

## SCHEDULE

Regulations 59(2) and 61(2)

### Sums to be disregarded in the calculation of earnings

**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 the employment which was terminated before the first day of entitlement to a jobseeker's allowance;
- (b) any earnings, other than a payment of the nature described in sub-paragraph (2)(a) or (b) (ii), paid or due to be paid from the employment which has not been terminated where the claimant is not—
  - (i) engaged in remunerative work; or
  - (ii) suspended from their employment.

(2) This sub-paragraph applies to—

- (a) any payment of the nature described in—
  - (i) regulation 58(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 58(1)(f) or (h); or
  - (ii) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),  
including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings.

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

(2) This paragraph—

- (a) 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;
- (b) does not apply to a claimant who has been suspended from their employment.

**3.** Any payment to which regulation 58(1)(f) applies—

- (a) which is due to be paid more than 52 weeks after the date of termination of the employment in respect of which the payment is made; or
- (b) which is a compensatory award within the meaning of section 118(1)(b) of the Employment Rights Act 1996(1) 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 engaged, from the date of the cessation of their employment any earnings derived from that employment except earnings to which regulation 55(2) (royalties etc) applies.

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(1) Section 118 was amended by section 8 of the Public Interest Disclosure Act 1998 (c.23), Schedule 9 to the Employment Relations Act 1999 (c.26), paragraph 21 of Schedule 1 to the Employment Rights (Dispute Resolution) Act 1998 (c.8) and paragraph 38 of Schedule 7 and Schedule 8 to the Employment Act 2002.

5. In a case to which neither of paragraphs 6 and 7 applies to the claimant, £5.
6. £20 of the total earnings derived from one or more employments as—
- (a) in England and Wales, a part-time fire-fighter employed by a fire and rescue authority;
  - (b) in Scotland, a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005<sup>(2)</sup>) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
  - (c) an auxiliary coastguard in respect of coast rescue activities;
  - (d) a person engaged part-time in the manning or launching of a lifeboat;
  - (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.
7. Where the claimant is engaged in one or more employments specified in paragraph 6 but their earnings derived from such employments are less than £20 in any week and they are also engaged in any other part-time employment, so much of their earnings from that other employment up to £5 as would not in aggregate with the amount of their earnings disregarded under paragraph 6 exceed £20.
8. Notwithstanding paragraphs 1 to 7 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 56(1)(b) (date on which earnings are treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there is to be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.
9. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.
10. Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
11. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.
- 12.—(1) Where by reason of earnings to which sub-paragraph (2) 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) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 6, derived by the claimant from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001 in respect of a period of annual continuous training for a maximum of 15 days in any calendar year.
- (3) In sub-paragraph (1), "personal rate" means the rate for the claimant calculated as specified in section 4(1) of the Act.
13. In this Schedule "part-time employment" means employment in which the person is not to be treated as engaged in remunerative work under regulation 43 or 44 (persons treated as engaged, or not engaged, in remunerative work).

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(2) 2005 asp 5.