

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

[These regulations are revoked by reg. 8 of S.I. 2003/1589 but remain reproduced for the purposes of transitional provisions in reg. 10 *ibid.*]

1996 No. 2570

SOCIAL SECURITY

The Social Security (Back to Work Bonus) (No.2) Regulations 1996

<i>Made</i> - - - -	<i>10th October 1996</i>
<i>Laid before Parliament</i>	<i>14th October 1996</i>
<i>Coming into force</i>	<i>4th November 1996</i>

[This Statutory Instrument, which came into force on 4.1.96, revoked and superseded the Social Security (Back to Work Bonus) Regulations 1996 (S.I. 1996/193), which - as amended (as from 7.10.96.) by S.I. 1996/1511 and (as from 29.10.96) by reg. 4 of S.I. 1996/2538 - was in force for the period from 7.10.96 to 3.1.96. The superseded Regulations are not reproduced in this volume, but are being temporarily reproduced in volume 11.

S.Is. whose main function is to amend this instrument will not normally be reproduced in this volume (though they will generally be reproduced in volume 11). All amendments made to this S.I. will, however, be reflected and annotated in the normal way in the text reproduced here.]

ARRANGEMENT OF REGULATIONS

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The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 26, 35(1) and (3) and 36(2) to (5) of the Jobseekers Act 1995(a) and of all other powers enabling him in that behalf, by this instrument, which is made for the purpose only of consolidating other regulations revoked by these Regulations(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Back to Work Bonus) (No.2) Regulations 1996 and shall come into force on 4th November 1996.

(2) In these Regulations-

“the Act” means the Jobseekers Act 1995;

“applicant” means the person claiming the bonus;

“benefit week”-

- (a) where the benefit is income support, has the meaning it has in the Income Support Regulations by virtue of regulation 2(1) of those Regulations;
- (b) where the benefit is a jobseeker’s allowance, has the meaning it has in the Jobseeker’s Allowance Regulations by virtue of regulation 1(3) of those Regulations;

“bonus” means a back to work bonus;

▶“bonus period” means a period beginning on the first day of entitlement to a qualifying benefit (provided that that day is not after 24th October 2004) in a period of entitlement to a qualifying benefit which falls after the waiting period and which ends on the last day of that period of entitlement or on 24th October 2004 whichever of these two dates is the earlier;◀

“claim” means a claim made in accordance with regulation 22;

“couple” means a married or an unmarried couple;

“earnings” means, unless the context requires otherwise, any earnings which are payable 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
- (b) where the qualifying benefit is a jobseeker’s allowance, are net earnings or net profit within the meaning of regulation 1(3) of the Jobseeker’s Allowance Regulations or are treated as earnings in accordance with regulation 105(12) or (13) of the Jobseeker’s Allowance Regulations,

and for this purpose an amount is payable on the date it is treated as paid for the purpose of regulation 31 of the Income Support Regulations where the qualifying

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

(b) Social Security Administration Act 1992 (c.5); see paragraph 10 of Schedule 7.

Words substituted in reg. 1(2) by reg. 10(2)(a) of S.I. 2003/1589 as from 25.10.04.

benefit is income support, and for the purpose of regulation 96 of the Jobseeker's Allowance Regulations where the qualifying benefit is a jobseeker's allowance;

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

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

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996(b);

"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;

"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;

"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(c) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(d), or is training as a teacher;

▶"waiting period" means the period of 91 consecutive days to which regulation 6 refers, provided that none of those days falls after 24th October 2004;◀

"week" means a period of 7 days;

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

Defn. of "waiting period" substituted in reg. 1(2) by reg. 10(2)(b) of S.I. 2003/1589 as from 25.10.04.

(3) For the purpose 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.

(a) S.I. 1987/1967.

(b) S.I. 1996/207; relevant amending instruments are 1996/1516, 1517 & 2538.

(c) 1973 c. 50.

(d) 1990 c. 35.

