies where the claimant's applicable amount includes, or but for his being an in-patient ►<sup>2</sup>◄►<sup>3</sup>◄ would include, an amount by way of a disability premium under Schedule 1 (applicable amounts).

<sup>2</sup>Words omitted in para. 5(2), (3)(a)(ii) and (4)(a) by reg. 2(2) of, and para. 22(a) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(3) This paragraph applies where—

(a) the claimant is a member of a couple, and—

- (i) his applicable amount would include an amount by way of the disability premium under Schedule 1 but for the higher pensioner premium under the Schedule being applicable; or
- (ii) had he not been an in-patient ►<sup>2</sup>◄►<sup>3</sup>◄ his applicable amount would include the higher pensioner premium under that Schedule and had that been the case he would also satisfy the condition in (i) above; and

<sup>3</sup>Words omitted in sub-paras. (2), (3)(a)(ii) & (4)(a) of para. 5 by para. 12 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(b) he or his partner ►<sup>4</sup>has not attained the qualifying age for state pension credit◄ and at least one is engaged in part-time employment.

<sup>4</sup>Words substituted in para. 5(3)(b), (4)(b), (7)(a)(i) & (b) of Sch. 6 by reg. 15(2)(a) & (b) of S.I. 2009/1488 as from 6.4.10.

(4) This paragraph applies where—

- (a) the claimant's applicable amount includes, or but for his being an inpatient ►<sup>2</sup>◄►<sup>3</sup>◄ would include, an amount by way of the higher pensioner premium under Schedule 1; and
- (b) the claimant or, if he is a member of a couple, either he or his partner has attained ►<sup>4</sup>the qualifying age for state pension credit◄; and
- (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in part-time employment and the claimant was entitled by virtue of sub-paragraph (2) or (3) to a disregard of ►<sup>5</sup>£20◄; and
- (d) he or, as the case may be, he or his partner has continued in part-time employment.

<sup>5</sup>Amount substituted in para. 5(4)(c) by reg. 3 of S.I. 2000/2545 as from 1.4.01 (subject to the saving provision in reg. 4 of S.I. 2000/2545).

(5)–(6) ►<sup>6</sup>◄

<sup>6</sup>Para. 5(5) and (6) of Sch. 6 revoked by 12(a) of S.I. 2000/681 as from 3.4.00.

(7) For the purposes of this paragraph—

- (a) except where head (b) or (c) applies, no account shall be taken of any period not exceeding eight consecutive weeks occurring—
  - (i) on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained ►<sup>4</sup>the qualifying age for state pension credit◄ during which either was or both were not engaged in part-time employment or the claimant was not entitled to a jobseeker's allowance►<sup>7</sup>, income support or an employment and support allowance◄; or
  - (ii) immediately after the date on which the claimant or his partner ceased to participate in arrangements for training made under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) or to participate in an employment rehabilitation programme established under that section of the 1973 Act;
- (b) in a case where the claimant has ceased to be entitled to a jobseeker's allowance►<sup>7</sup>, income support or an employment and support allowance◄ because he, or if he is a member of a couple, he or his partner becomes engaged in remunerative work, no account shall be taken of any period, during which he was not entitled to a jobseeker's allowance►<sup>7</sup>, income support or an employment and support allowance◄ not exceeding the permitted period, occurring on or after the date on which the claimant or, as the case may be, his partner attained ►<sup>4</sup>the qualifying age for state pension credit◄;

<sup>7</sup>Words inserted in para. 5(7)(a)(i) & (b) by reg. 3(25) of S.I. 2008/1554 as from 27.10.08.

(a) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), Part I of Schedule 7 to the Employment Act 1989 (c. 38), and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35.

## Sch. 6

<sup>1</sup>Words substituted in para. 5(7)(c) of Sch. 6 by reg. 15(2)(b) of S.I. 2009/1488 as from 6.4.10.

<sup>2</sup>Words inserted in para. 5(7)(c) by reg. 3(25) of S.I. 2008/1554 as from 27.10.08.

<sup>3</sup>Para. 6 substituted by reg. 15 of S.I. 1998/766 as from 6.4.98.

<sup>4</sup>Amounts in paras. 6, 7, 8, 9 & 10 substituted by reg. 3 of S.I. 2000/2545 as from 1.4.01.

<sup>5</sup>Words in para. 7(1) substituted by reg. 3(4) & (5) of S.I. 2003/511 as from 1.4.03.

<sup>6</sup>Paras. 9(1)(a), (aa), (ab) omitted and (a) inserted by reg. 6(14)(a)-(d) of S.I. 2013/2536 as from 29.10.13.

<sup>7</sup>Words in Sch. 6 para. 9(1)(d) omitted by reg. 2(6) of S.I. 2015/389 as from 6.4.15.

<sup>8</sup>Words substituted in para. 9(1)(d) by reg. 13(3)(c) of S.I. 2006/2378 as from 2.10.06.

- (c) no account shall be taken of any period occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained <sup>1</sup>the qualifying age for state pension credit<sup>2</sup>, income support or an employment and support allowance<sup>3</sup> because he or his partner was participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or participating in an employment rehabilitation programme established under that section of the 1973 Act.

<sup>3</sup>6. In a case where the claimant is a lone parent and paragraph 5 does not apply, <sup>4</sup>£20<sup>4</sup>.

7.—(1) In a case to which neither paragraph 5 or 6 applies to the claimant, and subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), <sup>4</sup>£20<sup>4</sup> of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of <sup>5</sup>carer's allowance<sup>4</sup> or treated in accordance with paragraph 17(2) of that Schedule as being in receipt of <sup>5</sup>carer's allowance<sup>4</sup>.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed <sup>4</sup>£20<sup>4</sup> of the aggregated amount.

8. Where the carer premium is awarded in respect of a claimant who is a member of a couple and whose earnings are less than <sup>4</sup>£20<sup>4</sup>, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 7 exceed <sup>4</sup>£20<sup>4</sup>;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £5 as would not when aggregated with the amount disregarded under paragraph 7 exceed <sup>4</sup>£20<sup>4</sup>.

9.—(1) In a case to which none of paragraphs 5 to 8 applies to the claimant, <sup>4</sup>£20<sup>4</sup> of earnings derived from one or more employments as—

(a)-(ab) <sup>6</sup>

- <sup>6</sup>(a) a part-time fire-fighter employed by a fire and rescue authority under the Fire and Rescue Services Act 2004 or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;<sup>4</sup>
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part-time in the manning or launching of a lifeboat;
- (d) a member of any <sup>7</sup>reserve force prescribed in Part I of <sup>8</sup>Schedule 6 to the Social Security (Contributions) Regulations 2001<sup>4</sup>;

but, notwithstanding regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the claimant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed <sup>4</sup>£20<sup>4</sup>;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £5 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed <sup>4</sup>£20<sup>4</sup>.

10. Where the claimant is engaged in one or more employments specified in paragraph 9(1) but his earnings derived from such employments are less than <sup>4</sup>£20<sup>4</sup> 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 9 exceed <sup>4</sup>£20<sup>4</sup>.

11. Where the claimant is a member of couple ►<sup>1</sup>◄—

- (a) in a case to which none of paragraphs 5 to 10 applies, £10; but, notwithstanding regulation 88 (calculation of income and capital of members of a claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this sub-paragraph are less than £10;
- (b) in a case to which one or more of paragraphs 5 to 10 applies and the total amount is regarded under those paragraphs is less than £10, so much of the claimant's earnings as would not in aggregate with the amount disregarded under paragraphs 5 to 10 exceed £10.

<sup>1</sup>Words in para. 11 deleted by reg. 19 of S.I. 1996/1516 as from 7.10.96.

12. In a case to which none of paragraphs 5 to 11 applies to the claimant, £5.

13. 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 96(1)(b) (date on which income 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.

14. 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.

15. 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.

16. 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.

17. Any earnings of a child or young person ►<sup>2</sup>◄

*Para. 17 is reproduced below as it was before the amdt. in 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply this version.*

17. Any earnings of a child or young person except earnings to which paragraph 18 applies.

<sup>2</sup>Words in para. 17 & para. 18 omitted by para. 22 of Sch. 2 to S.I. 2003/455 as from 6.4.04.

18. ►<sup>2</sup>◄

*Para. 18 remains reproduced below as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

18. In the case of earnings of a child or young person who although not receiving full-time education for the purposes of section 142 of the Benefits Act (meaning of "child") is nonetheless treated for the purposes of these Regulations as receiving relevant education and who is engaged in remunerative work—

- (a) if an amount by way of a disabled child premium under Schedule 1 (applicable amounts) is ►<sup>3</sup>◄ included in the calculation of his applicable amount and his earning capacity is not, by reason of his disability, less than 75 per cent. of that which he would, but for that disability, normally be expected to earn, ►<sup>4</sup>20◄;
- (b) in any other case, £5.

<sup>3</sup>Words omitted in para. 18(a) by reg. 2(2) of, and para. 22(b) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Amount in paras. 18(a) substituted by reg. 3 of S.I. 2000/2545 as from 1.4.01.

<sup>5</sup>Para. 19 replaced by reg. 2(7) of S.I. 2012/1616 as from 30.7.12.

►<sup>5</sup>19.—(1) In the case of a contribution-based jobseeker's allowance, where by reason of earnings to which sub-paragraph (3) applies (in aggregate with the claimant's other earnings (if any) calculated in accordance with this Part) the claimant would (apart from this paragraph) have a personal rate of less than 10 pence, the amount of such earnings but only to the extent that that amount exceeds the claimant's personal rate less 10 pence.

(2) In the case of an income-based jobseeker's allowance, where earnings to which sub-paragraph (3) applies (in aggregate with the claimant's other income (if any) calculated in accordance with this Part) exceed the applicable amount less 10 pence, the amount of those earnings corresponding to that excess.

## Schs. 6-6A

<sup>1</sup>Words in Sch. 6, para. 19(3) omitted & inserted by reg. 3(6)(b)(i) & (ii) as from 6.4.15.

(3) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 9, derived by the claimant from employment as a member of any <sup>1</sup> reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year <sup>1</sup> or in respect of training in the claimants' first year of training as a member of a reserve force for a maximum of 43 days in that year.

(4) In sub-paragraph (1), "personal rate" means the rate for the claimant calculated as specified in section 4(1) of the Act.

**20.** 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).

**21.** In paragraph 5(7)(b) "permitted period" means a period determined in accordance with regulation 3A of the Income Support Regulations(a), as it has effect by virtue of regulation 87(7) of these Regulations.

<sup>2</sup>Sch. 6A inserted by reg. 58 of S.I. 2000/1978 as from 19.3.01.

## ►<sup>2</sup>SCHEDULE 6A

Regulation 88ZA(4)

### SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS OF MEMBERS OF JOINT-CLAIM COUPLES

<sup>3</sup>Amounts in para. 1(1) & (4)(c) substituted by reg. 3 of S.I. 2000/2545 as from 1.4.01.

**1.—(1)** In a case to which this paragraph applies, <sup>3</sup>£20; but notwithstanding regulation 88ZA (calculation of income and capital of members of a joint-claim couple), if this paragraph applies to one member of a joint-claim couple, it shall not apply to the other member except where, and to the extent that, the earnings of the member which are to be disregarded under this paragraph are less than <sup>3</sup>£20.

<sup>4</sup>Words omitted in para. 1(2), (3)(a)(ii) and (4)(a) by reg. 2(2) of, and para. 23 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(2) This paragraph applies where the joint-claim couple's applicable amount includes, or but for one member being an in-patient <sup>4</sup> <sup>5</sup> would include, an amount by way of a disability premium under Schedule 1 (applicable amounts).

<sup>5</sup>In para. 1 words omitted in sub-paras. (2), (3)(a)(ii) & (4)(a) by para. 13 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

(3) This paragraph applies where—

(a) the joint-claim couple's applicable amount would include—

- (i) an amount by way of the disability premium under Schedule 1 but for the higher pensioner premium under that Schedule being applicable; or
- (ii) had a member of that couple not been an in-patient <sup>4</sup> <sup>5</sup>, the higher pensioner premium under that Schedule and had that been the case, the joint-claim couple would also satisfy the condition in (i) above; and

(b) either member <sup>6</sup> has not attained the qualifying age for state pension credit and at least one is engaged in part-time employment.

<sup>6</sup>Words substituted in para. (1)(3)(b) & (4)(b) of Sch. 6A by reg. 16(2)(a) & (b) of S.I. 2009/1488 as from 6.4.10.

(4) This paragraph applies where—

- (a) the joint-claim couple's applicable amount includes, or but for a member being an in-patient <sup>4</sup> <sup>5</sup> would include, an amount by way of the higher pensioner premium under Schedule 1; and
- (b) either member has attained <sup>6</sup> the qualifying age for state pension credit; and
- (c) immediately before attaining that age either, or as the case may be both, members were engaged in part-time employment and the joint-claimant was entitled by virtue of sub-paragraph (2) or (3) to a disregard of <sup>3</sup>£20; and
- (d) either, or as the case may be both, members have continued in part-time employment.

(5) For the purposes of this paragraph—

- (a) except where paragraph (b) or (c) applies, no account shall be taken of any period not exceeding eight consecutive weeks occurring—

(a) Regulation 3A was inserted by S.I. 1989/1678 and is amended by S.I. 1996/206.

