
STATUTORY INSTRUMENTS

1996 No. 193

SOCIAL SECURITY

The Social Security (Back to Work Bonus) Regulations 1996

Made - - - - *1st February 1996*

Coming into force - - *7th October 1996*

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

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 26, 35(1) and 36(2) to (5) of the Jobseekers Act 1995(1), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 6 months beginning with the coming into force of the enactments under which it is made(2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Back to Work Bonus) Regulations 1996 and shall come into force on 7th October 1996.

(2) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“applicant” means the person claiming the bonus;

“bonus” means a back to work bonus;

“bonus period” means a period beginning on the first day of entitlement to a qualifying benefit in a period of entitlement to a qualifying benefit which falls after the waiting period and ends on the last day of that period of entitlement;

“claim” means a claim made in accordance with regulation 23;

“couple” means a married or an unmarried couple;

“earnings” means any earnings which are paid within the bonus period and which—

(a) where the qualifying benefit is income support, are net earnings or net profit within the meaning of regulation 2 of the Income Support Regulations or are treated as earnings in accordance with regulation 42(5) or (6) of the Income Support Regulations, or

(1) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meanings ascribed to the words “prescribed” and “regulations”.

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

(b) where the qualifying benefit is a jobseeker's allowance, are earnings for the purposes of the Act by virtue of section 35(3) or are treated as earnings in accordance with regulations made under section 12(4)(a) (income and capital);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(3);

"employment" includes any trade, business, profession, office or vocation;

"partner" means where the person—

(a) is a member of a married or unmarried couple, the other member of that couple;

(b) is married polygamously to two or more members of his household, any such member;

"pensionable age" has the meaning it has in section 122(1) of the Benefits Act;

"period of entitlement to a qualifying benefit" shall be construed in accordance with regulations 2 and 3;

"training" means training for which a training allowance is payable;

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

(a) out of public funds by a Government department or by or on behalf of the Secretary of State for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise; 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 for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise,

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(4), or is training as a teacher;

"waiting period" means the period of 91 consecutive days to which regulation 6 refers;

"week" means a period of 7 days;

"work condition" has the meaning it has in regulation 7(2)(b).

(3) For the purposes of these Regulations the qualifying benefits are a jobseeker's allowance and income support.

(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 regulation is to the regulation in these Regulations bearing that number;

(c) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;

(d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) S.I. 1987/1967.

(4) 1973 c. 50.

Period of entitlement to a qualifying benefit

2.—(1) A period of entitlement to a qualifying benefit comprises only days on which a person is entitled to, or treated as entitled to a qualifying benefit.

(2) Subject to paragraph (4), any two or more periods of entitlement to a qualifying benefit separated by an intervening period specified in paragraph (3) shall link together to form a single period of entitlement to a qualifying benefit.

(3) The intervening periods specified in this paragraph are—

- (a) any connecting period for the purposes of regulation 4;
- (b) any period of not more than 12 weeks falling between—
 - (i) two periods of entitlement to a qualifying benefit;
 - (ii) two connecting periods;
 - (iii) a connecting period and a period of entitlement to a qualifying benefit.

(4) A period of entitlement to a qualifying benefit which would but for this paragraph have continued, shall end—

- (a) where the applicant satisfies the work condition and claims a bonus, on the last day of entitlement to a qualifying benefit which precedes the day on which he first satisfies those requirements;
- (b) where the person dies, on the date of his death.

Period of entitlement to a qualifying benefit: further provisions

3.—(1) Any day falling within a period during which a jobseeker's allowance is not payable in accordance with section 19 shall be treated as a day of entitlement to a qualifying benefit only if and for so long as the claimant complies with the requirements as to attendance and the provision of information and evidence contained in regulations made in accordance with section 8(1).

(2) Any day falling within a period during which a jobseeker's allowance is not payable by virtue of section 4(1) solely because of deductions in respect of pension payments shall be treated as a day of entitlement to a qualifying benefit only if and for so long as the claimant complies with requirements as to attendance contained in regulations made in accordance with section 8(1) for the purpose of obtaining any credit in accordance with section 22(5) of the Benefits Act.

(3) Except as provided in paragraphs (1) and (2), no day falling within a period in which a person has an entitlement to a qualifying benefit but—

- (a) no benefit is payable; or
- (b) the weekly amount of benefit which is payable is less than 10p or in the case of a person to whom section 14 (trade disputes) applies, £5,

shall be treated as a day of entitlement to a qualifying benefit.

(4) Paragraph (5) applies in the case of a person ("the recipient") who has not been entitled to a qualifying benefit, but—

- (a) was the partner of a person who has died and that person was entitled to a qualifying benefit other than a contribution-based jobseeker's allowance immediately before his death; or
- (b) has separated from a partner who at the date of separation had been entitled to a qualifying benefit other than a contribution-based jobseeker's allowance; or
- (c) is one of a couple whose partner has been entitled to a qualifying benefit other than a contribution-based jobseeker's allowance but where entitlement for the qualifying benefit ceased to be that of the partner and became instead that of the recipient.