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;
- (c) any period-
 - (i) in respect of which a person is summoned for jury service and is required to attend court; and
 - (ii) which immediately follows a day of entitlement to a qualifying benefit and is immediately followed by a day 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 applicant satisfies the condition in regulation (4) or (5) (requirements for a bonus) and claims a bonus, on the last day of entitlement to a qualifying benefit which precedes the day on which he first satisfies that condition;
- (c) where a bonus is paid in anticipation of an applicant satisfying either of the conditions specified in regulation 7(4)(b) or the condition specified in regulation 7(5)(c), but the applicant then fails to satisfy the relevant condition, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;
- (d) where a bonus is paid in anticipation of an applicant or his partner satisfying the work condition, but the work condition is then not satisfied, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;
- (e) 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 ► or in accordance with section 62 or 63 of the Child Support, Pensions and Social Security Act 2000 (loss of benefit provisions) ◀ ► or section 7, 8 or 9 of the Social Security Fraud Act 2001 ◀ 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.

Words in reg. 3(1) inserted by reg. 3 of S.I. 2001/1711 as from 15.10.01.

Words in reg. 3(1) inserted by reg. 6 of S.I. 2001/490 as from 1.4.02.

(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) applies, paragraph (5) applies only where the recipient is entitled to a qualifying benefit within 12 weeks of the date on which—

- (a) the partner died; or
- (b) the couple separated; or
- (c) in the case of a polygamous marriage, one or more members of the marriage separated; or
- (d) 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) within 12 weeks of a person ceasing to be entitled to a qualifying benefit 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) within 12 weeks of a person ceasing to be entitled to a qualifying benefit a maternity allowance becomes payable, and lasts throughout the period maternity allowance is payable to the person;
- (c) 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) ►carer’s allowance◄,

and the connection 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;

- (d) a person ceases to be entitled to one of the benefits mentioned in sub-paragraph (c) 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 (c) began, whichever is the earlier; or
- (e) a person who is treated under paragraph (4) of regulation 3 as having established a period of entitlement to a qualifying benefit under paragraph (5) of the same regulation satisfies the preceding sub-paragraphs of this paragraph within 12 weeks of the date which applies in his case in accordance with paragraph (6) of regulation 3, and lasts throughout the period the person satisfies the preceding sub-paragraphs of this paragraph.

Words substituted in reg. 4(1)(c)(iii) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

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(2) Notwithstanding paragraph (1)(d) where two periods of incapacity for work within the meaning of section 30C(1) of the Benefits Act (a) 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)(c) or (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.

(4) For the purposes of paragraph (1)(d) 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)(c) refers shall be disregarded in determining the period of 2 years.

Periods of entitlement which do not qualify

Words in reg. 5(1) substituted by reg. 3(2)(a) of S.I. 1997/454 as from 7.4.97.

5.—(1) The periods specified in ►paragraph (4)◄ shall be treated for the purposes of these Regulations as periods in which a person is not entitled to a qualifying benefit.

(2) Any earnings in any benefit week in a period specified in paragraph (4) shall not be taken into account in determining—

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

(3) Paragraph (2)—

- (a) shall not apply where during a benefit week there are days of entitlement to a qualifying benefit; and
- (b) the formula set out in regulation 8(1)(c) shall apply to any earnings in the benefit week in which those days fall, except that “N” shall represent the number of days of entitlement to the qualifying benefit.

(4) 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(b) and in respect of which no award of a qualifying benefit was subsequently made to him;
- (b) subject to ►paragraph (5)◄, the person’s applicable amount is determined in accordance with Part VI of the Income Support Regulations (urgent cases) or with Part X of the Jobseeker’s Allowance Regulations (urgent cases); or
- (c) the person is entitled to a jobseeker’s allowance in accordance with Part IX of the Jobseeker’s Allowance Regulations (hardship) ►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 (6)◄, he has submitted a claim for a jobseeker’s allowance but ►the Secretary of State◄ has not determined whether those conditions are satisfied.

(5) ►Paragraph (4)(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) regulation 147(2)(a) of the Jobseeker’s Allowance Regulations (certain persons from abroad),

applies

(6) Paragraph (4)(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.

Words in reg. 5(4)(b) substituted by reg. 3(2)(b)(i) of S.I. 1997/454 as from 7.4.97.