## Sch. 6A

- (i) on or after the date on which either member attained <sup>1</sup>the qualifying age for state pension credit<sup>◀</sup> during which either member was, or both members were, not engaged in part-time employment or either member was, or both members were, not entitled to a jobseeker's allowance<sup>▶</sup><sup>2</sup>, income support or an employment and support allowance<sup>◀</sup>; or
- (ii) immediately after the date on which either member ceased to participate in arrangements for training made under section 2 of the Employment and Training Act 1973<sup>(a)</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>(b)</sup> or ceased to participate in an employment rehabilitation programme established under that section of the 1973 Act;
- (b) in a case where either or both members have ceased to be entitled to a jobseeker's allowance<sup>▶</sup><sup>2</sup>, income support or an employment and support allowance<sup>◀</sup> because either member becomes engaged in remunerative work, no account shall be taken of any period during which either or both members were not entitled to a jobseeker's allowance<sup>▶</sup><sup>2</sup>, income support or an employment and support allowance<sup>◀</sup>, not exceeding the permitted period, occurring on or after the date on which either member attained the age of 60;
- (c) no account shall be taken of any period occurring on or after the date on which either member attained the age of 60 during which either or both members were not entitled to a jobseeker's allowance<sup>▶</sup><sup>2</sup>, income support or an employment and support allowance<sup>◀</sup> because either or both members were participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or participating in an employment rehabilitation programme established under that section of the 1973 Act.

<sup>1</sup>Words substituted in para. (5)(a)(i) of Sch. 6A by reg. 16(2)(b) of S.I. 2009/1488 as from 6.4.10.

<sup>2</sup>Words substituted in para. 1(5)(a)(i), (5)(b) & (c) by reg. 3(27) of S.I. 2008/1554 as from 27.10.08.

2.—(1) In a case where paragraph 1 does not apply to a member of a joint-claim couple and subject to sub-paragraph (2), where the joint-claim couple's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), <sup>3</sup>£20<sup>◀</sup> of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of a <sup>4</sup>carer's allowance<sup>◀</sup> or treated in accordance with paragraph 20J(2) of that Schedule as being in receipt of a <sup>3</sup>carer's allowance<sup>◀</sup>.

<sup>3</sup>Amounts in paras. 2, 3 & 4 substituted by reg. 3 of S.I. 2000/2545 as from 1.4.01.

(2) Where the carer premium is awarded in respect of a joint-claim couple, the earnings of each member shall for the purposes of this paragraph be aggregated but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed <sup>3</sup>£20<sup>◀</sup> of the aggregated amount.

<sup>4</sup>Words substituted in para. 2(1) by reg. 3(4) & (6) of S.I. 2003/511 as from 1.4.03.

3.—(1) In the case to which neither paragraph 1 nor 2 applies to a member of a joint-claim couple ("the first member"), <sup>3</sup>£20<sup>◀</sup> of earnings derived from one or more employments to which paragraph 9 of Schedule 6 applies but, notwithstanding regulation 88ZA (calculation of income and capital of a joint-claim couple), if this paragraph applies to one member of a joint-claim couple it shall not apply to the other member except to the extent specified in sub-paragraph (2).

(2) If the other member is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the first member's earnings disregarded under this paragraph exceed <sup>3</sup>£20<sup>◀</sup>;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £5 as would not in aggregate with the first member's earnings disregarded under this paragraph exceed <sup>3</sup>£20<sup>◀</sup>.

4. Where a member of a joint-claim couple is engaged in one or more employments specified in paragraph 3(1) but his earnings derived from such employments are less than <sup>3</sup>£20<sup>◀</sup> 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 3 exceed <sup>3</sup>£20<sup>◀</sup>.

(a) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25(1) and amended by section 29(4) of, and Part I of Schedule 7 to, the Employment Act 1989 (c. 38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35.

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<sup>1</sup>Para. 5 omitted by reg. 2(8) of S.I. 2012/1616 as from 30.7.12.

5. ▶<sup>1</sup>◀

6.—(1) In a case where none of paragraphs 1 to 5 apply, £10 but, notwithstanding regulation 88ZA (calculation of income and capital of joint-claim couples), if this paragraph applies to one member of a joint-claim couple, it shall not apply to the other member except where, and to the extent that, the earnings of the member which are to be disregarded under this sub-paragraph are less than £10.

(2) In a case where one or more of paragraphs 1 to 5 apply and the total amount disregarded under those paragraphs is less than £10, so much of the earnings of the member of a joint-claim couple as would not in aggregate with the amount disregarded under paragraphs 1 to 5 exceed £10.

7. In this Schedule, “part-time employment” and “permitted period” shall bear the meanings prescribed respectively in paragraphs 20 and 21 of Schedule 6.◀

## SCHEDULE 7

Regulation 103(2)

SUMS TO BE DISREGARDED IN THE CALCULATION OF INCOME  
OTHER THAN EARNINGS

*See reg. 16(1)(d) & (2) of S.I. 2010/1222 at page 11.7185 for details of the modifications to Sch. 7 in certain situations as from 22.11.10.*

<sup>2</sup>Sch. 7, para. A2 inserted by reg. 14(1)(d) & (2) of S.I. 2011/688 as from 25.4.11.

▶<sup>2</sup>A2. Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.◀

<sup>3</sup>Sch. 7, para. A3 added by reg. 14(1)(d) & (2) of S.I. 2011/917 as from 20.5.11.

▶<sup>3</sup>A3. Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.◀

<sup>4</sup>Sch. 7, para. A4 inserted by reg. 13(2) of S.I. 2014/1913 as from 18.7.14.

▶<sup>4</sup>A4. Any payment made to the claimant in respect of any child care, travel or other expenses incurred, or to be incurred, by the claimant in respect of the claimant's participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014.◀

<sup>5</sup>Sch. 7, para. A5 inserted by reg. 17(2) of S.I. 2014/3117 as from 25.11.14.

▶<sup>5</sup>A5. Any payment made to the claimant in respect of any child care, travel or other expenses incurred, or to be incurred, by the claimant in respect of their participation in a scheme prescribed in regulation 3 of the Jobseekers Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014.◀

1. Any amount paid by way of tax on income which is taken into account under regulation 103 (calculation of income other than earnings).

<sup>6</sup>Words in para. 2 inserted by reg. 2(d) of S.I. 2001/2296 as from 24.9.01.

2. Any payment in respect of any expenses incurred▶<sup>6</sup>, or to be incurred,◀ by a claimant who is—

- (a) engaged by a charitable or voluntary organisation; or
- (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 105(13) (notional income).

<sup>7</sup>Para. 2A inserted in Sch. 7 by reg. 4(15)(a) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

▶<sup>7</sup>2A. Any payment in respect of expenses arising out of the ▶<sup>8</sup>claimants participating as a service user.◀◀

<sup>8</sup>Words in para. 2A substituted by reg. 4(6) of S.I. 2014/591 as from 28.4.14.

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

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4. In the case of a payment of ►<sup>1</sup>►<sup>2</sup>statutory paternity pay◄ by virtue of Part 12ZA of the Benefits Act, statutory adoption pay by virtue of Part 12ZB of the Benefits Act,◄ ►<sup>2</sup>statutory shared parental pay by virtue of Part 12ZC of the Benefits Act,◄ statutory sick pay or statutory maternity pay or any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity ►<sup>1</sup>or who is taking paternity leave►<sup>2</sup>, adoption leave or shared parental leave◄—

- (a) any amount deducted by way of primary Class 1 contributions under the Benefits Act;
- (b) one-half of any sum paid by the claimant by way of contribution towards an occupational or personal pension scheme.

5. In the case of the payment of statutory sick pay or statutory maternity pay under Parts XI or XII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a)►<sup>1</sup>, or a payment under any enactment having effect in Northern Ireland corresponding to a payment of ►<sup>2</sup>statutory paternity pay◄ ►<sup>2</sup>statutory shared parental pay or statutory adoption pay◄◄—

- (a) any amount deducted by way of primary Class 1 contributions under that Act;
- (b) one-half of any sum paid by way of a contribution towards an occupational or personal pension scheme.

6. Any housing benefit ►<sup>3</sup>to which the claimant is entitled.◄

►<sup>4</sup>6A. Any guardian's allowance.◄

►<sup>5</sup>6B.—(1) Any child tax credit.

(2) Any child benefit◄

►<sup>6</sup>(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90(b) of the Benefits Act where—

- (a) the claimant has a child or young person who is a member of the claimant's family for the purposes of the claimant's claim for income-based jobseeker's allowance, and
- (b) the claimant, or that claimant's partner, has been awarded a child tax credit.◄

►<sup>7</sup>7. The mobility component of disability living allowance ►<sup>8</sup>or the mobility component of personal independence payment.◄

8. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 7 or 10;
- <sup>7</sup>(b) income support;
- (c) an income-based jobseeker's allowance; ►<sup>9</sup>◄
- (d) an income-related employment and support allowance◄►<sup>9</sup>; or
- (e) universal credit.◄

9. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.

10. Any attendance allowance►<sup>8</sup>, the care component of disability living allowance or the daily living component of personal independence payment◄►<sup>10</sup>◄

11. Any payment to the claimant as holder of the Victoria Cross or George Cross or any analogous payment.

<sup>1</sup>Words inserted in para. 4 & 5 by reg. 3(6)(a) & (b) of S.I. 2002/2689 as from 8.12.02.

<sup>2</sup>Words in Sch. 7, paras. 4 & 5 substituted & inserted by reg. 7(6)(a) & (b) of S.I. 2014/3255. See reg. 1(2) & (3) for specific commencement dates.

<sup>3</sup>Words inserted in para. 6 by reg. 6(5) of S.I. 2005/574 as from 4.4.05.

<sup>4</sup>Para. 6A inserted in Sch. 7 by Sch. 2, para. 23(a) of S.I. 2003/455 as from 7.4.03.

<sup>5</sup>Para. 6B inserted by para. 23(b) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Para. 6B(3) of Sch. 7 inserted by reg. 4(5)(a) of S.I. 2010/2429 as from 1.11.10.

<sup>7</sup>Paras. 7 & 8(b) substituted & paras. 8(c) & (d) added by reg. 3(10)(a)-(c) of S.I. 2008/3157 as from 5.1.09.

<sup>8</sup>Words inserted in para. 7 & substituted in para. 10 by para. 16(g) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>9</sup>Words omitted & para. 8(e) inserted into para. 8 by reg. 30(8) of S.I. 2013/630 as from 29.4.13.

<sup>10</sup>Words omitted in para. 10 by reg. 2(2) of, and para. 24(a) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(a) 1992 c. 7.

(b) Section 80 was repealed by Schedule 6 to the Tax Credits Act 2002, with savings under article 3 of S.I. 2003/938 and section 90 was repealed by Part 2 of Schedule 7 to the Welfare Reform Act 2009 (c. 24), with transitional provisions under section 15(2) and (3) of that Act.

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<sup>1</sup>Para. 12 substituted by reg. 6(3) of S.I. 2004/1708 as from 1.9.04 (or during August 2004 if reg. 1(1)(b)(i) *ibid* applies).

<sup>2</sup>Paras. 12(1)(a)(iii) & (2)(c) substituted by reg. 3(10)(a)-(c) of S.I. 2008/3157 as from 5.1.09.

<sup>3</sup>Words omitted and sub-para. (c) inserted in para. 12(1) of Sch. 7 by reg. 10(14)(a)-(b) of S.I. 2011/2425 as from 31.10.11.

<sup>4</sup>Words inserted in para. 12(2) of Sch. 7 by reg. 10(14)(c) of S.I. 2011/2425 as from 31.10.11.

<sup>5</sup>Para. 12A inserted by reg. 3(b) of S.I. 2002/2380 as from 14.10.02.

<sup>6</sup>Para. 14 substituted by reg. 5(3)(a) of S.I. 2004/565 as from 1.4.04.

<sup>7</sup>Words substituted in para. 14(1)(a) by reg. 3(28)(b) of S.I. 2008/1554 as from 27.10.08.

►<sup>1</sup>12.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;

►<sup>2</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(a) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(b); ►<sup>3</sup>◄◄

- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002; or
  - (ii) regulations made under section 181 of that Act►<sup>3</sup>; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.◄

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- <sup>2</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,◄

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance ►<sup>4</sup>or other payment◄ made pursuant to any provision specified in sub-paragraph (1).◄

►<sup>5</sup>12A. Any payment made to the claimant by way of repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(c).◄

**13.** In the case of a claimant to whom regulations 11 (part-time students) applies, any sums intended for any expenditure specified in paragraph (2) of regulation 131 (calculation of grant income) necessary as a result of his attendance on his course.

►<sup>6</sup>14.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit►<sup>7</sup>, severe disablement allowance or employment and support allowance◄
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed; or

(a) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(b) 1992 c. 37.

(c) S.I. 2002/2086.



- (d) made in respect of the cost of living away from home to the extent that the payment relates to rent for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.◀

**15.—**<sup>1</sup>(1) Subject to sub-paragraph (3) and paragraph 41, any relevant payment made or due to be made at regular intervals.◀

(2) ▶<sup>1</sup>◀

(3) ▶<sup>1</sup>Sub-paragraph (1)◀ shall not apply—

- (a) to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children;
- (b) to a payment made—
  - (i) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or
  - (ii) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute.

(4)–(5) ▶<sup>1</sup>◀

▶<sup>2</sup>(5A) In this paragraph, “relevant payment” means—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;

<sup>1</sup>Para. 15(1), words in sub-para. (3) substituted & sub-paras. (2), (4), (5) omitted by reg. 13(12)(a) & (b) of S.I. 2006/2378 as from 1.10.06.