(5) Where this paragraph applies and paragraph (6) is satisfied in the case of a recipient to whom paragraph (4) applies, the period of entitlement to a qualifying benefit established by the recipient's partner shall be treated as if it had also been established by the recipient.

(6) In the case of a recipient to whom paragraph (4) refers, paragraph (5) applies only where the recipient makes a claim for a qualifying benefit within 12 weeks of the date on which—

- (a) the partner died; or
- (b) the couple separated; or
- (c) where paragraph (4)(c) applies, the partner's entitlement to the qualifying benefit ceased.

Connecting period

4.—(1) Subject to the following provisions of this regulation, a connecting period arises where—

- (a) a person ceases to be entitled to a qualifying benefit because he attends training, except where the person enters into a contract of service with the provider of the training, and lasts throughout the period of training;
- (b) a person ceases to be entitled to a qualifying benefit because he is summoned for jury service in respect of any day, and lasts throughout the period to which the summons applies;
- (c) a person ceases to be entitled to a qualifying benefit because a maternity allowance becomes payable, and lasts throughout the period maternity allowance is payable to the person;
- (d) a person ceases to be entitled to a qualifying benefit and in respect of the whole or part of the period of 12 weeks immediately following the day he ceases to be entitled, he becomes entitled ("the new entitlement") to any one of the following benefits—
 - (i) incapacity benefit;
 - (ii) severe disablement allowance; or
 - (iii) invalid care allowance;

and the connecting period lasts until the new entitlement ends or until the expiration of a period of 2 years from the date in respect of which the new entitlement began, whichever is the earlier; or

- (e) a person ceases to be entitled to one of the benefits mentioned in sub-paragraph (d) above and in respect of the whole or part of the period of 12 weeks immediately following the day he ceases to be so entitled, he becomes entitled to the same or another of those benefits, and the connecting period lasts until the end of the period of entitlement to that benefit or until the expiration of the period of 2 years from the day in respect of which the new entitlement mentioned in sub-paragraph (d) began, whichever is the earlier.

(2) Notwithstanding paragraph (2)(e) where two periods of incapacity for work within the meaning of section 30C(1) of the Benefits Act(5) are separated by a period of more than 8 weeks, the second of those periods is only a connecting period where in the weeks between the two periods of incapacity for work, the person was entitled to a qualifying benefit which ceased with the onset of the second of those periods of incapacity for work.

(3) In any relevant period, only one connecting period which arises in accordance with paragraph (1)(d) shall apply in any particular case, and for this purpose, a "relevant period" is the period which falls between periods of entitlement to a qualifying benefit.

(5) Section 30C was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 3(1).

(4) For the purposes of paragraph (1)(e) any part of the period of up to 12 weeks mentioned in that sub-paragraph in which the person was not entitled to one of the benefits to which paragraph (1)(d) refers shall be disregarded in determining the period of 2 years.

Periods of entitlement which do not qualify

5.—(1) The periods specified in paragraph (3) shall be treated for the purposes of these Regulations as periods in which a person is not entitled to a qualifying benefit.

(2) Any sums earned in a period specified in paragraph (3) shall not be taken into account in determining—

- (a) whether a person has earnings from employment; or
- (b) the amount of those earnings.

(3) The periods specified in this paragraph are any period during which—

- (a) interim payments were made to the person in accordance with regulation 2 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988(6) and in respect of which no award of a qualifying benefit was subsequently made to him;
- (b) subject to paragraph (4), the person's applicable amount is determined in accordance with Part VI of the Income Support Regulations (urgent cases) or with any corresponding provisions having effect in connection with a jobseeker's allowance and made under section 4(5); or
- (c) the person is entitled to a jobseeker's allowance in accordance with regulations made under section 20(4) of, or section 21 of and paragraph 9 or 10 of Schedule 1 to the Act because—
 - (i) he fails to satisfy any one or more of the conditions specified in section 1(2)(a) to (c) (availability for and actively seeking employment), or
 - (ii) subject to paragraph (5), he has submitted a claim for a jobseeker's allowance but the adjudication officer has not determined whether those conditions are satisfied.

(4) Paragraph (3)(b) shall not apply in the case of a person to whom—

- (a) regulation 70(2)(a) of the Income Support Regulations (certain persons from abroad); or
- (b) any corresponding regulation having effect in connection with a jobseeker's allowance and made under section 4(5),

applies.

(5) Paragraph (3)(c)(ii) shall not apply to any period in respect of which the claim for a jobseeker's allowance is determined by the adjudication officer in the claimant's favour.

Waiting period

6.—(1) A person shall not be entitled to a bonus unless he has served or is treated as having served a waiting period.

(2) A waiting period is the period comprising the first 91 days in a period of entitlement to a qualifying benefit in which the claim for the bonus is made or which precedes a claim made in accordance with regulation 23(1)(b).

Requirements for a bonus

7.—(1) An applicant who has served a waiting period shall be entitled to a bonus where he satisfies any one of the conditions set out in paragraphs (2) to (5).

(6) S.I. 1988/664; the relevant amending instruments are S.I. 1991/2742 and 1993/650.