Word inserted into reg. 5(4)(c) by reg. 3(2)(b)(ii)(aa) of S.I. 1997/454 as from 7.4.97.
Words in reg. 5(4)(c)(ii) substituted by reg. 3(2)(b)(ii)(bb) of S.I. 1997/454 as from 7.4.97.

Words substituted in reg. 5(4)(c)(ii) by para. 1 of Sch. 14 to S.I. 1999/2860 as from 18.10.99.
Words substituted in reg. 5 by reg. 3(2)(c) of S.I. 1997/454 as from 7.4.97.

(a) S. 30C was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), s. 3(1)
(b) S.I. 1988/664; the relevant amending instruments are S.I. 1991/2742 and 1993/650.

(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 22(1)(b).

Requirements for a bonus

7.—(1) An applicant who has served, or is treated as having 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).

(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 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 sub-paragraph (b); and
- (d) in a case where the qualifying benefit to which the applicant was entitled—
 - (i) was income support, he has not attained the day before the age of 60; or
 - (ii) was a jobseeker’s allowance, he has not attained the day before 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) within 12 weeks of ceasing to be entitled to a qualifying benefit or within 12 weeks of a connecting period ceasing, the applicant commences training;
- (b) within 14 days of the day he last attended training—
 - (i) he takes up or returns to or increases the number of hours in which he is engaged in employment, or where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; or
 - (ii) he takes up employment, or increases his earnings from his existing employment, as a result of which weekly earnings equal or exceed the amount of the training allowance payable to him in the last week of training;
- (c) he claims the bonus before the end of the period of 12 weeks immediately following the day on which the training ceased;
- (d) he satisfies the requirements specified in paragraph (2)(a); and
- (e) in a case where the qualifying benefit to which a person was entitled—
 - (i) was income support, he satisfied the requirements specified in paragraph (4)(b) before he attained the age of 60;

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(ii) was a jobseeker's allowance, he satisfied the requirements specified in paragraph (4)(b) before he attained pensionable age.

(5) The fourth condition is that-

- (a) the applicant is formerly one of a couple, or of a polygamous marriage, who have separated and the separation took place before the person attained the age of 60;
- (b) at the date of separation, either the applicant or his partner was entitled to a qualifying benefit;
- (c) within 14 days of the separation-
 - (i) he takes up or returns to or increases the number of hours in which he is engaged in employment, or where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; or
 - (ii) he takes up employment or increases his earnings from his existing employment, as a result of which his weekly earnings, had he been entitled to a qualifying benefit on the day of separation, equalled or exceeded the amount that would have been the applicable amount or the age-related amount in his case;
- (d) he satisfies the requirements specified in paragraph (2)(a); and
- (e) 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) Subject to paragraph (8) a person-

- (a) who-
 - (i) becomes entitled to, or whose partner becomes entitled to, a qualifying benefit within 12 weeks of the day in respect of which his last previous entitlement to a qualifying benefit ceased; and
 - (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit first arose,

shall be treated as not satisfying the requirements of paragraph (2)(c) or (3)(d) for the period of 12 weeks following the day on which training ceased;

- (b) who-
 - (i) becomes entitled to, or whose partner becomes entitled to, a qualifying benefit before the end of the period of 12 weeks immediately following the day on which training ceased; and
 - (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit arose,

shall be treated as not satisfying the requirements of paragraph (4)(c) for the period of 12 weeks following the day on which training ceased;

- (c) who-
 - (i) becomes entitled to, or whose partner becomes entitled to, a qualifying benefit before the end of the period of 12 weeks following the day on which the separation occurred; and
 - (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit arose,

shall be treated as not satisfying the requirements of paragraph (5)(e) for the period of 12 weeks following the day on which the separation occurred.

(8) Notwithstanding the provisions of paragraph (7) a person shall be able to claim a bonus where he satisfies the work condition or either of the requirements specified in

paragraph (4)(b) or the requirements specified in paragraph (5)(c) following the day in respect of which the most recent period of entitlement to a qualifying benefit arose.

►(9) For the purposes of this regulation, references to a qualifying benefit do not include any income support paid under regulation 6(6) (persons not treated as engaged in remunerative work) of the Income Support Regulations. ◀

Para. (9) inserted in reg. 7 by reg. 13(a) of S.I. 2001/488 as from 9.4.01.