<sup>2</sup>Sub-para. (5A) inserted in para. 15 by reg. 3(1)(d) of S.I. 2002/2442 as from 28.10.02.



- (d) a payment under an annuity purchase—
  - (i) pursuant to any agreement or court order to make payments to the claimant; or
  - (ii) from funds received from a payment made, in consequence of any personal injury to the claimant; or
- (e) a payment (not falling within sub-paragraphs (a) and (d) above) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.◀

(6) ▶<sup>1</sup>◀

**16.** ▶<sup>2</sup>◀

**16A.** ▶<sup>3</sup>◀

▶<sup>4</sup>**17.** Subject to paragraphs 38 and 39, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a ▶<sup>5</sup>pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005◀, so much of ▶<sup>3</sup>that pension or payment◀ as would not, in aggregate with the amount of ▶<sup>3</sup>any◀ guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (h) any widowed mother's allowance paid pursuant to section 37 of the Benefits Act;
- (i) any widowed parent's allowance paid pursuant to section 39A of the Benefits Act.◀

**18.** Where a claimant receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor or two or more persons (in this paragraph referred to as "the annuitants") who include the person to whom the loan was made;
- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (d) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the accommodation on which it was secured as his home at the time the interest is paid,

<sup>1</sup>Para. 15(6) omitted, by para. 24 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words in para. 16 omitted by reg. 13(12)(a) & (b) of S.I. 2006/2378 as from 1.10.06.

<sup>3</sup>Para. 16A omitted by reg. 2(2) of, and para. 24(d) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Para. 17 substituted by reg. 3(10)(d) of S.I. 2008/3157 as from 5.1.09.

<sup>5</sup>Words substituted in para. 17(d) of Sch. 7 by reg. 4(15)(a) & (b) of S.I. 2009/2655. See reg. 1(2)(b) of this S.I. for the commencement date.

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the amount, calculated on a weekly basis equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988<sup>(a)</sup> (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

**19.** Any payment made to the claimant by a person who normally resides with the claimant, which is a contribution towards that person's living and accommodation costs, except where that person is residing with the claimant in circumstances to which paragraph 20 or 21 refers.

**20.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by another person and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- ▶<sup>1</sup>(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.◀

**21.** Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50% of the excess over £20.

**22.—(1)** ▶<sup>2</sup>Subject to sub-paragraphs (2) and (3)◀, except where ▶<sup>2</sup>regulation 103(6)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue or regulations made under Schedule 9 to that Act in the calculation of income other than earnings) or◀ regulation 105(10)(a)(i) (notional income) applies or in the case of a payment made—

- (a) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or
- (b) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute,

any income in kind.

(2) The exceptions under sub-paragraph (1) shall not apply where the income in kind is received from the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust ▶<sup>3</sup>, MFET Limited◀ or the Independent Living ▶<sup>4</sup>Fund (2006)◀.

▶<sup>2</sup>(3) The first exception under sub-paragraph (1) shall not apply where the claimant is the partner of a person subject to immigration control and whose partner is receiving support provided under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act and the income in kind is support provided in respect of essential living needs of the partner of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.◀

▶<sup>5</sup>(4) The reference in sub-paragraph (1) to "income in kind" does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.◀

(a) 1988 c. 1; subsection (1A) was inserted by the Finance Act 1994 (c. 9), section 81(3).

<sup>1</sup>Para. 20(a) & (b) substituted by reg. 8(15) of S.I. 2007/2618. See reg. 1(2) to this S.I. for when to apply.

<sup>2</sup>Words substituted and added in para. 22(1) & para. 22(3) inserted by reg. 4(9) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Words inserted in para. 22(2) of Sch. 7 by reg. 4(3)(f) of S.I. 2010/641 as from 1.4.10.

<sup>4</sup>Words in para. 22(2) substituted by reg. 4(7)(e) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Para. 22(4) inserted by reg. 3(8)(a) of S.I. 2005/2465 as from 3.10.05.

23.—(1) Any income derived from capital to which the claimant is, or is treated under regulation 115 (capital jointly held) as, beneficially entitled but, subject to sub-paragraph (2), not income <sup>1</sup>derived<sup>◀</sup> from capital disregarded under paragraph 1, 2, 4, to 8, 11 or 17 of Schedule 8.

<sup>1</sup>Word inserted in para. 23(1) by Pt. II of Sch. to S.I. 1996/1516 as from 7.10.96.

(2) Income derived from capital disregarded under paragraph 2 or 4 to 8 of Schedule 8 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 1(3) shall apply to sub-paragraph (2) with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”.

24. Any income which is payable in a country outside the United Kingdom for such period during which there is prohibition against the transfer to the United Kingdom of that income.

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

26.—(1) Any payment made to the claimant in respect of a child or young person who is a member of his family—

- (a) <sup>2</sup>pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance<sup>◀</sup> with a scheme approved by the <sup>3</sup>Scottish Ministers under section 51A<sup>◀</sup> of the Adoption (Scotland) Act 1978(a) (schemes for payment of allowances to adopters); <sup>4</sup>or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).<sup>◀</sup>
- (b) <sup>5</sup><sup>◀</sup>
- <sup>6</sup>(ba) which is a payment made by a local authority in Scotland in pursuance of section 50 of the Children Act 1975 (payments towards maintenance of children);<sup>◀</sup>
- (c) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989(b) (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order);
- <sup>7</sup>(d) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);<sup>◀</sup>
- <sup>8</sup>(e) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);<sup>◀</sup>
- <sup>9</sup><sup>◀</sup>

<sup>2</sup>Words in para. 26(1)(a) & sub-para. (1A) substituted by reg. 3(8)(b) & (c) of S.I. 2005/2465 as from 20.12.05.

<sup>3</sup>Words substituted in para. 26(1)(a) by reg. 3(10)(e)(i) of S.I. 2008/3157 as from 5.1.09.

<sup>4</sup>Words inserted in para. 26(a) of Sch. 7 by reg. 19(3) of Part 2, Sch. 1 of S.I. 2011/1740 as from 15.7.11.

<sup>5</sup>Para. 26(1)(b) omitted by reg. 3(10)(e)(ii) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Para. 26(1)(ba) inserted in Sch. 7 by reg. 4(15)(c) of S.I. 2009/2655. See reg. 1(2)(b) of the S.I. for the commencement date.

<sup>7</sup>Sub-para. (d) inserted in para. 26(1) by reg. 7(2)(e) of S.I. 1998/563 as from 6.4.98.

<sup>8</sup>Sub-para. (e) inserted in para. 26(1) by reg. 4(4)(b) of S.I. 2004/2308 as from 4.10.04.

<sup>9</sup>Words in para. 26(1) & para. 26(2) omitted by para. 23(c) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

*Words below from para. 26(1) reproduced as they remain in force for certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details.*

to the extent specified in sub-paragraph (2).

<sup>2</sup>(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.<sup>◀</sup>

(2) <sup>9</sup><sup>◀</sup>

*Para. 26(2) continues to be reproduced as it remains in force for certain cases. See reg. 1 of S.I. 2003/455 for details.*

(2) In the case of a child or young person—

- (a) to whom regulation 106(5) (capital in excess of £3,000) applies, the whole payment;

(a) 1978 c. 28.  
(b) 1989 c. 41.

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- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the applicable amount in respect of that child or young person and where applicable to him any amount by way of a disabled child premium.

<sup>1</sup>Para. 26A inserted by para. 23(d) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

- ▶<sup>1</sup>**26A.** In the case of a claimant who has a child or young person—
- (a) who is a member of his family, and
  - (b) who is residing at an educational establishment at which he is receiving relevant education,

any payment made to that educational establishment, in respect of that child or young person's maintenance by or on behalf of a person who is not a member of the family or by a member of the family out of funds contributed for that purpose by a person who is not a member of the family.◀

<sup>2</sup>Para. 27 of Sch. 7 substituted by reg. 4(5)(b) of S.I. 2010/2429 as from 1.11.10.

▶<sup>2</sup>**27.** Any payment made to the claimant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
  - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
  - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
  - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).◀

<sup>3</sup>Para. 28 substituted by reg. 7(4)(f) of S.I. 1998/563 as from 6.4.98.

▶<sup>3</sup>**28.** Any payment made to the claimant or his partner for a person (“the person concerned”), who is not normally a member of the claimant's household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority ▶<sup>4</sup>but excluding payments of housing benefit made in respect of the person concerned◀;
- (c) a voluntary organisation; or
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(a) ▶<sup>5</sup>▶<sup>6</sup>◀

<sup>4</sup>Words inserted in para. 28(b) by reg. 6(5) of S.I. 2005/574 as from 4.4.05.

▶<sup>7</sup>(da) a clinical commissioning group established under section 14D of National Health Service Act 2006;

(db) the National Health Service Commissioning Board; or◀◀

(e) ▶<sup>7</sup>◀

<sup>5</sup>Words inserted in para. 28 by reg. 6(3)(d) of S.I. 2001/859. See reg. 1(4) of S.I. 2001/859 for relevant effective date.

▶<sup>6</sup>(f) 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.◀

<sup>6</sup>Word omitted from para. 28(d) substituted in sub-para. (e) & sub-para. (f) inserted by reg. 3(10)(f)(i)-(iii) of S.I. 2008/3157 as from 5.1.09.

▶<sup>8</sup>**29.**—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989(b),
- (b) section 12 of the Social Work (Scotland) Act 1968(c), or
- (c) section ▶<sup>9</sup>22,◀ 29 or 30 of the Children (Scotland) Act 1995(d).

<sup>7</sup>Regs. 28(da) & (db) inserted & reg. 28(e) omitted by para. 27(3)(a) & (b) of Sch. 2 to S.I. 2013/235 as from 1.4.13.

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section ▶<sup>9</sup>22 or◀ 29 of the Children

<sup>8</sup>Para. 29 substituted by reg. 4(16)(a) of S.I. 2008/698 on or after 7.4.08 subject to reg. 1(2) *ibid*.

<sup>9</sup>Words inserted in reg. 29(1)(c) & (2) by reg. 4(5)(c) of S.I. 2010/2429 as from 1.11.10.

(a) 1948 c. 29; s. 26(3A) was inserted by s. 42(4) of the National Health Service and Community Care Act 1990 (c. 19).

(b) 1989 c. 41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c. 35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.

(c) 1968 c. 49.

(d) 1995 c. 36.

(Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes).

(5) Sub-paragraph (2) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.◀

**30.—**(1) Subject to sub-paragraph (2), any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under paragraph 14 or 15 of Schedule 2 (housing costs in respect of loans to acquire an interest in the dwelling, or for repairs and improvements to the dwelling, occupied as the home) and used to meet such repayments, to the extent that it does not exceed the aggregate of—

- (a) the amount, calculated on a weekly basis, of any interest on that loan which is in excess of the amount met in accordance with Schedule 2 (housing costs);
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) any amount due by way of premiums on—
  - (i) that policy, or
  - (ii) an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

**31.—**(1) Except where paragraph 30 ▶<sup>1</sup>or 31A◀ applies, and subject to sub-paragraph (2), any payment made to the claimant which is intended to be used and is used as a contribution towards—

- (a) any payment due on a loan if secured on the dwelling occupied as the home which does not qualify under Schedule 2 (housing costs);
- (b) any interest payment or charge which qualifies in accordance with paragraphs 14 to 16 of Schedule 2 to the extent that the payment or charge is not met;
- (c) any payment due on a loan which qualifies under paragraph 14 or 15 of Schedule 2 attribute to the payment of capital;
- (d) any amount due by way of premiums on—
  - (i) an insurance policy taken out to insure against the risk of being unable to make the payments referred to in (a) to (c) above, or
  - (ii) an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home;
- (e) his rent in respect of the dwelling occupied by him as his home but only to the extent that it is not met by housing benefit; or his accommodation charge but only to the extent that the actual charge ▶<sup>2</sup>exceeds◀ the amount payable by a local authority in accordance with Part III of the National Assistance Act 1948(a).

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

<sup>1</sup>Words substituted in para. 31(1) by reg. 5(a) of S.I. 1998/1173 as from 1.6.98.

<sup>2</sup>Words substituted in para. 31(1)(e) by reg. 2(2) of, and para. 24(e) of Part. 11 to the Sch. of S.I. 2001/3767 as from 8.4.02.

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(a) 1948 c. 29.

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<sup>1</sup>Para. 31A inserted by reg. 5(b) of S.I. 1998/1173 as from 1.6.98 or from the first day of the first benefit week to commence after that date.

▶<sup>1</sup>**31A.**—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, other than an insurance policy referred to in paragraph 30, taken out to insure against the risk of being unable to maintain repayments under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part III of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1); and
- (b) meet any amount due by way of premiums on that policy.◀

<sup>2</sup>Words substituted & inserted in para. 32(1) & (2) by para. 14(b) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

**32.**—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant ▶<sup>2</sup>residing in a care home, an Abbeyfield Home, or an independent hospital◀, any payment, ▶<sup>3</sup>except a charitable or voluntary payment disregard under paragraph 15◀▶<sup>4</sup>◀, made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home ▶<sup>2</sup>or hospital.◀

<sup>3</sup>Words substituted in para. 32(1) by reg. 3(11) of S.I. 2007/719 as from 2.4.07.

(2) This paragraph shall not apply to a claimant for whom accommodation in a ▶<sup>2</sup>care home, an Abbeyfield Home, or an independent hospital◀, is provided by a local authority under section 26 of the National Assistance Act 1948 or section 59 of the Social Work (Scotland) Act 1968 ▶<sup>5</sup>◀

<sup>4</sup>Words in para. 32(1) omitted by reg. 13(12)(d) of S.I. 2006/2378 as from 1.10.06.

