

2015 No. 389

SOCIAL SECURITY

**The Social Security (Members of the Reserve Forces)
(Amendment) Regulations 2015**

<i>Made</i>	- - - -	<i>23rd February 2015</i>
<i>Laid before Parliament</i>		<i>2nd March 2015</i>
<i>Coming into force</i>	- -	<i>6th April 2015</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 136(3), (4) and (5)(b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) sections 6(4), 7(4), 12(1) to (3) and (4)(b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(b) and sections 17(1), (2) and (3)(b), 24(1), 25(2), (3) and (5) of the Welfare Reform Act 2007(c), makes the following Regulations.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that the proposals in respect of these Regulations should not be referred to it(d).

Citation and commencement

1. These Regulations may be cited as the Social Security (Members of the Reserve Forces) (Amendment) Regulations 2015 and come into force on 6th April 2015.

Amendment of the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987(e) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of “enactment”(f) insert-

““first year of training” means a period of time beginning with a person’s first day of training.”

(a) 1992. c.4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Sections 137(1) and 175(4) have been amended in ways not relevant to these Regulations

(b) 1995 c. 18. Section 8(2) was amended by section 33(1) and (2) of the Welfare Reform Act 2009 (c. 24). Section 35(1) is an interpretation provision and is cited for the meaning it gives to the terms “prescribed” and “regulations”. The definition of “prescribed” was amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(c) 2007. c.5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed” and “regulations”.

(d) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(e) S.I. 1987/1967. Paragraph 15A was substituted by S.I. 2012/2575.

(f) The definition of enactment was inserted by S.I. 2009/2655. Regulation 2 has been amended in other ways not relevant to these Regulations.

(3) For regulation 29(2C) (calculation of earnings derived from employed earner’s employment and income other than earnings)(a) substitute—

“(2C) (a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations—

- (i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year; or
- (ii) in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.

(b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—

- (i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table; or
- (ii) in any other case, over a period of time which is equal to the number of days of the training period.

(c) This is the table referred to in sub-paragraph (b)(i)—

<i>Column 1</i>	<i>Column 2</i>
<i>Period of training in days</i>	<i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42”

(4) In Schedule 8 (sums to be disregarded in the calculation of earnings)(b)—

(a) in paragraph 7(1)(d), omit the words “territorial or”; and

(b) in paragraph 15A—

(i) in sub-paragraph (2), omit the words “territorial or”; and

(ii) at the end of sub-paragraph (2), omit the full stop and insert—

“or in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.”

Amendment of the Jobseeker’s Allowance Regulations 1996

3.—(1) The Jobseeker’s Allowance Regulations 1996(c) are amended as follows.

(2) In regulation 1(3) (citation, commencement, interpretation and application), after the definition of “enactment”(d) insert—

(a) Regulation 29(2C) was inserted by S.I. 2012/2575.
 (b) Paragraph 7(1) of Schedule 8 has been amended by S.I. 1993/315 and S.I. 2000/2545. Paragraph 7(1)(d) has been amended by S.I.2006/2378. Paragraph 7(1) has been amended in other ways not relevant to these Regulations.
 (c) S.I. 1996/207
 (d) The definition of enactment was inserted by S.I. 2009/2655. Regulation 1(3) has been amended in other ways not relevant to these Regulations.

““first year of training” means a period of one year beginning with a person’s first day of training.”

(3) In regulation 14(1) (circumstances in which a person is to be treated as available)(a), for sub-paragraph (v), substitute—

“(v) if he is a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations(b), either—

- (i) if he is engaged in his first year of training, for a maximum of 43 days in that year; or
- (ii) if he is engaged in annual continuous training, for a maximum of 15 days in any calendar year.”.

(4) In regulation 19(1) (circumstances in which a person is to be treated as actively seeking employment)(c), for sub-paragraph (y), substitute—

“(y) in any week during which he is engaged for not less than 3 days in training as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations, either—

- (i) if he is engaged in his first year of training, for a maximum of 43 days in that year; or
- (ii) if he is engaged in annual continuous training, for a maximum of 15 days in any calendar year.”.

(5) For regulation 94(2C) (calculation of earnings derived from employed earner’s employment and income other than earnings)(d) substitute—

“(2C) (a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations—

- (i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year; or
- (ii) in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.

(b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—

- (i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table; or
- (ii) in any other case, over a period which is equal to the duration of the training period.

(c) This is the table referred to in sub-paragraph (b)(i)—

<i>Column 1</i>	<i>Column 2</i>
<i>Period of training in days</i>	<i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7

(a) Regulation 14(1) has been amended by S.I. 1997/563, S.I. 2008/1826 and S.I. 2006/1402. Sub-paragraph (v) was inserted by S.I. 2012/1616. Regulation 14(1) has been amended in other ways not relevant to these Regulations.

(b) S.I. 2001/1004.

(c) Regulation 19(1) was amended by S.I. 2006/1402. Sub-paragraph (y) was inserted by S.I. 2012/1616. Regulation 19(1) has been amended in other ways not relevant to these Regulations.

(d) Regulation 94(2C) was inserted by S.I. 2012/1616 and amended by S.I. 2012/2575.

15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42”

- (6) In Schedule 6 (sums to be disregarded in the calculation of earnings)(a)—
- (a) in paragraph 9(1)(d), omit the words “territorial or”; and
 - (b) in paragraph 19—
 - (i) in sub-paragraph (3), omit the words “territorial or”; and
 - (ii) at the end of sub-paragraph (3), omit the full stop and insert—

“or in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.”.
- (7) In each of the following provisions, omit the words “territorial or”—
- (a) regulation 18(3)(f)(v)(b);
 - (b) regulation 50(6D)(a)(c); and
 - (c) regulation 53(d)(iv)(d).