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 in any benefit 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 maybe, regulation 99(2) or 101(2) of, and paragraphs 5 to 11 of Schedule 6 to, the Jobseeker's Allowance Regulations; 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 9a); and
- (c) where earnings are payable to the applicant or his partner in a benefit week falling either partly or wholly within the bonus period which includes a part-week of entitlement to a qualifying benefit in accordance with part VII of the Income Support Regulations or Part XI of the Jobseeker's Allowance Regulations which falls within the bonus period, half the amount calculated by applying the formula

$$\frac{G \times N}{7}$$

where—

G is the earnings of the applicant and his partner, in the relevant benefit weeks which are not disregarded in accordance with the provisions mentioned in sub-paragraph (a) or (b); and

N is the number of days in the part week.

(2) Earnings for any benefit week in respect of which the person is entitled to a qualifying benefit but no benefit is payable or the applicable amount is 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 applicant 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 benefit 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 ►revision or supersession◀ of the decision awarding the qualifying benefit; and
- (d) as a result of the ►revision or supersession◀ an overpayment of benefit arises,

Words substituted in reg 8(4)(c) and (d) by para. 2 of Sch. 14 to S.I. 1999/2860 as from 18.10.99.

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 benefit week;
- (b) ►the Secretary of State◀ 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,

Words substituted in reg. 8(5)(b) by para. 1 of Sch. 14 to S.I. 1999/2860 as from 18.10.99.

then those earning 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(5)(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 of more members of a polygamous marriage separate any earnings paid to any of them after the maximum sum 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 for Work and Pensions◄ 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.

(13) In this regulation “part-week” means an entitlement to a qualifying benefit in respect of any period of less than a week.

Words in reg. 8(12) substituted by para. 27(2) of the Sch. to S.I. 2002/1397 as from 27.6.02.

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, or is treated as having 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 ►◄ 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.

Words deleted from reg. 9(2) by para. 3 of Sch. 14 to S.I. 1999/2860 as from 18.10.99.

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 other than a contribution-based jobseeker’s allowance 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 in a case where he is entitled to a qualifying benefit within 12 weeks of the date of separation, and shall be treated as days on which the other member of the couple was entitled to a qualifying benefit.

(2) Where one or more members of a polygamous marriage separate and at the date of separation any one of them has days of entitlement to a qualifying benefit other than a contribution-based jobseeker’s allowance 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 of any person who is or was a member of that marriage, where he is entitled to a qualifying benefit within 12 weeks of the date of separation, and shall be treated as days on which any person who is or was a member of that marriage was entitled to a qualifying benefit.

(3) Where—

- (a) a person is treated in accordance with paragraph (1) or (2) 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) when he makes a claim for a qualifying benefit for the couple shall be reduced by a number equal to the number by which the days which count under paragraph (1) or (2) exceed 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) when he makes a claim for a qualifying benefit for the couple shall be reduced by a number equal to the number by which the days which count under paragraph (1) or (2) 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) or (2) 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 (6) applies, accrue to that partner or in accordance with paragraph (5) (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 the aggregate of the weekly amounts determined in accordance with the formula—

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

where—

A is the earnings of the separated partner in the benefit week in question in respect of which he has earnings in that part of the bonus period which falls before the date of separation;

B is the total of the earnings of both members of the couple, or in the case of a polygamous marriage, all the members of the marriage, in that week in that part of the bonus period which falls before the date of separation; and

C is the amount of the bonus calculated in respect of that week which would have been payable on the day before the couple, or some or all of the members of a polygamous marriage, separated in respect of the earnings of both, or, as the case may be, all 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) 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.

(6) 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”); and
- (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, or in the case of a polygamous marriage, the other members of the marriage.

(3) The amount which accrued to the separated partner in accordance with paragraph (2) or (6) shall be determined in accordance with the formula specified in paragraph (3) and in accordance with paragraph (4) 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 couples’ earnings, or in the case of a polygamous marriage, the earnings of the members of that marriage, 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 have become couples

13.—(1) This regulation applies where two persons from 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.