- (2) The first condition is that—
- (a) he or his partner has or had earnings of which a part only has been disregarded in determining the amount of those earnings for the purposes of a qualifying benefit;
 - (b) he or his partner takes up or returns to or increases the number of hours in which in any week he or his partner is engaged in employment or the earnings from an employment in which he or his partner is engaged are increased (“the work condition”), and—
 - (i) that employment results, or
 - (ii) those earnings result, or
 - (iii) the increase in the number of hours and an increase in earnings together result, in entitlement to a qualifying benefit (other than a partner’s entitlement to a contribution-based jobseeker’s allowance) in respect of himself, and where he has a partner, his family, ceasing;
 - (c) he claims the bonus before the end of a period of 12 weeks immediately following the day in respect of which entitlement to the qualifying benefit ceased as mentioned in subparagraph (b); and
 - (d) in a case where the qualifying benefit to which the person was entitled—
 - (i) was income support, he has not attained the age of 60; or
 - (ii) was a jobseeker’s allowance, he has not attained pensionable age, at the time the work condition was satisfied.
- (3) The second condition is that—
- (a) within 14 days of his ceasing to be entitled to a qualifying benefit he or his partner satisfy the work condition;
 - (b) had the work condition been satisfied on the day he was last entitled to a qualifying benefit, that entitlement would as a consequence have ceased;
 - (c) he satisfies the requirements of paragraph (2)(a) and (d); and
 - (d) he claims the bonus within 12 weeks of his ceasing to be entitled to a qualifying benefit.
- (4) The third condition is that—
- (a) the applicant has undertaken training;
 - (b) entitlement to the qualifying benefit ceased in consequence of the payment of a training allowance;
 - (c) within 14 days of the completion of the training he takes up employment—
 - (i) of 16 or more hours per week; or
 - (ii) from which his weekly earnings equal or exceed the amount of the training allowance payable to him in the last week of training;
 - (d) he claims the bonus before the end of the period of 12 weeks immediately following the day on which the training ceased;
 - (e) he satisfies the requirements specified in paragraph (2)(a); and
 - (f) in a case where the qualifying benefit to which the person was entitled—
 - (i) was income support, he has not attained the age of 60; or
 - (ii) was a jobseeker’s allowance, he has not attained pensionable age, at the time he took up the employment.
- (5) The fourth condition is that—
- (a) the applicant is formerly one of a couple who have separated;

- (b) at the date of separation, either the applicant or his partner was entitled to a qualifying benefit;
- (c) had he been entitled to a qualifying benefit on the day of separation, the amount of the qualifying benefit payable to him would have been less than the applicable amount in his case because of the amount of his earnings;
- (d) within 14 days of the separation, he satisfies the work condition and is engaged in employment for 16 hours or more per week;
- (e) he satisfies the requirements specified in paragraph (2)(a) and (d); and
- (f) he claims the bonus within 12 weeks of the day on which the separation occurred.

(6) For the purpose of determining whether any of the above conditions are satisfied, any change of circumstance other than those specified in the preceding provisions of this regulation which occurred at the same time as a change specified in those provisions and which would of itself have resulted in a loss of entitlement to a qualifying benefit shall be disregarded.

(7) A person who—

- (a) claims, or whose partner claims, a qualifying benefit within 12 weeks of the day in respect of which his last previous entitlement to a qualifying benefit ceased; and
- (b) has not made and whose partner has not made a claim for a bonus before the claim for the qualifying benefit is made,

shall be treated as not satisfying the requirements of paragraph (2)(c).

Amount payable

8.—(1) Subject to the following provisions of these Regulations, the amount of the bonus payable to an applicant shall be the aggregate of—

- (a) half the amount of that part of the applicant's earnings which are paid in any week falling either wholly or partly within the bonus period, but which are not disregarded in accordance with regulation 36(2) or 38(2) of, and paragraphs 4 to 9 of Schedule 8 to the Income Support Regulations or, as the case may be, any corresponding regulations having effect in relation to a jobseeker's allowance; and
- (b) where the person is one of a couple or a member of a polygamous marriage, half the amount of the partner's earnings which are not disregarded in accordance with the provisions mentioned in sub-paragraph (a).

(2) Earnings paid in any week in respect of which the person is entitled to a qualifying benefit but has an applicable amount of Nil, shall be disregarded for the purposes of determining the amount of any bonus payable in his case.

(3) Paragraph (1)(b) shall not apply where the qualifying benefit to which the person is entitled is a contribution-based jobseeker's allowance.

(4) Where—

- (a) within the bonus period, a person or his partner has earnings in any week, but the person fails to disclose those earnings or discloses earnings which are less than the amount of those earnings;
- (b) as a result of the failure to disclose those earnings a qualifying benefit is paid at a higher rate than it would have been had the earnings been disclosed;
- (c) those earnings are taken into account, or fully taken into account, on a review of the decision awarding the qualifying benefit; and
- (d) as a result of the review an overpayment of benefit arises,

then those earnings which were not disclosed shall be disregarded in determining the amount of the bonus.

- (5) Except in a case to which paragraph (4) applies, where—
- (a) in the bonus period, a person or his partner has earnings in any week;
 - (b) the adjudication officer is satisfied that the whole or part of those earnings were not taken into account in determining the amount of any qualifying benefit payable, whether because of a misrepresentation, official error or otherwise; and
 - (c) had those earnings been fully taken into account, the amount of the qualifying benefit would have been less than the amount in fact paid,

then those earnings in so far as they were not fully taken into account shall be disregarded in determining the amount of the bonus.