Amendment of the Employment and Support Allowance Regulations 2008

- 4.—**(1) The Employment and Support Allowance Regulations 2008(e) are amended as follows.
- (2) In regulation 2(1) (interpretation), after the definition of “First-tier tribunal ” insert—
- ““first year of training” means a period of one year beginning with a person’s first day of training.”
- (3) For regulation 91(4A) (calculation of earnings derived from employed earner’s employment and income other than earnings)(f) substitute —

“(4A) (a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations—

- (i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year; or
 - (ii) in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.
- (b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—
- (i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table; or
 - (ii) in any other case, over a period which is equal to the duration of the training period.
- (c) This is the table referred to in sub-paragraph (b)(i)—

-
- (a) Schedule 6 was amended by S.I. 2006/2378. It has been amended in other ways not relevant to these Regulations.
 - (b) Regulation 18 was amended by S.I. 2006/2378. It has been amended in other ways not relevant to these Regulations.
 - (c) Regulation 50(6D) was inserted by S.I. 2012/2575.
 - (d) Regulation 50 was amended by S.I. 2006/2378. It has been amended in other ways not relevant to these Regulations.
 - (e) S.I. 2008/794. Paragraph 11A was inserted by S.I. 2012/2575.
 - (f) Regulation 91(4A) was inserted by S.I. 2012/2575.

<i>Column 1</i>	<i>Column 2</i>
<i>Period of training in days</i>	<i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42

(4) In Schedule 7 (sums to be disregarded in the calculation of earnings)(a)—

(a) in paragraph 11A—

(i) in sub-paragraph (2), omit the words “territorial or”; and

(ii) at the end of sub-paragraph (2), omit the full stop and insert—

“or in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.”; and

(b) in paragraph 12(a), omit the words “territorial or”.

(5) In regulation 43(1)(e)(vi), omit the words “territorial or”.

Amendment of the Jobseeker’s Allowance Regulations 2013

5.—(1) The Jobseeker’s Allowance Regulations 2013(b)are amended as follows.

(2) In regulation 2(2) (general interpretation), after the definition of “earnings” insert—

““first year of training” means a period of one year beginning with a person’s first day of training.”

(3) For regulation 54(3) (calculation of earnings derived from employed earner’s employment) substitute—

“(3) (a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001—

(i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year; or

(ii) in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.

(b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—

(i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table; or

(ii) in any other case, over a period which is equal to the duration of the training period.

(a) Paragraph 11A of Schedule 7 was inserted by S.I. 2012/2575. There are other amendments to Schedule 7 not relevant to these Regulations.

(b) S.I. 2013/378

(c) This is the table referred to in sub-paragraph (b)(i)—

<i>Column 1</i> <i>Period of training in days</i>	<i>Column 2</i> <i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42

(4) In the Schedule (sums to be disregarded in the calculation of earnings)—

(a) in paragraph 6, omit the words “territorial or”; and

(b) in paragraph 12—

(i) in sub-paragraph(2), omit the words “territorial or”; and

(ii) at the end of sub-paragraph (2), omit the full stop and insert—

“or in respect of training in the claimant’s first year of training as a member of a reserve force for a maximum of 43 days in that year.”

(5) In each of the following provisions, omit the words “territorial or” —

(a) regulation 41(6); and

(b) regulation 44(1)(c)(v).

Signed by authority of the Secretary of State for Work and Pensions

Esther McVey

Minister of State

Department for Work and Pensions

23rd February 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987 (“the 1987 Regulations”), the Jobseeker’s Allowance Regulations 1996 (“the 1996 Regulations”), the Employment and Support Allowance Regulations 2008 (“the 2008 Regulations”), and the Jobseeker’s Allowance Regulations 2013 (“the 2013 Regulations”).

Regulations 2(2) and (3), 3(2) and (5), 4(2) and (3) and 5(2) and (3) amend the 1987 Regulations, the 1996 Regulations, the 2008 Regulations and the 2013 Regulations respectively in relation to a person who is in receipt of income support, jobseeker’s allowance or employment support allowance and make provision as to how earnings derived from participation as a member of the reserve forces, whether paid alone or together with other earnings derived from the same source, are to be taken into account for periods of training.

Regulations 2(4)(b)(ii), 3(6)(b)(ii), 4(4)(a)(ii) and 5(4)(b)(ii) amend the 1987 Regulations, the 1996 Regulations, the 2008 Regulations and the 2013 Regulations respectively and extend the period of time over which sums can be disregarded in the calculation of earnings for those in

receipt of income support, jobseeker's allowance or employment support allowance from 15 days to 43 days.

Regulation 3(3) and (4) amends the 1996 Regulations in relation to a person who is in receipt of jobseeker's allowance and provides that during training received in their first year, members of the reserve forces will be treated as available for, and actively seeking, employment (which are two of the basic conditions of entitlement to jobseeker's allowance) for up to 43 days of training.

All other provisions (other than regulation 1) remove obsolete references to the word "territorial", which are no longer required in respect of the reserve forces due to the renaming of Army Reserve and Territorial Army in section 44 of the Defence Reform Act 2014.

A full impact assessment has not been produced for this instrument as no impact on businesses or civil society organisations is foreseen and the impact on the public sector is minimal.

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