Words in reg. 13(4)
deleted by reg. 3(3) of
S.I. 1997/454 as from
7.4.97.

(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 became 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 a claim for a qualifying benefit, other than a contribution-based jobseeker's allowance.

(2) The number of days the person mentioned in paragraph (1)(a) has served of the waiting period referred to in regulation 6 shall be deducted from the number of days of the waiting period the other member of the couple is required to serve.

(3) 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 paragraphs (3) to (5).

(2) Where—

- (a) three or more persons who are living together are members of a polygamous marriage;
- (b) two or more of those persons were in receipt of a qualifying benefit during the whole or part of the time they lived together and were members of a polygamous marriage; and
- (c) had they declared that they were members of a polygamous marriage, either,
 - (i) no qualifying benefit would have been payable to them; or
 - (ii) a qualifying benefit would have been payable to only one or some of the members of the polygamous marriage,

the provisions of these Regulations shall also have effect subject to the following paragraphs.

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

(4) In a case where a qualifying benefit is or would have been payable to one member of the couple or polygamous marriage, any earnings which were taken into account in the separate awards of the qualifying benefit to each member of the couple or polygamous marriage shall, subject to paragraph (5), be taken into account in accordance with regulation 8.

(5) Where at the time the persons mentioned in paragraph (1)(a) or (2)(a) first become a married or unmarried couple or members of a polygamous marriage, the amount of any bonus, determined in accordance with the preceding provisions of this regulation and regulation 8—

- (a) would be £1,000 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 £1,000, 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 £1,000.

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; or
- (c) one member of a polygamous marriage is entitled to a contribution-based job seeker's allowance; and
- (d) another member of the polygamous marriage is entitled to an income-based jobseeker's allowance,

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, or had a period of entitlement to a qualifying benefit within 12 weeks of the day after they became a couple;
- (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—

- (a) the person has not claimed the bonus;
- (b) the work condition is not satisfied; or
- (c) 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)—

- (a) the bonus period and the period of entitlement to a qualifying benefit shall end on the date he attained the age of 60, or as the case may be, pensionable age, whichever is the later, provided that that date is not after 24th October 2004;
- (b) where that date would be after 24th October 2004 the bonus period and period of entitlement to a qualifying benefit shall be treated as ending on 24th October 2004.◀

Para. (3) substituted in reg. 17 by reg. 10(3) of S.I. 2003/1589 as from 25.10.04.

(4) Where a person who ceases to be entitled to a jobseeker's allowance after attaining the age of 60 becomes entitled to ▶state pension credit◀ within 12 weeks of ceasing to be entitled to a jobseeker's allowance, or after an intervening period as provided for in regulation 2, he shall be entitled to a bonus in accordance with paragraph (1)(a) on the day he claims ▶state pension credit◀, and notwithstanding paragraph (3) his bonus period shall be treated as ending on the day he claims ▶state pension credit◀.

Words substituted in reg. 17(4) & (6) & para. (8) inserted by reg. 7(2) of S.I. 2002/3197 as from 6.10.03.

(5) Where, 12 weeks before 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.

(6) Where a person to whom paragraph (5) applies becomes entitled to ▶state pension credit◀ within the period of 12 weeks after he attains the age of 60, or, as the case may be, pensionable age, or after an intervening period as provided for in regulation 2, he shall be entitled to a bonus notwithstanding his failure to satisfy any one of the conditions specified in regulation 7.

(7) 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.

▶(8) In this regulation, "state pension credit" means the benefit of that name payable under the State Pension Credit Act 2002.◀

Death

18.—(1) Subject to paragraph (4), 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

Words inserted in reg.
18(3) by reg. 3(4) of S.I.
1997/454 as from 7.4.97.

(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, paragraphs (2), (5) and (6) shall apply.

(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 a 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 ►where that partner becomes entitled to a qualifying benefit no more than 12 weeks after the date of death◄.

(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-

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

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

19.—(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 of 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 (2), "place of work" has the meaning it has in section 14 by virtue of subsection (4) of that section.