(6) Except in a case to which regulation 13 (single persons who become couples) or 15(4)(a) (single claimants who are couples) applies, the maximum sum payable by way of a bonus to an applicant in respect of a bonus period is £1,000.

(7) In the case of a couple who separate, any earnings paid to either of them after the maximum sum, specified in paragraph (6) has been reached but before the date of the separation, shall be disregarded in calculating the amount of any bonus payable on a claim made by either of them or if they are one of a couple the other member of that couple after the date of separation.

(8) Where one or more members of the polygamous marriage separate, any earnings paid to any of them after the maximum specified in paragraph (6) has been reached but before the date of separation, shall be disregarded in calculating the amount of any bonus payable on a claim made by any person who is or was a member of that marriage after the date of separation or, if they become one of a couple, by the other member of that couple.

(9) Where the amount of the bonus which would, but for this paragraph, be payable to an applicant is less than £5, the bonus shall not be payable.

(10) Where the amount of a bonus would, but for this paragraph, include a fraction of a penny, that fraction shall be disregarded if it is less than a half penny and shall otherwise be treated as a penny.

(11) Subject to paragraphs (6) to (10), the amount of the bonus payable shall be the whole of the amount calculated in accordance with this regulation.

(12) In paragraph (5), “official error” means a mistake made or something done or omitted to be done by an officer of the Department of Social Security or the Department for Education and Employment acting as such where the person claiming the qualifying benefit or any person acting on his behalf has not caused, or materially contributed to, that mistake or omission.

Secretary of State to issue estimates

9.—(1) Where it appears to the Secretary of State that a person who is in receipt of a qualifying benefit, or the partner of such a person, has served the waiting period and that, were the conditions of regulation 7 also to be satisfied, a bonus may be payable to that person, he shall, within a year of the waiting period having been served, provide the person claiming the qualifying benefit with a written statement of the amount he estimates may be payable by way of a bonus in his particular case, and shall provide further such statements at intervals of not more than one year as appears to him to be appropriate in the circumstances of the case.

(2) The issue by the Secretary of State of a statement under paragraph (1) shall not be binding upon the adjudication officer when he makes his determination on a claim for a bonus as to—

- (a) whether the applicant satisfies the conditions of entitlement to the bonus; and
- (b) the amount, if any, payable where a bonus is awarded.

Couples who separate

10.—(1) In the case of a couple who separate and at the date of separation one member of the couple has days of entitlement to a qualifying benefit which count towards the waiting period, those days of entitlement which count, up to a maximum of 91 days, shall count towards a waiting period for the other member of the couple, and shall be treated as days on which the other member of the couple was entitled to a qualifying benefit.

(2) Where—

- (a) a person is treated in accordance with paragraph (1) as having days on which he was entitled to a qualifying benefit;
- (b) within 12 weeks of the date of separation the person becomes a partner of another person (the “new partner”); and
- (c) those days of entitlement are greater in number than the days of entitlement to a qualifying benefit (if any) which otherwise accrued to the new partner on the date the person becomes his partner,

then the number of waiting days the new partner is required to serve in accordance with regulation 6(2) shall be reduced by a number equal to the number by which the days which count under paragraph (1) exceed the days of entitlement to a qualifying benefit which had otherwise accrued to the new partner on the date the partner referred to in paragraph (1) becomes his partner.

Couples who separate where the partner has earnings

11.—(1) This regulation applies where—

- (a) a person who is in receipt of a qualifying benefit other than a contribution-based jobseeker’s allowance has a partner;
- (b) the partner has earnings; and
- (c) he and the partner separate (“the separated partner”).

(2) From the date of separation, any part of the bonus which, in accordance with regulation 8(1) (b) accrued by virtue of the separated partner’s earnings shall, except to the extent specified in paragraph (4) or where paragraph (9) applies, accrue to that partner or in accordance with paragraph (8) (partners who form a new relationship) and not to the other member of the couple.

(3) The amount which shall accrue to the separated partner in accordance with paragraph (2) (referred to in this regulation as the “accrued bonus”) shall be determined in accordance with the formula—

$$\frac{A \times C}{B}$$

where—

A is the earnings received by the separated partner in that part of the bonus period which falls before the date of separation;

B is the total earnings received by both members of the couple in that part of the bonus period which falls before the date of separation; and

C is the amount of the bonus which would have been payable had it been payable on the day before the couple separated in respect of the earnings of both of them.

(4) In paragraph (3), no account shall be taken at A and B of the earnings of a partner which were taken into account for the purposes of a qualifying benefit before the person became a member of a couple; and the amount of the bonus payable in respect of those earnings shall continue to be determined in accordance with regulation 8.

(5) In the case of a separated partner who becomes entitled to a qualifying benefit within 12 weeks of the date of separation, any waiting period or any part of a waiting period served by the other member of the couple before the date of separation shall be treated also as the waiting period or, as the case may be, part of the waiting period, of the separated partner.