<sup>5</sup>Words omitted in para. 32(2) and 32(3)(a) substituted by reg. 2(2) of, and para. 24(f) to part 2 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(3) The amount to be disregarded under this paragraph shall not exceed the difference between—

- ▶<sup>5</sup>(a) the claimant applicable amount; and◀
- (b) the weekly charge for the accommodation.

**33.** Any social fund payment made pursuant to Part VIII of the Benefits Act.

▶<sup>6</sup>**33A.** Any local welfare provision.◀

<sup>6</sup>Para. 33A inserted by reg. 4(12)(a) of S.I. 2013/443 as from 2.4.13.



34. Any payment of income which under regulation 110 (income treated as capital) is to be treated as capital.

35. Any payment under Part X of the Benefits Act (pensioner's Christmas bonus).

36. In the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment up to the amount of the prescribed sum within the meaning of section 15(2)(d) made by a trade union.

37. Any payment which is due to be paid before the date of claim 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.

38. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 88(4) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulations 132(2)(b) and 133(1)(c) (calculation of covenant income where a contribution assessed), regulation 136(2) (treatment of student loans) <sup>1</sup>, regulation 136A(3) (treatment of payments from access funds) <sup>2</sup> and <sup>3</sup>paragraph 17 shall in no case exceed £20 per <sup>3</sup>benefit week <sup>4</sup>.

39. Notwithstanding paragraph 38, 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, there shall be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 96(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

40. <sup>4</sup>

41.—(1) Any payment made under <sup>5</sup>or by <sup>4</sup>the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust ("the Trusts") <sup>5</sup>, MFET Limited <sup>4</sup> or the Independent Living <sup>6</sup>Fund (2006) <sup>4</sup>

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under <sup>5</sup>or by <sup>4</sup>any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced <sup>7</sup>or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death <sup>4</sup>;
- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, provided that the partner and or former partner and that person are not, or if either of them has died were not, estranged or divorced <sup>7</sup>or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death <sup>4</sup>, which derives from a payment made under <sup>5</sup>or by <sup>4</sup>any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from the payment under <sup>5</sup>or by <sup>4</sup>any of the Trusts to which sub-paragraph (1) refers, where—

<sup>1</sup>Words inserted in para. 38 by reg. 3(10) of S.I. 2000/1922 as from 1.8.00.

<sup>2</sup>Words substituted in para. 38 by reg. 13(12)(e) of S.I. 2006/2378 as from 1.10.06.

<sup>3</sup>Words in para. 38 substituted by reg. 2(16) of S.I. 1997/454 as from 7.4.97.

<sup>4</sup>Para. 40 omitted by reg. 3(10)(g) of S.I. 2008/3157 as from 5.1.09.

<sup>5</sup>Words inserted in para. 41(1) to (4) of Sch. 7 by reg. 4(8)(e) of S.I. 2010/641 as from 1.4.10.

<sup>6</sup>Words in para. 41(1) substituted by reg. 4(7)(e) of S.I. 2008/2767 as from 17.11.08.

<sup>7</sup>Words inserted in sub- paras. (2)(a), (3) & (4) of para. 41 by para. 26(12)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

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<sup>1</sup>Words inserted in para. 41(4)(a) by para. 26(12)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

- (a) that person has no partner or former partner from whom he is not estranged or divorced <sup>1</sup>or with whom he has formed a civil partnership that has not been dissolved <sup>1</sup>, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education, and had no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

<sup>2</sup>Words inserted in para. 41(5) & (7) of Sch. 7 by reg. 4(8)(e) & (12) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words inserted in sub-para. (5)(a) of para. 41 by para. 26(12)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under <sup>2</sup>or by <sup>1</sup>any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced <sup>3</sup>or with whom he had formed a civil partnership that had not been dissolved <sup>1</sup>, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where the person at the relevant date was a child, a young person or a student who had not completed his full-time education, and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

<sup>4</sup>Para. (7) added to reg. 41 by reg. 3(5) of S.I. 2004/2308 as from 4.10.04.

<sup>5</sup>Words added to para. 41(7) by reg. 5(4) of S.I. 2005/3391 as from 12.12.05.

<sup>4</sup>(7) For the purposes of paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Skipton Fund <sup>2</sup>, MFET Limited <sup>1</sup> <sup>5</sup>and the London Bombings Relief Charitable Fund <sup>1</sup>.

**42.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**43.** Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the <sup>6</sup>benefit Acts <sup>1</sup>.

<sup>6</sup>Words substituted in para. 43 & para. 46 omitted by reg. 3(10)(h) & (i) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Para. 44 omitted by reg. 4(11) of S.I. 2008/2767 as from 17.11.08.

<sup>8</sup>Para. 45 substituted by reg. 4(16)(b) of S.I. 2008/698 as from 14.4.08

<sup>9</sup>Words in para. 45 inserted by reg. 4(12)(b) of S.I. 2013/443 as from 2.4.13.

<sup>10</sup>Para. 47 substituted by reg. 3(10)(j) of S.I. 2008/3157 as from 5.1.09.

**44.** <sup>7</sup>.

<sup>8</sup>**45.** Any payment in consequence of a reduction of council tax under section 13 <sup>9</sup>, 13A <sup>1</sup> or 80 of the Local Government Finance Act 1992(a) (reduction in liability for council tax). <sup>1</sup>

**46.** <sup>6</sup>.

<sup>10</sup>**47.**—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(b) (travelling expenses and health services supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(c) (travelling expenses and health service supplies);

(a) 1992 c. 14.

(b) S.I. 2003/2382.

(c) S.I. 2007/1104.

- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003<sup>(a)</sup> (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**48.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988<sup>(b)</sup> in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).◀

**49.** Any payment made either by the Secretary of State for ►<sup>1</sup>Justice◀ or by the ►<sup>2</sup>Scottish Ministers◀ under a scheme established to assist relatives and other persons to visit persons in custody.

<sup>1</sup>Words substituted in para. 49 by art. 16(2) of S.I. 2007/2128 as from 22.8.07.

**50.** Any payment (other than a training allowance) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944<sup>(c)</sup> or in accordance with arrangements made under section 2 of the Employment and Training Act 1973, to assist disabled persons to obtain or retain employment despite their disability.

<sup>2</sup>Paras. 52, 53 & 55(1)(b) & words in para. 49 substituted by regs. 3(10)(j) & (m) of S.I. 2008/3157 as from 5.1.09.

**51.** ►<sup>3</sup>◀.

<sup>3</sup>Para. 51 revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

►<sup>2</sup>**52.**—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

**53.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.◀

**54.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983<sup>(d)</sup> (pensions to ►<sup>4</sup>widows, widowers or surviving civil partners◀), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

<sup>4</sup>Words substituted in paras. 54 & 55(1)(a) by para. 26(12)(b)-(d)(i) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

**55.**—(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a ►<sup>4</sup>widow, widower or surviving civil partner◀ of a person—
  - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
  - (ii) whose service in such capacity terminated before 31st March 1973; and
- <sup>2</sup>(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.◀

(a) S.S.I. 2003/460.

(b) S.I. 1988 c. 7.

(c) 1944 c. 10.

(d) S.I. 1983/686; relevant amending instruments are S.I. 1994/715 and 2021.

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(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances)(a).

<sup>1</sup>Paras. 56 to 59 inserted by reg. 2(4)(b) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>2</sup>Words in para. 56 of Sch. 7 omitted by reg. 4(12) of S.I. 2009/583 as from 6.4.09.

<sup>3</sup>Words inserted in para. 56 of Sch. 7 by reg. 4(13) of S.I. 2010/641 as from 1.4.10.

<sup>4</sup>Words inserted in para. 56 of Sch. 7 by reg. 11(2) & Sch. 2 of S.I. 2003/762 as from 8.4.03.

<sup>5</sup>Words omitted in para. 57(2) by reg. 2(2) of, and para. 24(g) of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>6</sup>Head (b) substituted & head (c) inserted by reg. 2(8) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

<sup>7</sup>Para. 60 substituted by reg. 12(b) of S.I. 2001/1029 as from 9.4.01.

<sup>8</sup>Para. 60A inserted by reg. 2(5) of S.I. 2002/2314 as from 14.10.02.

<sup>9</sup>Para. 61 inserted by reg. 14(b) of S.I. 1997/2863 as from 5.1.98.

►<sup>1</sup>56. Any payment made ►<sup>2</sup>◄ under section 12B of the Social Work (Scotland) Act 1968 ►<sup>3</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(b)◄ ►<sup>4</sup>or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments)◄.

**57.**—(1) Subject to paragraph 58, any Career Development Loan paid to the claimant pursuant to section 2 of the Employment and Training Act 1973 except to the extent that the loan has been applied for and paid in respect of living expenses for the period of education and training supported by that loan and those expenses relate to any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>5</sup>◄, of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing and footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

**58.** Any Career Development Loan paid to the claimant pursuant to section 2 of the Employment and Training Act 1973 where the period of education and training supported by that loan has been completed.

**59.**—(1) Any payment specified in sub-paragraph (2) to a claimant who was formerly a full-time student and who has completed the course in respect of which those payments were made.

(2) The payments specified for the purposes of sub-paragraph (1) are—

(a) any grant income and covenant income as defined for the purposes of Chapter IX of Part VIII;

►<sup>6</sup>(b) any student loan as defined in Chapter IX of Part VIII;

(c) any contribution as defined in Chapter IX of Part VIII which—

(i) is taken into account in ascertaining the amount of a student loan referred to in head (b); and

(ii) has been paid.◄◄

►<sup>7</sup>60. Any mandatory top-up payment made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in—

(a) the self-employment route;

(b) an employment-programme specified in—

(i) regulation 75(1)(a)(ii)(bb) (Voluntary Sector Option of the New Deal); or

(ii) regulation 75(1)(a)(ii)(cc) (Environment Task Force Option of the New Deal); or

(c) in the Intensive Activity Period specified in regulation 75(1)(a)(iv) or in the Intensive Activity Period for 50 plus.◄

►<sup>8</sup>60A. Any mandatory top-up payment made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participating in a training scheme specified in regulation 75(1)(b)(ii) (Full-time Education and Training Option of the New Deal).◄

►<sup>9</sup>61. Any discretionary payment to meet, or to help to meet, special needs, made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of

(a) Copies of the Dispensing Instruments are available from the Department of Social Security, 6th Floor Adelphi 1-11 John Adam Street, London WC2N 6HT.

(b) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

that person's participation in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii).◀

▶<sup>1</sup>62.—(1) Subject to sub-paragraph (2), in the case of a person who is receiving, or who has received, assistance under ▶<sup>2</sup>the self-employment route◀, any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter IVA of Part VIII.◀

▶<sup>3</sup>63.—(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7).

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student's attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 135(1) (student's income to be disregarded).◀

▶<sup>3</sup>64. Any payment ▶<sup>4</sup>made with respect to a person on account of the provision of after-care under section 117 of the Mental Health Act 1983(a) or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003(b) or the provision of accommodation or welfare services to which Part III of the National Assistance Act 1948(c) refers or to which the Social Work (Scotland) Act 1968(d) refers, ◀ which falls to be treated as notional income made under paragraph (11) of regulation 105 above (payments made in respect of a person ▶<sup>5</sup>residing in a care home, an Abbeyfield Home, or an independent hospital)◀◀

▶<sup>6</sup>67.—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ▶<sup>7</sup>◀, of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2)—

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of that person in the sport in respect of which the award was made;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.◀

<sup>1</sup>Para. 62 inserted by reg. 4(b) of S.I. 1998/1174 as from 1.6.98.

<sup>2</sup>Words substituted in para. 62(1) by reg. 4 of S.I. 2000/2910 as from 27.11.00.

<sup>3</sup>Para. 63 substituted & para. 64 inserted by regs. 4(1) & 6(1) of S.I. 1998/2117 as from 24.9.98.

<sup>4</sup>Words inserted in para. 64 of Sch. 7 by reg. 4(15)(d) of S.I. 2009/2655. See reg. 1(2)(b) to this S.I. for the relevant commencement date.

<sup>5</sup>Words substituted in para. 64 by para. 14(c) of Sch. 2 to S.I. 2005/2687 as from 24.10.05.  
<sup>6</sup>Para. 67 added by reg. 7(4) of S.I. 1999/2165 as from 23.8.99.

<sup>7</sup>Words omitted in para. 67(2) by reg. 2(2) of, and para. 24(h) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(a) 1983 c. 20. Section 117 was amended by paragraph 107(1) and (8)(b) of Schedule 1 to the Health Authorities Act 1995 (c. 17); paragraph 15(1)-(4) of Schedule 1 to the Mental Health (Patients in the Community) Act 1995 (c. 52); paragraph 12(17) of Schedule 4 to the Crime (Sentences) Act 1997 (c. 43); paragraphs 42 and 47 of Schedule 2 to the National Health Service Reform and Health Care Professions Act 2002 (c. 17); paragraphs 1 and 24 of Schedule 3 to the Mental Health Act 2007 (c. 12); and savings and transitional provisions are found in paragraphs 1 and 5 of Schedule 10 to the Mental Health Act 2007 (c. 12), and S.I. 2007/961 and 2008/1210.

(b) 2003 asp. 13.

(c) 1948 c. 29.

(d) 1968 c. 49.

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<sup>1</sup>Paras. 68 and 69 added by reg. 3(3)(b) of S.I. 2000/724 as from 3.4.00.