(4) Where-

- (a) the qualifying benefit is income support;
- (b) the person claiming the benefit, or his partner, 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 of that person or his partner, as the case may be, 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 benefit week the partner referred to in paragraph (2)(b) or, as the case may be, the partner or the person claiming the benefit referred to in paragraph (4)(b) is within her maternity pay period or is incapable of work, this regulation shall not apply in respect of ►that partner’s or that person’s earnings◄ for that benefit week.

Words substituted in reg. 19(6) by reg. 3(5) of S.I. 1997/454 as from 7.4.97.

(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 person claiming the benefit referred to in paragraph (2)(a) or (4)(a) or his partner, as the case may be, 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

20. In their application to share fishermen who are entitled to a contribution-based jobseeker’s allowance, these Regulations shall have effect as if references to earnings were references to earnings earned in any benefit week within the bonus period, whether or not they were payable in that benefit week.

Bonus to be treated as capital for certain purposes

21. 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) ►working families’ tax credit;◄
- (d) ►disabled person’s tax credit;◄
- (e) income support;
- (f) a jobseeker’s allowance.

Words substituted in reg. 21(c) & (d) by Parts I & II, Sch 2 of S.I. 1999/2566 as from 5.10.99.

Claiming a bonus

22.—(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) subject to paragraph (7), 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 23(5), not later than the end of the period of 12 weeks immediately following—
 - (i) in the case of a person who satisfies the 3rd condition in regulation 7, 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 the separated 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 for Work and Pensions◄.

Words in reg 22(2) substituted by para. 27(3) of the Sch. to S.I. 2002/1397 as from 27.6.02.

(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) An applicant 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.

(6) In the case of a person who has served or is treated as having served a waiting period in accordance with regulation 6(1) (waiting period) and is a member of a couple in respect of whom income support or an income-based jobseeker's allowance is payable,

the claim for the bonus shall be made by the member of the couple entitled to the benefit.

(7) A person who has an employment to take up, or whose earnings from or the hours of employment will increase, within 14 days of completing his training or the date of separation and that employment satisfies the requirements of regulation 7(4)(b) or (5)(c) may make a claim for a bonus—

- (a) in the case of a person who satisfies all the other requirements of the 3rd condition specified in regulation 7, up to 14 days before the day following the last day of attendance on the course;
- (b) in the case of a person who satisfies all the other conditions of the 4th condition specified in regulation 7, up to 13 days before the day on which he complies with the condition, but not before the day after the separation.

Para. (8) inserted in reg. 22 by reg. 13(b) of S.I. 2001/488 as from 9.4.01.

►(8) For the purposes of this regulation, references to a qualifying benefit do not include any income support paid under regulation 6(6) (persons not treated as engaged in remunerative work) of the Income Support Regulations.◀

Claim: further provisions

23.—(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 22(1), the date on which it is received at the appropriate office; or
- (b) in the case of a claim treated under regulation 22(3) as having been duly made, the date on which the claim was received in an appropriate office in the first place.

(4) In the regulation, the “appropriate office” means an office of the ►Department for Work and Pensions◀.

(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 22(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 22(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

24. A bonus calculated by reference to earnings payable 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

Words in reg. 23(4) substituted by para. 27(4) of the Sch. to S.I. 2002/1397 as from 27.6.02.

- (b) wholly by way of income support, where the qualifying benefit last in payment in the bonus period was income support.

Award of bonus

25.—(1) Where the Secretary of State is satisfied that a person satisfies, or will satisfy, the work condition or either of the requirements specified in regulation 7(4)(b) or the requirements specified in regulation 7(5)(c) he may award a bonus in advance of the condition or requirement being met.

Words substituted in reg. 25(1) by para. 1 of Sch. 14 to S.I. 1999/2860 as from 18.10.99.

(2) If, having been awarded a bonus in advance in accordance with paragraph (1), the person fails to satisfy the conditions, he shall not be entitled to any further bonus until he has served a further waiting period in accordance with regulation 6 (waiting period).

Payments on death

26.—(1) Where a person satisfies the requirements for entitlement to a bonus other than the need to make a claim, but dies within 12 weeks of the last day of entitlement to a qualifying benefit, the Secretary of State may appoint such person as he may think fit to claim a bonus in place of the deceased person.

