
STATUTORY INSTRUMENTS

2013 No. 378

The Jobseeker's Allowance Regulations 2013

PART 5

Conditions of entitlement

Remunerative work

- 42.**—(1) For the purposes of the Act, “remunerative work” means work—
- (a) for which payment is made or which is done in expectation of payment; and
 - (b) in which a claimant is—
 - (i) engaged for 16 or more hours per week; or
 - (ii) where their hours of work fluctuate, engaged on average for 16 or more hours per week.
- (2) For the purposes of paragraph (1), the number of hours in which a claimant is engaged in work is to 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 they are expected to work in a week;
 - (b) where the number of hours for which they are engaged fluctuate, by reference to the average of hours worked over—
 - (i) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
 - (ii) in any other case, the period of five weeks immediately before the date of claim or the date of supersession, or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately.
- (3) In determining in accordance with this regulation the number of hours for which a person is engaged in remunerative work—
- (a) that number must include any time allowed to that person by their 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 must be taken of any hours in which the person is engaged in an employment or scheme to which any one of sub-paragraphs (a) to (e) of regulation 44(1) (person treated as not engaged in remunerative work) applies;
 - (c) no account must 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, the care component ^{F1}. . . the daily living component [^{F2}or armed forces independence payment];

- (ii) a person who has claimed an attendance allowance, [^{F3}armed forces independence payment,] a disability living allowance [^{F4}, child disability payment][^{F5},] personal independence payment [^{F6}or adult disability payment], but only for the period beginning with the date of claim and ending on the date on which the claim is determined or, if earlier, on the expiration of the period of 26 weeks from the date of claim;
- (iii) another person and is in receipt of a carer's allowance under section 70 of the Benefits Act [^{F7}or carer support payment]; or
- (iv) a person who has claimed either an attendance allowance, [^{F8}armed forces independence payment,] a disability living allowance [^{F9}, child disability payment][^{F10},] personal independence payment [^{F11}or adult disability payment] and has an award of attendance allowance, [^{F12}armed forces independence payment,] the care component or the daily living component for a period commencing after the date on which that claim was made.
- (4) In this regulation—
- [^{F13}“adult disability payment” has the meaning given in regulation 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022;]
- [^{F14}“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;]
- [^{F15}“child disability payment” has the meaning given in regulation 2 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021;]
- “disability living allowance” means a disability living allowance under section 71 of the Benefits Act ^{M1};
- [^{F16}“care component” means—
- (a) the care component of disability living allowance at the highest or middle rate prescribed under section 72(3) of the Benefits Act; or
- (b) the care component of child disability payment at the highest or middle rate provided for in regulation 11(5) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021;]
- [^{F17}“daily living component” means—
- (a) in respect of personal independence payment, the daily living component of that payment at the standard or enhanced rate referred to in section 78 of the Welfare Reform Act 2012;
- (b) in respect of adult disability payment, the daily living component of that payment at the standard or enhanced rate referred to in regulation 5 of the Disability Assistance for Working Age People (Scotland) Regulations 2022.]
- “personal independence payment” means an allowance under Part 4 of the Welfare Reform Act 2012.

Textual Amendments

- F1** Word in reg. 42(3)(c)(i) omitted (8.4.2013) by virtue of [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), arts. 2(2), 7, **Sch. para. 52(2)(a)(i)**
- F2** Words in reg. 42(3)(c)(i) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), arts. 2(2), 7, **Sch. para. 52(2)(a)(ii)**

- F3** Words in reg. 42(3)(c)(ii) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), arts. 2(2), 7, **Sch. para. 52(2)(b)**
- F4** Words in reg. 42(3)(c)(ii) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **22(2)(a)**
- F5** Reg. 42(3)(c)(ii): comma substituted for word (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(a)(i)(aa)**
- F6** Words in reg. 42(3)(c)(ii) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(a)(i)(bb)**
- F7** Words in reg. 42(3)(c)(iii) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **24(5)**
- F8** Words in reg. 42(3)(c)(iv) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), arts. 2(2), 7, **Sch. para. 52(2)(c)**
- F9** Words in reg. 42(3)(c)(iv) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **22(2)(b)**
- F10** Reg. 42(3)(c)(iv): comma substituted for word (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(a)(ii)(aa)**
- F11** Words in reg. 42(3)(c)(iv) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(a)(ii)(bb)**
- F12** Words in reg. 42(3)(c)(iv) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), arts. 2(2), 7, **Sch. para. 52(2)(d)**
- F13** Words in reg. 42(4) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(b)(i)**
- F14** Words in reg. 42(4) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), arts. 2(2), 7, **Sch. para. 52(2)(e)**
- F15** Words in reg. 42(4) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **22(3)(a)**
- F16** Words in reg. 42(4) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **22(3)(b)**
- F17** Words in reg. 42(4) substituted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **15(2)(b)(ii)**

Marginal Citations

- M1** Section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999.

Changes to legislation:

There are currently no known outstanding effects for the The Jobseeker's Allowance Regulations 2013, Section 42.