▶<sup>1</sup>68. Where the amount of a subsistence allowance paid to a person in a benefit week exceeds the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, that excess amount.

69. In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise.◀

<sup>2</sup>Para. 70 substituted by reg. 4(15)(e) of S.I. 2009/2655. See reg. 1(6)(b) of S.I. 2009/2655 for the commencement date.

▶<sup>2</sup>70.—(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the claimant's family, except where the person making the payment is the claimant or the claimant's partner.

(2) In paragraph (1)–

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under–

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 117 (interpretation) other than a person falling within sub-paragraph (d) of that definition.◀

<sup>3</sup>Para. 70(3) & (4) substituted by reg. 3(9) of S.I. 2008/2111 as from 27.10.08.

▶<sup>3</sup>(3) No more than £20 shall be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 118 to 123 (child maintenance and liable relatives).

(4) In this paragraph, “child maintenance” shall have the same meaning as in regulation 117 (interpretation).◀

<sup>4</sup>Para. 71 inserted by reg. 2(1)(d) of S.I. 2001/2333 as from 2.7.01.

▶<sup>4</sup>71. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(a).◀

<sup>5</sup>Para. 72 inserted by reg. 3(2) of S.I. 2003/511 as from 1.4.03.

▶<sup>5</sup>▶<sup>6</sup>72.—(1) Any payment made by a local authority, or by the ▶<sup>7</sup>Welsh Ministers◀, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.◀

<sup>6</sup>Para. 72(1) substituted & para. 73 inserted by reg. 3(4)(b) of S.I. 2003/2279 as from 1.10.03.

(2) For the purposes of sub-paragraph (1) “local authority” means–

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;
- (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(b).◀

<sup>7</sup>Words in para. 72(1) substituted by reg. 3(10)(n) of S.I. 2008/3157 as from 5.1.09.

▶<sup>8</sup>72A. Armed forces independence payment.◀

<sup>8</sup>Para. 72A inserted in Sch. 7 by para. 10(9) of Sch. to S.I. 2013/591 as from 8.4.13.

▶<sup>6</sup>73. Any ERA payment.◀

<sup>9</sup>Para. 74 inserted by reg. 16(a) of S.I. 2003/2439 as from 27.10.03.

▶<sup>9</sup>74. Any payment made to a claimant's partner in respect of the partner's participation in the Return to Work Credit Scheme pursuant to section 2 of the Employment and Training Act 1973.◀

<sup>10</sup>Para. 75 inserted in Sch. 7 by art. 4(1) of S.I. 2014/2103 as from 1.9.14.

▶<sup>10</sup>75. Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).◀

(a) S.I. 2001/1167.

(b) 1994 c. 39.

## SCHEDULE 8

Regulation 108(2)

## CAPITAL TO BE DISREGARDED

*See reg. 17(1)(d) & (2) of S.I. 2010/1222 at page 11.7185 for details of the modification to Sch. 8 in certain situations as from 22.11.10.*

▶<sup>1</sup>A2. Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.◀

<sup>1</sup>Sch. 8, para. A2 inserted by reg. 15(1)(d) & (2) of S.I. 2011/688 as from 25.4.11.

▶<sup>2</sup>A3. Any payment made to the claimant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013 but only for 52 weeks beginning with the date of receipt of the payment.◀

<sup>2</sup>Sch. 8, para. A3 substituted by reg. 12(2) of S.I. 2013/276 from 6.45pm on 12.2.13.

▶<sup>3</sup>A4. Any payment made to the claimant in respect of any child care, travel or other expenses incurred, or to be incurred, by the claimant in respect of the claimant's participation in a scheme prescribed by regulation 3 of the Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014, but only for 52 weeks beginning with the date of receipt of the payment.◀

<sup>3</sup>Sch. 8, para. A4 inserted by reg. 14(2) of S.I. 2014/1913 as from 18.7.14.

▶<sup>4</sup>A5. Any payment made to the claimant in respect of any child care, travel or other expenses incurred, or to be incurred by the claimant in respect of their participation in a scheme prescribed in regulation 3 of the Jobseeker's Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014, but only for 52 weeks beginning with the date of receipt of the payment.◀

<sup>4</sup>Sch. 8, para. A5 inserted by reg. 18(2) of S.I. 2014/3117 as from 25.11.14.

1. The dwelling occupied as the home but, notwithstanding regulation 88, (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale, or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by—

- (a) a partner or relative of a single claimant or of any member of the family as his home where that person ▶<sup>5</sup>has attained the qualifying age for state pension credit◀ or is incapacitated;
- (b) the former partner of a claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced ▶<sup>6</sup>or with whom he formed a civil partnership that has been dissolved◀.

<sup>5</sup>Words substituted in para. 4(a) of Sch. 8 by reg. 17(2) of S.I. 2009/1488 as from 6.4.10.

<sup>6</sup>Words inserted in paras. 4(b) & 5 by para. 26(13)(a) & (b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

5. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from ▶<sup>7</sup>or dissolution of a civil partnership with◀ his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling ▶<sup>7</sup>or, where that dwelling is occupied as the home by the former partner who is a lone parent, for as long as it is so occupied◀.

<sup>7</sup>Words in para. 5 in Sch. 8 inserted by reg. 3(3) of S.I. 2003/511 as from 1.4.03.

6. Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

7. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice or has commenced legal proceedings with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings, whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

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**8.** Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

**9.** Any grant made to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988(a) or section 66 of the Housing (Scotland) Act 1988(b) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home.

**10.** Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

**11.—(1)** The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

- (2) The assets of any business owned in whole or in part by the claimant where—
  - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the claim for a jobseeker's allowance is made, or is treated as made, or if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

<sup>1</sup>Sub-paras. (3) and (4) inserted by reg. 5(a) of S.I. 1998/1174 as from 1.6.98.

<sup>2</sup>Words substituted in para. 11(3) by reg. 4 of S.I. 2000/2910 as from 27.11.00.

►<sup>1</sup>(3) In the case of a person who is receiving assistance under ►<sup>2</sup>the self-employment route◄, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.◄

*The provisions specified in para. 11 are modified from 28.1.00 to 27.11.01 unless revoked earlier by S.I. 2000/3134 (see volume 11 page 11.5801) in their application to persons to whom this Part applies as if for the references to a person receiving, or having received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) of the Jobseeker's Allowance Regulations there were substituted references to a person receiving or, as the case may be, having received, assistance in pursuing self-employed earner's employment whilst participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.*

<sup>3</sup>Para. 12 renamed 12(1) & words inserted by reg. 3(c) of S.I. 2002/2380 as from 14.10.02.

<sup>4</sup>Words substituted in para. 12(1)(b) by reg. 3(11)(a) of S.I. 2008/3157 as from 5.1.09.

**12.►<sup>3</sup>—(1)** Subject to sub-paragraph (2),◄ any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraph 7, 9, or 10 of Schedule 7 (other income to be disregarded);
- (b) ►<sup>4</sup>an income-based jobseeker's◄ allowance or an income-related benefit under

(a) 1988 c. 50; section 129 was amended by the Local Government and Housing Act 1989 (c. 42), section 194 and Schedule 12.

(b) 1988 c. 43.



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Part VII of the Benefits Act<sup>1</sup>, <sup>2</sup>◀, child tax credit, working tax credit<sup>3</sup>, universal credit◀ <sup>4</sup>▶ or an income-related employment and support allowance◀◀;

▶<sup>5</sup>◀

- ▶<sup>6</sup>(d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.◀

but only for a period of 52 weeks from the date of receipt of the arrears or the concessionary payment.

▶<sup>7</sup>(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is—

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, and
- (b) received by the claimant in full on or after 14th October 2001, sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of income-based jobseeker's allowance, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of income-based jobseeker's allowance” means—

- (a) the award either of an income-based jobseeker's allowance▶<sup>8</sup>, income support or of an income-related employment and support allowance◀ in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
- (b) where that award is followed by one or more further awards which in each case may be either of an income-based jobseeker's allowance▶<sup>8</sup>, income support or of an income-related employment and support allowance◀ and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant—
  - (i) is the person who received the relevant sum, or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death, or
  - (iii) in the case of a joint-claim jobseeker's allowance, is a joint-claim couple either member or both members of which received the relevant sum.◀

**13. Any sum—**

- (a) paid to the claimant in consequence of damage to, or loss of, the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

and which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

**14. Any sum—**

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(a) as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

**15. Any personal possessions** except those which have or had been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to a jobseeker's allowance or to income support or to increase the amount of those benefits.

<sup>1</sup>Words inserted in para. 12(1)(b) by para. 24(a) of S.I. 2003/455 as from 7.4.03.

<sup>2</sup>Words in para. 12(1)(b) omitted by reg. 4(17)(a) of S.I. 2008/698 as from 14.4.08.

<sup>3</sup>Words in para. 12(1)(b) inserted by reg. 30(9) of S.I. 2013/630 as from 29.4.13.

<sup>4</sup>Words inserted in para. 12(1)(b) by reg. 3(29)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Para. 12(1)(c) omitted by reg. 6(6) of S.I. 2005/574 as from 4.4.05.

<sup>6</sup>Para. 12(d) inserted by reg. 2(1)(d) of S.I. 2001/2333 as from 2.7.01.

<sup>7</sup>Sub-paras. (2) & (3) inserted by reg. 3(c) of S.I. 2002/2380 as from 14.10.02.

<sup>8</sup>Words in para. 12(3)(a) & (b) substituted by reg. 3(29)(b) of S.I. 2008/1554 as from 27.10.08.

(a) 1985 c. 69.

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**16.** The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

**17.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant ►<sup>1</sup>or the claimant's partner◄, the value of the trust fund and the value of the right to receive any payment under that trust.

<sup>1</sup>Words in para. 17 and para. 17A inserted by reg. 13(13)(a) & (b) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

►<sup>1</sup>**17A.**—(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).◄

**18.** The value of the right to receive any income under a life interest or from a life rent.

**19.** The value of the right to receive any income which is disregarded under paragraph 14 of Schedule 6 or paragraph 24 of Schedule 7 (earnings or other income payable in a country outside the United Kingdom).

**20.** The surrender value of any policy of life insurance.

**21.** Where the payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

<sup>2</sup>Para. 22 substituted by reg. 4(17)(b) of S.I. 2008/698 on or after 7.4.08, subject to reg. 1(2) *ibid.*

►<sup>2</sup>**22.**—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989,
- (b) section 12 of the Social Work (Scotland) Act 1968, or
- (c) section 29 or 30 of the Children (Scotland) Act 1995.

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes).

(5) Sub-paragraph (2) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.◄

**23.** Any social fund payment made pursuant to Part VIII of the Benefits Act.

►<sup>3</sup>**23A.** Any local welfare provision.◄

<sup>3</sup>Para. 23A inserted by reg. 4(13) of S.I. 2013/443 as from 2.4.13.

24. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988(a) (deductions of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements in the home.

25. Any capital which under regulation 104, <sup>1</sup> or 136 (capital treated as income, <sup>1</sup> and treatment of student loans) is to be treated as income.

<sup>1</sup>Words omitted from para. 25 by para. 24(b) of Sch. 2 to S.I. 2003/455 as from 6.4.04.

*Reproduced below is para. 25 before the amds. in S.I. 2003/455 were implemented. See reg. 1 of that S.I. at page 6.7203 for when to apply.*

25. Any capital which under regulation 104, 106(1) or 136 (capital treated as income, modifications in respect of children and young persons and treatment of student loans) is to be treated as income.

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

27.—(1) Any payment made under <sup>2</sup> or by <sup>1</sup> the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust<sup>2</sup>, MFET Limited<sup>1</sup> and<sup>3</sup>, the Skipton Fund<sup>4</sup>, the London Bombings Relief Charitable Fund<sup>1</sup> (“the Trusts”) or the Independent Living <sup>5</sup>Fund (2006)<sup>1</sup>

<sup>2</sup>Words inserted in para. 27(1)-(4) of Sch. 8 by reg. 4(3)(g) & (8)(f) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words inserted in para. 27(1) of Sch. 8 by reg. 3(2)(d) & (8)(b) of S.I. 2004/1141 as from 12.5.04.

<sup>4</sup>Words inserted into para. 27(1) by reg. 5(5)(a) of S.I. 2005/3391 as from 12.12.05.

<sup>5</sup>Words in para. 27(1) substituted by reg. 4(7)(f) of S.I. 2008/2767 as from 17.11.08.

<sup>6</sup>Words inserted in sub- paras. (2)(a), (3) & (4)(a) of para. 27 by para. 26(13)(c) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(2) Any payment by or behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under <sup>2</sup> or by <sup>1</sup> any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person had died was not, estranged or divorced <sup>6</sup> or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death<sup>1</sup>;
- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, provided that the partner or former partner and that person are not, or if either of them had died were not, estranged or divorced <sup>5</sup> or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death<sup>1</sup>, which derives from a payment made under <sup>2</sup> or by <sup>1</sup> any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment made under <sup>2</sup> or by <sup>1</sup> any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced <sup>6</sup> or with whom he has formed a civil partnership that has not been dissolved<sup>1</sup>, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of payment is a child, a young person or a student who has not completed his full-time education, and has no parent or step-parent, to his guardian,

(a) 1988 c. 1; section 369 was amended by the Finance Act 1993 (c. 34), section 58, and the Finance Act 1994 (c. 9), section 81.