(2) Where the conditions specified in paragraph (3) are satisfied, a claim may be made by the person appointed for a back to work bonus to which the deceased person would have been entitled if he had claimed it in accordance with regulation 22 (claiming a bonus).

(3) Subject to the following provisions of this regulation, the following conditions are specified for the purposes of paragraph (2)-

- (a) the application to the Secretary of State to be appointed a fit person to make a claim shall be made within 6 months of the date of death;
- (b) the claim shall be made in writing within 6 months of the date the appointment was made.

(4) Subject to paragraphs (5) and (6), the Secretary of State may, in exceptional circumstances, extend the period for making an application or a claim to such longer period as he considers appropriate in the particular case.

(5) Where the period is extended in accordance with paragraph (4), the period specified in paragraph (3)(a) or (b) shall be shortened by a corresponding period.

(6) The Secretary of State shall not extend the period of claim in accordance with paragraph (4) for more than 12 months from the date of death, but in calculating that period any period between the date when an application for a person to be appointed to make a claim is made and the date when the Secretary of State makes the appointment shall be disregarded.

(7) A claim made in accordance with paragraph (2) shall be treated, for the purposes of these Regulations, as if made on the date of the deceased's death.

Transitional matters

27.—(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(a), 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

(a) Section 25A was inserted by the Social Security (Incapacity for Work) Act 1994 (c.18); section 11(1), Schedule 1, paragraph 5.

Sunday, shall count towards the waiting period specified in regulation 6; but

- (b) any earnings of that person or his partner calculated in accordance with those rules 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 period).

(4) No bonus period shall commence before 7th October 1996.

Revocations

28. The Social Security (Back to Work Bonus) Regulations 1996(a) the Social Security (Back to Work Bonus) (Amendment) Regulations 1996(b) and regulation 4 of the Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996(c) are hereby revoked.

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

10th October 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). This Instrument revokes the Social Security (Back to Work Bonus) Regulations 1996 (S.I. 1996/193), the Social Security (Back to Work Bonus) (Amendment) Regulations 1996 (S.I. 1996/1511) and regulation 4 of the Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538) and consolidates the provisions of those Regulations. The regulations in it are therefore exempted by paragraph 10 of Schedule 7 of the Social Security Administration Act 1992 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 Jobseekers Act 1995 introduces a 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 and 3 deal with periods of entitlement to a qualifying benefit (income support or a jobseeker's allowance), which can in some circumstances be joined together to form a single period of entitlement to a qualifying benefit. Regulation 5 sets out the circumstances in which periods of entitlement to a qualifying benefit will not count for the purposes of the period of entitlement to a qualifying benefit.

Regulation 6 provides that the waiting period is the first 91 days of entitlement to a qualifying benefit.

(a) S.I. 1996/193.

(b) S.I. 1996/1511.

(c) S.I. 1996/2538.

Regulation 7 sets out the requirements for a bonus, one of which is that the claimant or his partner returns to work, or increases his hours of, or earnings from, work, with the result that he is no longer entitled to a qualifying benefit (“the work condition”). Regulation 8 provides the method for calculating the amount of the bonus payable to the applicant, and regulation 9 allows the Secretary of State to issue estimates to claimants of the amount of bonus that may be payable to them.

Regulations 10 to 16 deal with the entitlement to a bonus of people who are, or were, or become a couple.

Regulation 21 provides that the bonus is to be treated as capital for the purpose of assessing the means of claimants to other income-related benefits. Regulations 22 and 23 contain details of claims for the bonus, regulation 24 deals with payments and regulation 25 provides that a bonus may be awarded in advance of an applicant satisfying the requirements for it. Regulation 26 allows a person to apply to be appointed to claim a bonus in place of someone who was entitled to a bonus but died before claiming it. Regulation 27 deals with transitional matters and regulation 28 with revocations.

An assessment of the costs to business of applying the Social Security (Back to Work Bonus) Regulations 1996 (S.I. 1996/193) was placed in the Libraries of both Houses of Parliament. Copies of that assessment may be obtained by post from the Department of Social Security, Room 09/03 Adelphi, 1-11 John Adam Street, London WC2N 6HT. A further assessment of the costs to business of these Regulations has not been carried out.