(6) In the case of a separated partner who does not become entitled to a qualifying benefit after the date of separation, the accrued bonus (if any) may be claimed by the separated partner whether or not he satisfies the work condition but only where—

- (a) the claim is made within 12 weeks of the date of separation;
- (b) within 14 days of the date of separation, he commenced employment for or increased the hours worked in employment to 16 or more hours per week, or increased his earnings from his employment; and
- (c) had the person claimed a qualifying benefit for himself alone on the day following the date of separation, he would not have been entitled to it because—
 - (i) he worked more than 16 hours per week; or
 - (ii) his earnings from his employment would have exceeded the applicable amount in his case.

(7) A separated partner who qualifies for an accrued bonus by virtue of paragraph (5) shall not be required to serve the period of waiting days specified in regulation 6.

(8) Where the separated partner becomes the partner of another recipient (the “new partner”) of a qualifying benefit within 12 weeks of the date of separation, then the new partner shall have the same rights to the accrued bonus as the person who was formerly the partner would have had on the day before the separation had the bonus been payable on that day.

(9) Where the conditions for entitlement to a bonus, other than the need to make a claim, are fulfilled before the date of separation, but the claim for the bonus is made after the date of separation, the bonus shall be payable to the person entitled to the qualifying benefit before those conditions were fulfilled and no part of it shall be payable to the separated partner.

Couples who separate where the separated partner has attained the age of 60

12.—(1) This regulation applies where—

- (a) a person in receipt of a qualifying benefit has a partner;
- (b) the partner has earnings;
- (c) before a claim for a bonus based wholly or partly on those earnings is made, he and his partner separate (“the separated partner”);
- (d) the separated partner—
 - (i) has attained the age of 60 at the date of separation; or
 - (ii) does so within 12 weeks of the date of separation and does not claim a qualifying benefit before attaining that age.

(2) From the date of separation or, if later, the date the person attained the age of 60, any part of the bonus which, in accordance with regulation 8(1)(b), accrued by virtue of the separated partner’s earnings shall, except where paragraph (8) applies, accrue to the separated partner or in accordance with paragraph 7 (partners who form new relationships) and not to the other member of the couple.

(3) The amount which accrued to the separated partner in accordance with paragraph (2) or (5) shall be determined in accordance with the formula specified in paragraph (3) of regulation 11.

(4) It is a condition of entitlement to the bonus that the separated partner—

- (a) except where sub-paragraph (b) applies, makes a claim for a bonus within 12 weeks of the date of separation; or

- (b) where at the date of separation, the separated partner is within 12 weeks of attaining the age of 60, makes a claim for a bonus within 12 weeks of attaining that age.
- (5) A separated partner who makes a claim in accordance with paragraph (4) shall not be required to serve the period of waiting days specified in regulation 6.
- (6) In the case of a person who—
 - (a) is a separated partner;
 - (b) claims income support within 12 weeks of the date of separation;
 - (c) at the date of separation had attained the age of 60; and
 - (d) before the date of separation had earnings which were taken into account in determining the amount of the couple's earnings for the purpose of a qualifying benefit,any part of the bonus which in accordance with regulation 8(1)(b) accrued by virtue of the separated partner's earnings shall accrue to the separated partner and shall be payable to him if the claim for income support is determined in his favour.
- (7) Where the separated partner becomes the partner of another recipient (the "new partner") of a qualifying benefit within 12 weeks of the date of separation, then the new partner shall have the same rights to the accrued bonus as the person who was formerly the partner would have had on the day before the separation had the bonus been payable on that day.
- (8) Where the conditions for entitlement to a bonus, other than the need to make a claim, are fulfilled before the date of separation, but the claim for the bonus is made after the date of separation, the bonus shall be payable to the person entitled to the qualifying benefit before those conditions were fulfilled and no part of it shall be payable to the separated partner.

Single persons who become couples

- 13.—**(1) This regulation applies where two persons form a couple and within the period of 12 weeks immediately before they do so—
- (a) both had entitlement to a qualifying benefit; and
 - (b) both were within their bonus period.
- (2) In the case of a couple to whom this regulation applies other than a couple to whom paragraph (5) applies, the amount of the bonus shall be—
- (a) except where sub-paragraph (b) applies and subject to the limit imposed by regulation 8(6), the aggregate of the bonuses which have accrued to each member of the couple before the day they became a couple, together with any amount which accrued to the person making the claim by reference to his earnings and those of his partner after they became a couple; or
 - (b) where the aggregate of the bonuses which had accrued to each member of the couple before the day they became a couple exceeds £1,000, the aggregate amount.
- (3) For the avoidance of doubt, in the case of a couple to whom paragraph (2)(b) applies, the amount of the bonus shall not increase by reference to any earnings payable to either member of the couple after they became a couple.
- (4) This regulation applies to members of a polygamous marriage as it applies to a couple but as if references to a couple were references to the members of the polygamous marriage and references to each member of the couple were references to two or more members of the polygamous marriage.
- (5) Where both members of the couple are entitled to a contribution-based jobseeker's allowance, bonuses accrued to each of them, whether or not the bonuses accrued before they became a couple, shall not be aggregated.