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but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment made under ►<sup>1</sup>or by◀ any of the Trusts to which sub-paragraph (1) refers, where—

<sup>1</sup>Words inserted in paras. 27(5) & 31 of Sch. 8 by reg. 4(3)(g) & (8)(f) of S.I. 2010/641 as from 1.4.10.

<sup>2</sup>Words inserted in para. 27(5)(a) by para. 26(13)(c)(iv) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced ►<sup>2</sup>or with whom he had formed a civil partnership that had not been dissolved◀, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education, and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

<sup>3</sup>Para. 27A omitted by reg. 5(5)(b) of S.I. 2005/3391 as from 12.12.05.

**27A.** ►<sup>3</sup>◀

**28.** The value of the right to receive an occupational or personal pension.

**29.** The value of any funds held under a personal pension scheme.

**30.** The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

**31.** Any payment in kind made by a charity or under ►<sup>1</sup>or by◀ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust►<sup>1</sup>, MFET Limited◀ or the Independent Living Funds.

**32.** £200 of any payment or, if the payment is less than £200, the whole of any payment made under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b), as a training bonus to a person participating in arrangements for training.

**33.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**34.** Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the ►<sup>4</sup>benefit Acts◀.

<sup>4</sup>Words in para. 34 & paras. 36 & 37 substituted by reg. 3(11)(b) & (c) of S.I. 2008/3157 as from 5.1.09.

<sup>5</sup>Words omitted in para. 35 by reg. 4(17)(c) of S.I. 2008/698 as from 14.4.08.

<sup>6</sup>Words in reg. 35 inserted by reg. 4(13)(b) of S.I. 2013/443 as from 2.4.13.

**35.** Any payment in consequence of a reduction of ►<sup>5</sup>◀ council tax under section 13 ►<sup>6</sup>, 13A◀ or, as the case may be, section 80 of the Local Government Finance Act 1992(c) (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

►<sup>4</sup>**36.**—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(a) 1973 c. 50: section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), Part I of Schedule 7 to the Employment Act 1989 (c. 38), and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35.

(c) 1992 c. 14.

- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**37.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988<sup>(a)</sup> in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.◀

▶<sup>1</sup>**37A.** Any payment made under Part 8A of the Benefits Act (entitlement to health in pregnancy grant).◀

**38.** Any payment made either by the Secretary of State for ▶<sup>2</sup>Justice◀ or by the ▶<sup>3</sup>Scottish Ministers◀ under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of receipt of the payment.

▶<sup>3</sup>**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.◀

**40.** Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944<sup>(b)</sup> or in accordance with arrangements made under section 2 of the Employment and Training Act 1973, to assist disabled persons to obtain or retain employment despite their disability.

**41.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958<sup>(c)</sup> to homeworkers assisted under the Blind Homeworkers Scheme.

▶<sup>4</sup>**42.**—(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.◀

**43.** Any sum of capital administered on behalf of a person ▶<sup>5</sup>◀ in accordance with an order made under ▶<sup>6</sup>section 13 of the Children (Scotland) Act 1995◀, or under Rule 36.14 of the Ordinary Cause Rules 1993<sup>(d)</sup> or under Rule 128 of the Ordinary Cause Rules<sup>(e)</sup>, where such sum derives from—

- (a) 1988 c. 7.
- (b) 1944 c. 10.
- (c) 1958 c. 33.
- (d) First schedule of the Sheriffs Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1 January 1994 by S.I. 1993/1956.
- (e) First schedule to the aforesaid Act of 1907 as substituted by S.I. 1983/747.

<sup>1</sup>Para. 37A inserted in Sch. 8 by reg. 4(13)(a) of S.I. 2009/583. See reg. 1 to this S.I. for when to apply.

<sup>2</sup>Words substituted in para. 38 by art. 16(3) of S.I. 2007/2128 as from 22.8.07.

<sup>3</sup>Words in para. 38 & para. 39 substituted by reg. 3(11)(d) & (e) of S.I. 2008/3157 as from 5.1.09.

<sup>4</sup>Para. 42 inserted by para. 13(13)(c) of S.I. 2006/2378 as from 1.10.06.

<sup>5</sup>Words inserted in para. 43(b) and deleted in para. 43 by reg. 7(1)(f) of S.I. 1997/2197 as from 6.10.97.

<sup>6</sup>Words substituted in para. 43 by reg. 3(5) of S.I. 2003/2279 as from 1.10.03.

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- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents ►<sup>1</sup>where the person concerned is under the age of 18◀.

<sup>1</sup>Words inserted in para. 43(b) and deleted in para. 43 by reg. 7(1)(f) of S.I. 1997/2197 as from 6.10.97.

<sup>2</sup>Para. 45 substituted by reg. 13 of S.I. 2001/1029 as from 9.4.01.

**44.** Any payment to the claimant as holder of the Victoria Cross or George Cross.

►<sup>2</sup>**45.** Any mandatory top-up payment made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in—

- (a) the self-employment route;
- (b) an employment-programme specified in—
  - (i) regulation 75(1)(a)(ii)(bb) (Voluntary Sector Option of the New Deal); or
  - (ii) regulation 75(1)(a)(ii)(cc) (Environment Task Force Option of the New Deal); or
- (c) the Intensive Activity Period specified in regulation 75(1)(a)(iv) or in the Intensive Activity Period for 50 plus,

but only for the period of 52 weeks from the date of receipt of the payment.◀

<sup>3</sup>Para. 45A inserted by reg. 2(6) of S.I. 2002/2314 as from 14.10.02.

►<sup>3</sup>**45A.** Any mandatory top-up payment made to person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in a training scheme specified in regulation 75(1)(b)(ii) (Full-Time Education and Training Option of the New Deal) but only for the period of 52 weeks from the date of receipt of the payment.◀

<sup>4</sup>Para. 46 inserted by reg. 15 of S.I. 1997/2863 as from 5.1.98.

►<sup>4</sup>**46.** Any discretionary payment to meet, or to help to meet, special needs made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii) but only for a period of 52 weeks from the date of receipt of the payment.◀

<sup>5</sup>Para. 47 inserted by reg. 5(c) of S.I. 1998/1174 as from 1.6.98.

►<sup>5</sup>**47.** In the case of a person who is receiving, or who has received, assistance under ►<sup>6</sup>the self-employment route◀, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.◀

<sup>6</sup>Words substituted in para. 47 by reg. 4 of S.I. 2000/2910 as from 27.11.00.

*The provisions specified in para. 47 are modified from 28.11.00 to 28.11.01 unless revoked earlier, by S.I. 2000/3134 (see volume 11 page 11.5801) in their application to persons to whom this Part applies as if for the references to a person receiving, or having received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) of the jobseeker's allowance Regulations, there were substituted references to a person receiving or, as the case may be, having received, assistance in pursuing self-employed earner's employment whilst participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.*

<sup>7</sup>Para. 48 inserted by reg. 5(1) of S.I. 1998/2117 as from 24.9.98.

►<sup>7</sup>**48.** Any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) but only for the period of 52 weeks from the date of receipt of that payment.◀

*The text below modifies Schedule 8 from 28.11.00 to 27.11.01 unless revoked earlier, by adding paras. 49 and 50. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

49. Any child care expenses reimbursed to the claimant in respect of his participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations, but only for a period of 52 weeks from the date of receipt of the payment.

50. Any top-up payment made to a person ("the participant") pursuant to—

- (a) section 2 of the Employment and Training Act 1973 in respect of the participant's participation in the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations ("the intensive activity period"); or
- (b) a written arrangement entered into between the Secretary of State and the person who has arranged for the participant's participation in the intensive activity period and which is made in respect of the participant's participation in that period,

but only for the period of 52 weeks beginning on the date of receipt of the payment.

►<sup>1</sup>51.—(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

<sup>1</sup>Para. 51 added by reg. 7(5) of S.I. 1999/2165 as from 23.8.99.

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which benefit is payable or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) ►<sup>2</sup>◄, of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

<sup>2</sup>Words omitted in para. 51(2) by reg. 2(2) of, and para. 25 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(3) For the purposes of sub-paragraph (2)—

"food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made;  
 "ordinary clothing and footwear" means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.◄

►<sup>3</sup>52.—(1) Any payment—

<sup>3</sup>Para. 52 substituted by reg. 6(4) of S.I. 2004/1708 as from 1.9.04 (or during August 2004 if reg. 1(1)(b)(i) *ibid* applies.

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - <sup>4</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; ►<sup>5</sup>◄◄
- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002; or
  - (ii) regulations made under section 181 of that Act►<sup>5</sup>;
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.◄

<sup>4</sup>Sub-para. (1)(a)(iii) & (2)(c) substituted by reg. 3(11)(f)(i) & (ii) of S.I. 2008/3157 as from 5.1.09.

<sup>5</sup>Words omitted and inserted in para. 52 of Sch. 8 by reg. 10(14)(a)-(c) as from 31.10.11.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- <sup>4</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,◄

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance ►<sup>5</sup>or other payment◄ made pursuant to any provision specified in sub-paragraph (1).◄

►<sup>6</sup>53. In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

<sup>6</sup>Paras. 53 and 54 added by reg. 3(4)(b) of S.I. 2000/724 as from 3.4.00.

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**54.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.◀

<sup>1</sup>Para. 55 inserted by reg. 12(2)(d) of S.I. 2000/637 as from 3.4.00.

▶<sup>1</sup>**55.** Any payment made to a person under regulation 11 of the Social Security (Payments to Reduce Under-occupation) Regulations 2000, but only for a period of 52 weeks from the date of payment.◀

<sup>2</sup>Para. 56 inserted by reg. 2 of S.I. 2001/22 as from 1.2.01.

▶<sup>2</sup>**56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse ▶<sup>3</sup>or deceased civil partner◀; or
- (d) the claimant's partner's deceased spouse ▶<sup>3</sup>or deceased civil partner◀, by the Japanese during the Second World War, £10,000.◀

<sup>3</sup>Words inserted in para. 56(c) & (d) by para. 26(13)(d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>4</sup>Para. 57 inserted by reg. 2(1) of S.I. 2001/1118 as from 12.4.01.

▶<sup>4</sup>**57.**—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of ▶<sup>5</sup>20◀,
 whichever is the latest.

<sup>5</sup>Words in para. 57(2)(c) (ii)(bb) substituted by reg. 3(11) of S.I. 2006/718 as from 10.4.06.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made, or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—



- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person—
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of ►<sup>1</sup>20◄, whichever is the latest.

<sup>1</sup>Words in para. 57(4)(c) (ii)(bb) substituted by reg. 3(11) of S.I. 2006/718 as from 10.4.06.

- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
  - (b) being a member of the diagnosed person's family; or
  - (c) acting in the place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person ►<sup>2</sup>residing in a care home, an Abbeyfield Home, or an independent hospital◄, on that date.

<sup>2</sup>Words substituted in para. 57(5) by para. 15 of Sch. 2 to S.I. 2005/2687 as from 24.10.05.

- (6) In this paragraph—
- “diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;
- “relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
- “trust payment” means a payment under a relevant trust.◄

►<sup>3</sup>58. The amount of a payment other than a war pension ►<sup>4</sup>◄ to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse ►<sup>5</sup>or deceased civil partner◄ or the claimant's partner's deceased spouse ►<sup>5</sup>or deceased civil partner◄—

<sup>3</sup>Para. 58 inserted in Sch. 8 by reg. 2(d) of S.I. 2001/3481 as from 19.11.01.

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

<sup>4</sup>Words deleted in para. 58 & substituted in para. 59 by reg. 3(11)(g) & (h) of S.I. 2008/3157 as from 5.1.09.

during the Second World War.◄

►<sup>6</sup>►<sup>7</sup>59. —(1) Any payment made by a local authority, or by the ►<sup>4</sup>Welsh Ministers◄ to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.◄

<sup>5</sup>Words inserted in para. 58 by para. 26(13)(e) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

- (2) For the purposes of sub-paragraph (1) “local authority” means—
- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) in relation to Wales, a county council or a county borough council;
  - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.◄

<sup>6</sup>Para. 59 inserted in Sch. 8 by reg. 3(3)(b) of S.I. 2003/511 as from 1.4.03.

<sup>7</sup>Para. 59(1) substituted & paras. 60-62 inserted by reg. 3(5)(c) & (d) of S.I. 2003/2279 as from 1.10.03.

►<sup>7</sup>60. Any payment made under ►<sup>8</sup>◄ regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968 ►<sup>9</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(a)◄.

<sup>8</sup>Words in para. 60 omitted by reg. 4(13)(b) of S.I. 2009/583 as from 6.4.09.

►<sup>10</sup>61. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.◄

<sup>9</sup>Words inserted in para. 60 of Sch. 7 by reg. 4(13) of S.I. 2010/641 as from 1.4.10.

(a) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

<sup>10</sup>Para. 61 substituted by reg. 3(9) of S.I. 2005/2465 as from 30.12.05.

**Sch. 8**

<sup>1</sup>Para. 61A inserted by reg. 4(7) of S.I. 2004/2308 as from 4.10.04.

▶<sup>1</sup>61A. Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).◀

62. Any ERA payment but only for a period of 52 weeks from the date of receipt of that payment.◀

<sup>2</sup>Para. 63 inserted by reg. 16(b) of S.I. 2003/2439 as from 27.10.03.

▶<sup>2</sup>63. Any payment made to a claimant's partner in respect of the partner's participation in the Return to Work Credit Scheme pursuant to section 2 of the Employment and Training Act 1973.◀

<sup>3</sup>Para. 64 inserted in Sch. 8 by art. 4(2) of S.I. 2014/2103 as from 1.9.14.

