
STATUTORY INSTRUMENTS

1996 No. 207

The Jobseeker's Allowance Regulations 1996

PART XII

**SPECIAL CATEGORIES SHARE FISHERMEN, PERSONS
OUTSIDE GREAT BRITAIN AND MEMBERS OF THE FORCES**

Chapter I

Share Fishermen

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 a claimant's weekly net profit—

(a) £15; 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 £15, paragraph (4)(a) shall not apply;
 - (b) if the amount so disregarded is less than £15, the amount disregarded under paragraph (4)(a) shall not exceed the difference between the amount disregarded from those other earnings and £15.
- (6) For the purposes of paragraph (3), the net profit shall be calculated by taking into account the earnings less, subject to paragraphs (7) to (9), any expenses relevant to that benefit week which were wholly, exclusively and necessarily incurred for the purposes of that employment.
- (7) Subject to paragraph (8), no deduction shall be made under paragraph (6) in respect of—
- (a) any capital expenditure;
 - (b) the depreciation of any capital asset;
 - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
 - (d) the repayment of capital on any loan taken out for the purposes of the employment;
 - (e) any expenses incurred in providing business entertainment.
- (8) A deduction shall be made under paragraph (6) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; and
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (9) An adjudication officer 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, and adjudication officer 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 usually high or low.
- (12) In this regulation “benefit week” has the same meaning as in regulation 164 (share fishermen: amount payable). (4) In regulation 102 (deduction of tax and contributions for self-employed earners)—
- (a) in paragraphs (1) and (2) — for the words “regulation 101(1)(b)(i)” there shall be substituted the words “regulation 101(3)(a)”;
 - (b) in paragraph (3)(a) for the words “under paragraph (4)(a) or, as the case may be, (5)” there shall be substituted the words “under paragraph (6)”;
 - (c) at the end of the regulation there shall be added the following paragraph—
 - “(4) For the purposes of paragraphs (1) and (2) the earnings to which the lower rate of tax is to be applied and the amount of personal relief deductible, the amount specified in section 11(4) of the Benefits Act, and the upper limit of profits and gains referred to

in paragraph (2)(b), shall be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 101.”.