Single persons who become couples: further provisions

14.—(1) This regulation applies where two persons become a couple and—

- (a) within the period of 12 weeks immediately before they do so only one of the two has a previous entitlement to a qualifying benefit and either—
 - (i) is within his bonus period; or
 - (ii) is serving his waiting period; and
- (b) the other member makes the claim.

(2) Any bonus which has accrued to the person mentioned in paragraph (1)(a) shall be treated as the bonus of the claimant and not that person.

Single claimants who are couples

15.—(1) Where—

- (a) two persons are living together as a married or unmarried couple;
 - (b) each of those persons was in receipt of a qualifying benefit during the whole or part of the time they were a couple; and
 - (c) had they declared they were a couple, either—
 - (i) no qualifying benefit would have been payable to them; or
 - (ii) a qualifying benefit would have been payable to only one member of the couple,
- the provisions of these Regulations shall have effect subject to the following paragraphs.

(2) In a case where in any week no benefit would have been payable, any earnings received in that week shall be disregarded in determining the amount of the bonus.

(3) In a case where a qualifying benefit is or would have been payable to one member of the couple, any earnings which were taken into account in the separate awards of the qualifying benefit to each member of the couple shall, subject to paragraph (4), be taken into account in accordance with regulation 8.

(4) Where at the time the persons mentioned in paragraph (1)(a) first become a married or unmarried couple the amount of any bonus, determined in accordance with the preceding provisions of this regulation and regulation 8—

- (a) would be £1000 or more, the amount of the bonus shall be the higher amount and shall not be increased further by reference to any earnings accruing since that time; or
- (b) was less than £1000, earnings accruing since that time shall be taken into account in accordance with regulation 8, but not so as to increase the amount of the bonus payable to more than £1000.

Couples both of whom are entitled to a qualifying benefit

16.—(1) Where—

- (a) one member of a couple is entitled to a contribution-based jobseeker's allowance; and
- (b) the other member of the couple is entitled to an income-based jobseeker's allowance or to income support,

any bonus which accrues in respect of the earnings of the person entitled to a contribution-based jobseeker's allowance shall accrue to the bonus of the person who within the bonus period was last entitled to an income-based jobseeker's allowance or to income support.

(2) Where—

- (a) two persons become a couple;

- (b) neither member of the couple has served his waiting period;
- (c) both members of the couple have, at the time they become a couple, a current period of entitlement to a qualifying benefit;
- (d) one member of the couple has fewer days of entitlement to a qualifying benefit (represented by “A”) in that period than the other member (represented by “B”);
- (e) the person entitled to the qualifying benefit after they became a couple is the person with the fewer days of entitlement; and
- (f) the qualifying benefit to which he is entitled is not a contribution-based jobseeker’s allowance,

then the number of waiting days the person is required to serve in accordance with regulation 6(2) shall be reduced by a number equal to the number by which B exceeds A.

Persons attaining pensionable age

17.—(1) Where—

- (a) the qualifying benefit is income support and the person entitled to the qualifying benefit has attained the day immediately preceding his 60th birthday; or
- (b) the qualifying benefit is a jobseeker’s allowance and the person entitled to the qualifying benefit has attained the day immediately preceding pensionable age,

and in either case the person is within the bonus period, he shall, notwithstanding that the requirement specified in paragraph (2) is not satisfied in his case, be entitled to a bonus.

(2) The requirement specified in this paragraph is that entitlement to the bonus has not arisen because—

- (i) the person has not claimed the bonus;
- (ii) the work condition is not satisfied; or
- (iii) the person has not claimed the bonus and the work condition is not satisfied.

(3) In the case of a person who is entitled to a bonus in accordance with paragraph (1), the bonus period and the period of entitlement to a qualifying benefit shall end on the day he attained the age of 60 or, as the case may be, pensionable age.

(4) Where, within 12 weeks of attaining—

- (a) the age of 60, the person ceased to be entitled to income support; or
- (b) pensionable age, the person ceased to be entitled to a jobseeker’s allowance,

but failed to satisfy any one of the conditions specified in regulation 7, he shall, if he makes a claim for a bonus in the period of 12 weeks after he attains that age, be entitled to the bonus notwithstanding his failure to satisfy any of those conditions.

(5) The amount of any bonus to which a person may be entitled in accordance with this regulation shall be calculated in accordance with regulation 8.

Trainees

18.—(1) This regulation applies to a person who—

- (a) was entitled to a qualifying benefit; and
- (b) ceased to be entitled to a qualifying benefit on taking up training.

(2) In determining for the purposes of regulation 2 whether any 2 or more periods of entitlement to a qualifying benefit link to form a single such period, any period during which he was a person to whom this regulation applies shall be disregarded.

(3) Where a person takes up employment within 14 days of his ceasing to be a person to whom this regulation applies, any claim for a bonus made by him shall be determined as if regulation 7(2)(b) was omitted.

Death

19.—(1) Subject to paragraph (4) this regulation applies where—

- (a) a person dies;
- (b) the person leaves behind a partner;
- (c) immediately before his death, the person was entitled to a qualifying benefit; and
- (d) immediately before his death the person would have been entitled to a bonus but for his failure to make a claim for it and satisfy the work condition.