▶<sup>3</sup>64. Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).◀

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Regulations contained in this Instrument are made either by virtue of, or in consequence of, provisions in the Jobseekers Act 1995(c. 18) ("the 1995 Act"). The instrument is made before the end of the period of 6 months beginning with the coming into force of those provisions; the regulations in it are therefore exempted from the requirement in section 172(1) of the Social Security Administration Act 1992 (c. 5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

Section 1 of the 1995 Act introduces a new benefit, to be known as a jobseeker's allowance, for those available for and actively seeking employment. Many of the regulations contained in this Instrument are made under powers contained in Part I of the 1995 Act.

Part I of the Regulations contains provisions relating to citation, commencement and interpretation.

Part II of the Regulations is about Jobseeking. Regulation 4 is a general interpretation provision for this Part of the Regulations. Chapter II of Part II contains detailed provisions on the requirement to be available for employment. In particular, they provide that a person—

- must normally be available to take up employment of at least 40 hours per week and if he restricts the hours for which he is available to 40 hours per week the times he is available must offer reasonable prospects of securing employment (regulations 6 and 7);
- may place other restrictions on his availability provided he can show that he has reasonable prospects of securing employment notwithstanding those restrictions (regulation 8).

Regulations 14 to 17 contain provisions setting out the circumstances in which a person is to be treated as available for employment.

Chapter III contains provisions setting out the steps a person must take to establish that he is actively seeking employment (regulation 18) and specifies the circumstances in which a person is to be treated as actively seeking employment (regulations 19 to 22).

Chapter IV contains provisions as to attendance by the claimant (regulation 23) and the provision of information and evidence (regulation 24). Regulations 25 to 30 provide for the circumstances in which entitlement to a jobseeker's allowance is to cease in the case of a failure to comply with regulation 23 or 24 and for the matters to be taken into account in determining whether to stop entitlement.

Chapter V contains details of the contents of the Jobseeker's Agreement (regulation 31) and matters relating to backdating (regulation 35), reviews (regulation 41) and appeals (regulations 42 to 45).

Part III also deals with conditions of entitlement. Regulation 40 provides for the number of waiting days at the beginning of a jobseeking period to be 3, and regulation 47 identifies which days count for the purpose of determining the jobseeking period. Regulation 48 provides for certain periods, including any period during which a person is on jury service, to link with jobseeking periods to provide continuity. Regulation 49 treats certain people approaching pensionable age as satisfying the jobseeking conditions. Provisions are included dealing with persons who are temporarily absent from Great Britain (regulation 50) and for those who are engaged in remunerative work (regulations 51 to 53). There are also provisions relating to relevant education (regulation 54) and short periods of sickness (regulation 55).

Part IV contains provisions in respect of young people who fall within the prescribed circumstances as referred to in regulation 58 or for whom a direction under section 16 of the 1995 Act is in force. It contains special rules for young people as to the availability for employment and actively seeking employment tests, the jobseeker's agreement and sanctions.

Part V deals with sanctions, when they apply and whether claimants have good cause for their actions (regulations 72 and 73).

Part VII specifies the amount of the contribution-based jobseeker's allowance (regulations 79 to 81) and provides for the calculation of the applicable amount in a variety of situations (regulations 82 to 86 and Schedules 1 to 5).

Part VIII contains provisions for the calculation of income and capital. Chapters II to VI make provision for income not expressly disregarded to be taken into account on a weekly basis; define earnings and prescribe the manner in which earnings and other income are to be calculated; they also prescribe the circumstances in which capital is to be treated as income and a person is to be treated as possessing income which he in fact does not possess. Chapter VI makes provision for the calculation of capital; sets the capital limit over which a person is not to be entitled to benefit at £8,000 and provides for a weekly tariff income on capital over £3,000 but under £8,000 at a rate of £1 for every £250. Chapters VII to IX make special provisions in relation to the calculation of payments made by liable relatives, under child support legislation and in respect of students. (Regulations 88 to 139 and Schedules 6 to 8)

Part IX contains provision for the payment of "hardship" payments, that is to say, payments of an income-based jobseeker's allowance at less than the full rate to a person who would not otherwise have any payments of a jobseeker's allowance (regulation 145). Regulation 140 identifies the circumstances in which a person is regarded as being in hardship.

Part X contains provision for certain persons from abroad who would otherwise have a nil applicable amount, to be given a reduced applicable amount (regulations 147 to 149).

Part XI contains details enabling the applicable amount to be calculated where the claimant is entitled to a jobseeker's allowance for a period of less than a week (regulation 150 to 155).

Part XII contains additional rules for certain special categories of claimant, namely share fishermen, persons outside Great Britain and members of the forces (regulations 156 to 168).

Part XIII contains miscellaneous items relating to the recovery of maintenance, training allowances and trade disputes (regulations 169 to 172).

An assessment of the costs to business of applying the provisions relating to jobseeker's allowance was completed when the Jobseekers Bill was published on 1st December 1994 and was placed in the Libraries of both Houses of Parliament. No changes to that assessment arise from the application of these Regulations. Copies of this assessment can be obtained by post from the Department for Education and Employment, EPI, Level 2, Caxton House, Tothill Street, London SW1H 9NF.



## The Flexible New Deal (Designation of Employment Officers) Order 2009

Made - - - - -

October 2009

Coming into force - - in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by section 19(10)(a), 20A(9) and 36(2) and (4) of the Jobseekers Act 1995(a).

### Citation, commencement and interpretation.

1.—(1) This order may be cited as the Flexible New Deal (Designation of Employment Officers) Order 2009.

(2) It comes into force on the day after the day on which it is made.

(3) In this Order the “Flexible New Deal” has the meaning given in regulation 75 (interpretation) of the Jobseeker’s Allowance Regulations 1996(b).

### Designation of employment officer functions

2. An individual who holds a post specified in column 1 of the Schedule in an organisation specified in the corresponding entry in column 2 is, in relation to the provision by that organisation of facilities or services in pursuance of the Flexible New Deal, designated as an employment officer for the purposes of the following provisions of the Jobseekers Act 1995—

- (a) Section 19(6)(c) (circumstances in which a jobseeker’s allowance is not payable), and
- (b) Section 20A(2)(f) (denial or reduction of joint-claim jobseeker’s allowance).

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

2nd October 1009

*Jim Knight*  
Minister of State,  
Department for Work and Pensions

(a) 1995 c. 8. Section 20A was inserted by section 59 of, and paragraph 1 and 13 of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30). Sections 35(1) and 36(4) were amended by section 2 of and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) S.I. 1996/207; regulation 75 was amended by S.I. 2009/480.

## SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Personal Adviser Employment Adviser Caseworker Operations Manager	A & L Training Ltd Company No. 4815741
Personal Career Coach Employment Coach Team Manager Project Manager Branch Manager	A4E Ltd Company No. 2631340
Customer Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	Action for Blind People Company No. 26688
Employment Consultant National Programmes Manager Operations Director Creative Industry Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	Armstrong Learning Limited Company No. 5417429
Customer Adviser Team Leader Centre Manager	ATS Community employment Limited Company No. 4684983
Personal Adviser Employment Adviser Caseworker Operations Manager	Autism Plus Company No. 2098193
Customer Adviser Team Leader Centre Manager	Avanta Enterprise Limited Company No. 5722765
Employment Adviser Employer Engagement Officer Employment Coach	Barnsley Metropolitan Borough Council
Employment Adviser Administrator Programme Manager	BCTV Enterprises Limited Company No. 1933576
Personnel Adviser Employment Adviser Caseworker Operations Manager	Beacon Employment Company No. 2939515

**ANNEX 1**

<i>Column 1</i>	<i>Column 2</i>
Employment Adviser Recruitment Consultant Business Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	Birmingham Chamber Training Ltd Company No. 2033424
Employment Development Officer	Birmingham City Council
Contract Manager Personal Adviser Employment Adviser Caseworker Operations Manager Employer Engagement, In Work Mentor Trainer ICT Trainer Administrator	Biscom Resource Management Limited Company No. 2998713
Personal Adviser Employment Adviser Caseworker Operations Manager	Blue Orchid Management Consultants Ltd Company No. 4154242
Personal Adviser Employment Adviser Caseworker Operations Manager	Bolton WISE Limited Company No. 3472026
Personal Adviser Employment Adviser Caseworker Operations Manager	BCTV Enterprises Ltd Company No. 1933576
Performance Manager	Business 2 Business (U.K.) Limited Company No. 2770233
Personal Adviser Employment Adviser Caseworker Operations Manager	Business Bureau (Wales) Ltd Company No. 3721729
Performance Manager Employer Engagement Co-ordinator Work Experience Co-ordinator	Business Employment Services Training Ltd Company No. 2268665
Personal Adviser Employment Adviser Caseworker Operations Manager	Business Enterprise Support Limited Company No. 3476735

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
Jobcoach	Calder UK Limited Company No. 06738692
Personal Adviser Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Careers Development Group Company No. 1647371
Customer Adviser Team Leader	Careers Enterprise Ltd Company No. 2961588
Centre Manager Employability Tutor Employment Adviser	Carnegie College
Customer Adviser Team Leader Centre Manager	Chichester College
Customer Adviser Team Leader Centre Manager	Concept Technology UK Limited Company No. 3897205
Personal Adviser Employment Adviser Caseworker Operations Manager	Coventry & Warwickshire Co-operative Development Agency Limited Company No. 1676622
Customer Adviser Team Leader Centre Manager	Creating Futures Ltd Company No. 2670883
Executive Director Education Adviser Assistant Education Manager Training Officer	Crestra Limited Company No. 3843412
Managing Partner Office Manager Managing Partner Office Manager	Crossmatch Solutions Community Interest Company No. 4653892
Director Project Manager	Crossover 619 Ltd Company No. 2892424
Personal Adviser Employment Adviser Caseworker Operations Manager	CSV Company No. 1435877



<i>Column 1</i>	<i>Column 2</i>
Employment Adviser Senior Employment Adviser Customer Adviser Team Leader Centre Manager Personal Adviser Caseworker Operations Manager	Dering Employment Services Company No. 5817296
Employment & Skills Manager Training & Workforce Development Manager Principal Finance & Contracts Manager JCP Finance & Contracts Manager Programme Manager Programme Co-ordinator Project Co-ordinator Training Manager Trainer Job Search Leader Skills for Life Tutor Employment Co-ordinator Client Support & Quality Assurance Manager Performance/Monitoring Officer Quality Practitioner Management Support Officer Health & Safety Officer Senior Training Assistant Training Assistant PA Administrator Administration Assistant	Dudley Metropolitan Borough Council
Project Manager Team Leader Advisers	East Dunbartonshire Council
Customer Adviser Team Leader Centre Manager	East Kent ITeC Ltd Company No. 1764048
Personal Adviser	East Lindsey Information Technology Centre Company No. 1802908
Personal Adviser Employment Adviser Caseworker Operations Manager	Economic Solutions Limited Company No. 2443911
Personal Adviser Employment Adviser Caseworker Operations Manager	Empowering People Inspiring Communities Limited Company No. 3333405

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
Centre Manager Programme Manager	Faith Regen Foundation Ltd Company No. 4298548
Personal Adviser Employment Adviser Caseworker Operations Manager	Focusing First on People Limited Company No. 5885484
Employment Officer Employment Officer Manager	Futures Training Centres Limited Company No. 2928598
Workplacement Officer Administration Officer Regional Training Manager	General Physics (UK) Ltd Company No. 3424328
Personal Adviser Employment Adviser Caseworker Operations Manager	Gofal Cymru Company No. 2546880
Personal Adviser Employment Adviser Caseworker Operations Manager	Groundwork Manchester, Salford, Stockport, Tameside and Trafford Company No. 6543150
Personal Adviser Employment Adviser Caseworker Operations Manager	Groundwork Oldham and Rochdale Company No. 1762088
Personal Adviser Employment Adviser Caseworker Operations Manager	Groundwork West Midlands Company No. 6823225
Personal Adviser Employment Adviser Caseworker Operations Manager	Herefordshire Primary Care Trust Training
Personal Adviser Employment Adviser Caseworker Operations Manager	Highway to Opportunities (H2O) Company No. 5429423
Personal Adviser Employment Adviser Caseworker Operations Manager	Holyhead Opportunities Trust Ltd Company No. 2735825
Personal Adviser Employment Adviser Caseworker Operations Manager	ILC Manchester Limited Company No. 4513929

<i>Column 1</i>	<i>Column 2</i>
Business Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	Inbiz Limited Company No. 3570889
Personal Adviser Employment Adviser Caseworker Operations Manager	Inspire 2 Independence (Training) Ltd Company No. 5103479
Personal Adviser Employment Adviser Caseworker Operations Manager	Inspired Sisters Limited Company No. 4714463
Programme Worker Manager	Inverclyde Community Development Trust Company No. SC116334
NVQ Assessor Lead Internal Verifier Centre Facilitator	Skillsdrive Limited (formally know as IT2ition Limited) Company No. 5240924
Chief Executive	Jericho Centre Company No. 6175439
Personal Adviser Employment Adviser Caseworker Operations Manager	ITEC Training Services Ltd Company No. 6858636
Cutomer Adviser Team Leader Centre Manager Employability Coach Employability Broker Employability Adviser Employability Tutors Co-ordinator Contracts Manager Personal Adviser Caseworker Operations Manager	JHP Group Limited Company No. 1729661
Training Centre Manager Assistant Training Centre Manager Training and Employment Consultant Pre Employment Training Officer Recruitment Consultant	Juniper Training Limited Company No. 4757246
Personal Adviser Employment Adviser Caseworker Operations Manager	Kashmir Youth Project Company No. 2357828

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
Development Coach	Kennedy Scott Limited 2386247
Personal Adviser Placement Officer Recruitment Consultant FND Project Manager Performance Manager	Life Skills Central Limited Company No. SC336157
Project Managers Team Leaders Advisers	Life Skills Employability Limited Company No. SC319317
Operations Manager Quality Manager Performance Manager Unit Manager Training Consultant Administrator	Management Introductions Limited Company No. 2433381
Personal Adviser Employment Adviser Caseworker Operations Manager	Manchester College Company No. 5759865
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Manpower UK Limited Company No. 3841918
Employment Consultant	Maximus Employment and Training Limited Company No. 03752300
Customer Adviser Team Leader Centre Manager	Medway Council
Centre Operations Manager Broker Referrals and Claims Manager	Mentor Employment & Skills Ltd
Area Manager Centre Manager Employment Officer	Microcom Training (Glasgow) Limited Company No. SC146878
Advisers Project Manager Team Leaders Adviser	Midlothian Training Services
Employment Adviser Administrative Officer	Move on East Company No. 3853380

<i>Column 1</i>	<i>Column 2</i>
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Neath Port Talbot County Borough Council
Customer Adviser Team Leader Centre Manager	Newhaven Community Development Association Ltd Company No. 3387617
Personal Adviser Employment Adviser Caseworker Operations Manager	Newport and Gwent Chamber of Commerce, Enterprise and Industry Limited Company No. 1687863
Personal Adviser Employment Adviser Caseworker Operations Manager	Newport City Council
Operations Director Contract Manager Programme Manager	Norfolk Training Services Limited Company No. 1225466
Personal Adviser Employment Adviser Caseworker Operations Manager	North Wales Training Ltd Company No. 2065604
Customer Adviser Team Leader Centre Manager	North West Kent College
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Occupational Training & Recruitment Ltd Company No. 2549314
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Pembrokeshire County Council
Site Lead Employment Coach Employer Liaison Co-ordinator	Pertemps People Development Group Ltd Company No. 4881405

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
IAG Officer/Adviser Team Leader FND Manager	Phoenix Enterprises (Rotherham) Company No. 3572996
Customer Adviser Team Leader Centre Manager Personal Adviser Employment Adviser Caseworker Operations Manager	Pinnacle People Limited Company No. 6588740
Personal Adviser Employment Adviser Caseworker Operations Manager	Project Management (Staffordshire) Ltd Company No. 1620399
Personal Adviser Employment Adviser Caseworker Operations Manager	Quadrant Media & Communications Limited Company No. 4334305
Personal Adviser Recruitment Manager Business Manager Specialist Adviser (Journey)	Reed in Partnership Limited Company No. 851645
Branch Manager Employment Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	Remploy Limited Company No. 00394532
Cutomer Adviser Team Leader Centre Manager	Romney Resource 2000 Ltd Company No. 3761952
Project Manager Team Leader Adviser	Routes to Work Limited Company No. SC238030
Project Managers Team Leaders Adviser	Routes to Work South Company No. SC217367
Personal Adviser Employment Adviser Caseworker Operations Manager	Salford Hundred Venture Limited Company No. 2065030
Contracts Manager Client Manager Employment Team Manager Employment Team Worker Employment Coach	Sandwell Council of Voluntary Organisations (Trading Co.) Charity No. 1071514

<i>Column 1</i>	<i>Column 2</i>
Conservation teams co-ordinator Conservation projects manager Conservation projects supervisor	Scottish Wildlife Trust Company No. SC040247
Personal Adviser Employment Adviser Caseworker Operations Manager	Scout Enterprises (Western) Ltd Company No. 1796061
Operations Manager Centre Manager Personal Adviser Senior Employment Consultant Employment Consultant Employment Adviser Caseworker Operations Manager	Seetec Business Technology Centre Limited (also Prime Provider) Company No. 2291188
Personal Adviser Employer Adviser Administrator Operations Manager Quality Co-ordinator	Serco Ltd Company No. 242246
Personal Adviser Employment Adviser Caseworker Operations Manager	Shaw Trust (Employment Opportunities Charity No. 287785
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Busines Support Manager	Shores Charity No. 1099462
Personal Adviser Employment Adviser Caseworker Operations Manager	Shropshire Council County Training
Customer Adviser Team Leader Centre Manager	Skills Training UK Ltd Company No. 03713193
Personal Adviser Employment Adviser Caseworker Operations Manager	South Staffordshire and Shropshire Healthcare
Personal Adviser Employment Adviser Caseworker	SOVA Company No. 3645143

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
Operations Manager Personal Adviser Employment Adviser Caseworker Operations Manager	St Peters Trading Partnership (Enterprise Plus) Ltd Company No. 6546570
Personal Adviser Employment Adviser Caseworker Operations Manager	Standguide Limited Company No. 2563257
Area Manager Operations Manager Centre Manager Assistant Manager FND Personal Coach Personal Coach Keyworker Assistant Project Officer Post Employment Support Officer Placement Officer	Steps to Work Walsall Ltd Company No. 03738249
Personal Adviser Employment Adviser Caseworker Operations Manager	Stoke-on-Trent College
Customer Adviser Team Leader Centre Manager	Strode's College
Team Leaders Account Manager Candidate Assessor	Talent Recruitment Limited Company No. 2797859
Team Leader Job Broker Administrator Centre Manager	TBG Learning Ltd Company No. 2236017
Personal Adviser Employment Adviser Caseworker Operations Manager	The Big Life Comapny Limited Company No. 4227431
Senior Adviser Adviser	The Intraining Group Limited Company No. 6540854
Senior Employment Training Adviser	The Merlin Venture Limited Company No. 3615422



<i>Column 1</i>	<i>Column 2</i>
Employment Adviser Trainer Business Manager Employment Liaison Officer Administrator	The Papworth Trust Company No. 148906
Personal Adviser Employment Adviser Caseworker Operations Manager	The Prince's Trust RC000772
Employer Engagement Officer Personal Adviser	The Priory Trust Limited Company No. 4202665
Project Managers Team Leaders Adviser	The Wise Group Company No. SC091095
Business Manager Personal Job Adviser Personal Adviser Employment Adviser Caseworker Operations Manager	TNG Ltd Company No. 2795833
Employment Liaison Officer	Tomorrows People Today Company No. 05017566
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager	Torridge Training Services Limited Company No. 2071123
Personal Adviser Employment Adviser Caseworker Operations Manager	Track 2000 Company No. 5124896
Personal Adviser Employment Adviser Caseworker Operations Manager	Train 2000 Ltd Company No. 3146623
Client Support Manager Recruitment Manager Quality Manager Work Co-ordinator Post-Participation Co-ordinator Jobsearch Programme Assistant	Triage Central Limited Company No. SC186908

## ANNEX 1

<i>Column 1</i>	<i>Column 2</i>
Personal Adviser Employment Adviser Caseworker Operations Manager	Tydfil Training Consortium Ltd Company No. 2472331
Personal Adviser Employment Adviser Caseworker Operations Manager	Vale of Glamorgan Council
Contract Manager Employment Consultant Personal Adviser Administrator	Wise Ability Limited Company No. 6749024
Team Manager Branch Manager Administrator Adviser Deputy Operations Manager Operations Manager Employer and Partnership Co-ordinator Receptionist	Work Directions UK Ltd Company No. 04320853
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager Partnership and Provisions Manager Partnership and Provisions Co-ordinator Project Manager Team Leader Adviser	Working Links (Employment) Ltd Company No. 3943678
Contracts Manager Employment Adviser Deputy Manager	Workwise (Suffolk) Ltd Company No. 3963464
Performance Manager Personal Consultant Employment Solutions (Job Search) Tutor Host Administrator Business Support Manager Manager Employer Engagement Adviser Training Adviser Customer Adviser Team Leader Centre Manager	YMCA Training Company No. 4379109

## The Flexible New Deal (Designation of Employment Officers) (No. 2) Order 2009

Made - - - - - 2009

Coming into force in accordance with article 1 (2)

The Secretary of State makes the following Order in exercise of the powers conferred by section 19(10)(a), 20A(9) and 36(2) and (4) of the Jobseekers Act 1995(a).

### Citation, commencement and interpretation.

1.—(1) This order may be cited as the Flexible New Deal (Designation of Employment Officers) (No. 2) Order 2009.

(2) It comes into force on the day after the day on which it is made.

(3) In this Order the “Flexible New Deal” has the meaning given in regulation 75 (interpretation) of the Jobseeker’s Allowance Regulations 1996(b).

### Designation of employment officer functions

2. An individual who holds a post specified in column 1 of the Schedule in an organisation specified in the corresponding entry in column 2 is, in connection with the provision by that organisation of facilities or services in pursuance of the Flexible New Deal, designated as an employment officer for the purposes of the following provisions of the Jobseekers Act 1995—

- (a) Section 19(6)(c) (circumstances in which a jobseeker’s allowance is not payable), and
- (b) Section 20A(2)(f) (denial or reduction of joint-claim jobseeker’s allowance).

### Amendment of the Flexible New Deal (Designation of Employment Officers) Order 2009.

3. In column 2 of the Schedule to the Flexible New Deal (Designation of Employment Officers) Order 2009 omit “Work Directions” and the corresponding entries in column 1.

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

26 November 2009

*Jim Knight*  
Minister of State,  
Department for Work and Pensions

(a) 1995 c. 8. Section 20A was inserted by section 59 of, and paragraph 1 and 13 of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30). Sections 35(1) and 36(4) were amended by section 2 of and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) S.I. 1996/207.

## SCHEDULE

Article 2

<i>Column 1</i>	<i>Column 2</i>
Executive Director Office Manager	Arabic Centre for Career Development Company No. 4117256
FND - Co-ordinator	ATL (Yorkshire) Limited Company No. 3818303
Administrator Business Support Manager Employment Solutions (Job Search) Host Personal Consultant Tutor	Business 2 Business (U.K.) Limited Company No. 2770233
Personal Adviser Employment Coach Senior Employment Coach Employer Engagement Manager Employer Engagement Consultant Business Manager	Careers Development Group Company No. 1647371
Centre Manager Customer Adviser Team Leader	Careers Enterprise Limited Customer No. 2961588
Employment Adviser Personal Adviser Caseworker Operations Manager	Coleg Menai
Business Development Director CEO Employment Programme Officer Employment Programmes Manager Managing Director	Community Enterprise Derby Community Interest Company Company No. 6951214
Adviser Branch Manager In Work Support Mentor Team Leader Trainer	Community Training Services Limited Company No. 3830791
Business Adviser Recruitment and Monitoring Officer	Derbyshire & Nottinghamshire Chamber of Commerce Company No. 1785710
ETC Manager Manager of Quality and Control Broker	FourstaR Employment & Skills Company No. 6601702
Project Manager Vocational Guidance Officer	Gharweg Advice Training & Careers Centre Company No. 06887043

<i>Column 1</i>	<i>Column 2</i>
Career Coach Career Coach Support Contract Manager	Goodwin Development Trust Company No. 4454814
Personal Career Coach	Heantun Housing Association Company No. IP20928R
Team Manager Branch Manager Administrator Adviser Deputy Operations Manager Operations Manager Employer and Partnership Co-ordinator Receptionist	Ingeus UK Limited Company No. 04320853
Learning Co-ordinator Operations Director Project Administrator	Jobs Education and Training Company No. 4366087
Assessor Employment Adviser Training Co-ordinator	Kaleidoscope Education Training and Recruitment Services Ltd Company No. 06519469
Regional Training Manager Employment Development Coach Personal Development Coach Partnership Manager Administrator	Kennedy Scott Limited Company No. 2386247
Employment Engagement Consultant Business Manager Partner Performance Manager Area Manager	Maximus Employment & Training Limited Company No. 03752300
Centre Manager Customer Adviser Team Leader	Newhaven Community Development Association Ltd Company No. 3387617
Advice and Guidance Co-ordinator Director Skills Trainer	OBAC (Organisation of Blind African Caribbeans) Company No. 1042756 (Charity Number)
Centre Manager Job Brokerage Co-ordinator Job Brokerage Officer Personal Adviser	Prodiverse Limited Company No. 4298348
Employment Adviser Personal Adviser Caseworker Operations Manager	Rathbone Charity No. 287120

## ANNEX 2

<i>Column 1</i>	<i>Column 2</i>
Employment Coach In Work Mentor Personal Career Coach Project Co-ordinator Trainer	Sandwell MBC
Employment Adviser Contracts Manager Manager	Sandwell Women's Enterprise Development Agency (SWEDA) Company No. 02419631
Employment Adviser Personnel Adviser Caseworker Operations Manager	Sarina Russo Job Access (UK) Limited Company No. 6742874
Regional Manager Learning Centre Manager Team Leader Employment Adviser Employability Skills Tutor Job Broker	TBG Learning Ltd Company No. 2236017
CEO Curriculum & Quality Manager Finance/Administration Manager UK Online Manager	The Hope Foundation Limited Company No. 3141290
Employment Liaison Officer	Tomorrow's People Trust Limited Company No. 5017566
Careers Coach	Turkish Cypriot Community Association Company No. 3851759
Employment Adviser Employment Manager Information Advice and Guidance Adviser Job Coach Job Trainer	Walsall Community College Company No. 3242072
Assistant Manager Employment Consultant General Manager	WM Morrison Trust Company No. 327040 (Charity Number)