(2) Where the partner of a deceased person becomes entitled to a qualifying benefit for a period commencing within 12 weeks of the person's death then—

- (a) any waiting period served by the deceased person shall be treated as having been served by the partner; and
- (b) any amount which accrued towards his bonus shall be treated as having accrued towards the partner's bonus.

(3) Where at the date of death the person had been entitled to a qualifying benefit for less than 91 consecutive days, then those days count towards any waiting period which the partner is required to serve under regulation 6.

(4) This regulation does not apply where the qualifying benefit the deceased person was entitled to was a contribution-based jobseeker's allowance.

(5) Where the deceased person referred to in paragraph (2) was a member of a polygamous marriage—

- (a) any waiting period accruing under paragraph (2)(a) shall accrue to each of the deceased's partners;
- (b) any amount accrued towards the deceased person's bonus shall accrue towards each partner's bonus in accordance with the formula

$$\frac{D \times F}{E} \times \frac{1}{X}$$

where—

D is the amount of the deceased person's earnings during his bonus period;

E is the total earnings of all members of the marriage in the deceased person's bonus period;

F is the amount of the bonus which would have been payable on the day before the death of the deceased had he been entitled to the bonus on that day; and

X is the number of surviving partners of the marriage.

(6) In the case of a partner who had earnings in the deceased partner's bonus period, which are included in the value "E" in paragraph (5), any amount of bonus which accrued to that partner in accordance with that paragraph shall be increased by an amount equal to the value of half those earnings.

Trade disputes

20.—(1) The provisions of paragraphs (2) and (4) are subject to paragraph (6).

(2) Where—

- (a) the qualifying benefit is a jobseeker's allowance;
- (b) the partner of the person claiming the benefit is not employed on any day because of a stoppage of work; and
- (c) that stoppage is due to a trade dispute at the partner's place of work,

any earnings earned by the partner during the stoppage shall be disregarded in determining the amount of the bonus unless he proves he is not directly interested in the dispute.

(3) In paragraph (1), "place of work" has the meaning it has in section 14 by virtue of sub-section (1) of that section.

(4) Where—

- (a) the qualifying benefit is income support;
- (b) the person claiming the benefit is not employed on any day because of a stoppage of work; and
- (c) that stoppage is due to a trade dispute at his place of employment,

any earnings earned by that person during the stoppage shall be disregarded in determining the amount of the bonus unless he proves he is not directly interested in the dispute.

(5) In paragraph (4), "place of employment" and "trade dispute" have the meanings they have in the Benefits Act by virtue of section 27(3) of that Act.

(6) Where in any week the partner referred to in paragraph (2)(b) or, as the case may be, (4)(b) is within her maternity pay period or is incapable of work, and undertakes work for less than 24 hours per week, this regulation shall not apply in respect of the partner's earnings for that week.

(7) In paragraph (6) "maternity pay period" has the meaning it has in the Benefits Act by virtue of section 165(1) of that Act.

(8) Where the partner is again employed at the place of employment where the stoppage of work occurred, that employment shall not satisfy the work condition and no bonus shall be payable in consequence of it.

Share fishermen

21. In their application to share fishermen, these Regulations shall have effect as if references to earnings were references to earnings earned in any week within the bonus period, whether or not they were paid in that week.

Bonus to be treated as capital for certain purposes

22. Any bonus paid to an applicant shall be treated as capital of his for the purposes of—

- (a) housing benefit;
- (b) council tax benefit;
- (c) family credit;
- (d) disability working allowance;
- (e) income support;
- (f) a jobseeker's allowance.

Claiming a bonus

23.—(1) A claim for a bonus shall be made in writing on a form approved for the purpose by the Secretary of State and shall be made—

- (a) not earlier than the beginning of the benefit week which precedes the benefit week in which an award of a qualifying benefit comes to an end; and
- (b) subject to regulation 24(5), not later than the end of the period of 12 weeks immediately following—
 - (i) in the case of a person to whom regulation 18 (trainees) applies, the last day on which he was engaged in training;
 - (ii) in the case of a person to whom the 4th condition specified in regulation 7 applies (couples who separate), the date of separation;
 - (iii) in the case of a person to whom regulation 12 applies (couples who separate where partner has attained the age of 60), the date of separation;
 - (iv) in the case of a person who has attained pensionable age or, where the qualifying benefit is income support the age of 60, the date he attained that age;
 - (v) in any other case, the date on which entitlement to a qualifying benefit ceased on satisfaction of the work condition.

(2) A claim for a bonus shall be delivered or sent to an office of the Department of Social Security or of the Department for Education and Employment.

(3) If a claim is defective at the date when it is received, the Secretary of State may refer the claim to the person making it and if the form is received properly completed within one month, or such longer period as the Secretary of State may consider reasonable, from the date on which it is so referred, the Secretary of State may treat the claim as if it had been duly made in the first instance.

(4) A claim which is made on the form approved for the time being is, for the purposes of paragraph (3), properly completed if it is completed by the applicant in accordance with instructions on the form and defective if it is not.

(5) A person who claims a bonus shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Secretary of State and shall do so within one month of being required to do so or such longer period as the Secretary of State may consider reasonable.

Claims: further provisions

24.—(1) A person who has made a claim may amend it at any time by notice in writing received at an appropriate office before a determination has been made on a claim, and any claim so amended may be treated as if it had been so amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a determination has been made on it, by notice to the appropriate office, and any such notice of withdrawal shall have effect when it is received.

(3) The date on which the claim is made shall be—

- (a) in the case of a claim which meets the requirements of regulation 23(1), the date on which it is received at the appropriate office; or
- (b) in the case of a claim treated under regulation 23(3) as having been duly made, the date on which the claim was received in an appropriate office in the first place.

(4) In this regulation, the “appropriate office” means an office of the Department of Social Security or the Department for Education and Employment.

(5) In the case of a person who—

- (a) ceases to be entitled to a qualifying benefit; and
- (b) again becomes entitled to a qualifying benefit in the same period of entitlement to a qualifying benefit,

for the reference to 12 weeks in regulation 23(1)(b) there shall be substituted a reference to a period equal to the period falling between the last day of entitlement to a qualifying benefit mentioned at sub-paragraph (a) and the first day of entitlement to a qualifying benefit mentioned at sub-paragraph (b).

(6) Where the applicant proves there was good cause throughout the period from the expiry of the 12 weeks specified in regulation 23(1), for failure to claim the bonus within the specified time, the time for claiming the bonus shall be extended to the date on which the claim is made or to a period of 12 months, whichever is the shorter period.

Payment of bonus

25. A bonus calculated by reference to earnings paid during periods of entitlement to income support and to a jobseeker's allowance shall be treated as payable—

- (a) wholly by way of a jobseeker's allowance, where the qualifying benefit last in payment in the bonus period was a jobseeker's allowance; or
- (b) wholly by way of income support, where the qualifying benefit last in payment in the bonus period was income support.

Transitional matters

26.—(1) For the purposes of determining whether a person satisfies the requirements of regulation 6 (waiting period), days on or after 1st July 1996 but before 7th October 1996 in respect of which a person was entitled to unemployment benefit shall be treated as days of entitlement to a contribution-based jobseeker's allowance, and shall include those Sundays, or the day substituted for Sunday by regulations made under the former section 25A(1)(e) of the Benefits Act(7), which fall only between days of entitlement to unemployment benefit.

(2) Where in accordance with transitional provisions made under section 40 the rules as to the calculation of earnings which apply in the case of a person entitled to a jobseeker's allowance are those which applied before 7th October 1996 to that person in respect of an entitlement to unemployment benefit, then—

- (a) any day of entitlement to a jobseeker's allowance including any day on which the person would be entitled to a jobseeker's allowance if the day were not a Sunday or, as mentioned in paragraph (1), the day substituted for Sunday, shall count towards the waiting period specified in regulation 6; but
 - (b) any earnings received by that person or his partner shall be disregarded in determining the amount of any bonus payable to him.
- (3) Any period of entitlement to income support which falls before 1st July 1996 shall not count for the purposes of regulation 6 (waiting days).
- (4) No bonus period shall commence before 7th October 1996.

(7) Section 25A was inserted by the [Social Security \(Incapacity for Work\) Act 1994/c. 18](#), section 11(1), Schedule 1, paragraph 5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Social Security.

1st February 1996

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations contained in this instrument are made by virtue of provisions in the Jobseekers Act 1995 (c. 18) (“the 1995 Act”). This 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 26 of the 1995 Act introduces the back to work bonus for persons who are or have been entitled to income support or a jobseeker’s allowance.

Regulation 1 contains provisions relating to citation, commencement and interpretation.

Regulations 2 to 5 contain extended definitions of terms used elsewhere in the Regulations. Periods of entitlement to a qualifying benefit (regulations 2 and 3) consist of days of entitlement to income support or a jobseeker’s allowance but separated periods are in some circumstances joined together to form a single period of entitlement to a qualifying benefit. Regulation 5 contains rules specifying circumstances in which some periods of entitlement to income support or a jobseeker’s allowance do not count for the purposes of the period of entitlement to a qualifying benefit.

The waiting period (regulation 6) is the first 91 days of the period of entitlement to a qualifying benefit.

Regulation 7 specifies the requirements for the bonus, one of which is that the claimant returns to work or increases his hours of, or earnings from, work, with the result that he is no longer entitled to either income support or a jobseeker’s allowance (“the work condition”).

Regulation 8 details the method of calculating the amount of bonus payable and regulation 9 enables the Secretary of State to issue estimates to claimants of their projected level of bonus.

Regulations 10 to 16 contain detailed provisions as to couples who separate or to people who become couples.

Regulations 17 to 21 contain provisions specific to persons attaining pensionable age and trainees, and those who die or are involved in a trade dispute.

The bonus is to be treated as capital for the purpose of assessing the means of claimants to other income-related benefits (regulation 22). Regulations 23 to 24 contain details of claims for the bonus, regulation 25 deals with payments and regulation 26 with transitional matters.

An assessment of the costs to business of applying these Regulations has been placed in the Libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Room 09/03, Adelphi, 1–11 John Adam Street, London WC2N 6HT.