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BRIEFING PAPER

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Contribution-based Jobseeker's Allowance and private/occupational pensions

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Summary

Jobseeker’s Allowance (JSA) is a benefit for people who are unemployed and looking for work. There are two types of Jobseeker’s Allowance: contribution-based JSA, which is payable for up to six months if the person has a sufficient National Insurance record; and income-based JSA, which is means-tested.

Income-based JSA may be payable after the person has exhausted their entitlement to contribution-based JSA, or from the outset of the claim, if the person doesn’t qualify for contribution-based JSA. A person may also get contribution-based JSA with a “top-up” of income-based JSA, depending on their income and other circumstances.

Income-based JSA may be affected if the claimant (and/or any partner) has other sources of income, or capital in excess of a certain amount. An occupational or private pension would reduce entitlement to income-based JSA on a pound for pound basis.

Contribution-based JSA is not means-tested as such, but the amount of JSA payable is reduced on a pound for pound basis by any regular income the claimant receives from an occupational or private pension in excess of £50 a week. At current JSA rates (£73.10 a week from April 2016), contribution-based JSA would therefore be withdrawn completely from those with pension payments totalling £123.10 a week or more.

The abatement of contributory unemployment benefits for people receiving occupational pensions over a certain level was introduced from April 1981, and originally applied only to those aged 60 or over. The then Government cited the need to make savings in the social security budget, and its belief that those who had effectively retired after a pensionable career could not be said to be “unemployed” in the usual sense of the word. The age limit was reduced to 55 in 1988.

The abatement rule was carried over to contribution-based JSA when it replaced Unemployment Benefit in 1996, but the provisions were extended to cover those receiving personal pensions, and the age limit was removed. The threshold was also increased from £35 to £50 a week, where it has remained ever since.

1. Introduction

There are two forms of Jobseeker's Allowance: contribution-based JSA (payable for six months subject to National Insurance contribution conditions); and income-based JSA (payable instead of, or in addition to, contribution-based JSA and subject to a means test). Income from an occupational or private pension can affect entitlement to either form of JSA.

Entitlement to means-tested benefits depends upon the claimant's income and/or capital (i.e. savings and other assets), and that of their partner, if they have one. For income-based JSA, pension income is taken into account in the means test in the same way as most other forms of income. Income from private pensions – together with most other types of income received – is deducted from the claimant's "applicable amount" to produce the amount of benefit payable. If income is greater than needs, no benefit is payable.

The effect on contribution-based JSA has been seen as more controversial, since this form of benefit is not generally subject to a means test.

Contribution-based JSA is an individual benefit, i.e. it is payable regardless of the income, capital or work status of the claimant's partner, if they have one. The amount a person receives may be affected by earnings, payments at the end of a job, or by an occupational or private pension. However, only the claimant's earnings (and not those of any partner) are taken into account. Payment is not affected by any other income or savings the person, or their partner, has.

A person can have an occupational or private pension of up to £50 a week without their contribution-based JSA being affected. However, if the pension is more than £50 a week, their benefit is reduced pound for pound by the excess amount.

Contribution-based JSA replaced Unemployment Benefit (UB) in 1996. Occupational pensions were first taken into account for UB in 1981. This note looks at the background to and rationale for this rule.

2. Unemployment Benefit and occupational pensions

The abatement of Unemployment Benefit for people receiving occupational pensions was first introduced in April 1981 by section 5(1) of the *Social Security (No. 2) Act 1980*. There had however been previous unsuccessful attempts by Governments – both Conservative and Labour – to introduce such a rule.[1]

Under the 1980 Act, UB was reduced pound for pound for any amount of occupational pension above £35 a week. It applied only to people aged 60 to 65. Announcing the change to the House on 27 March 1980, the then Secretary of State for Social Services, Patrick Jenkin, admitted that the principal motivation was the need to make savings:

> The House has, on no fewer than three occasions, rejected this change, and I myself have spoken and voted against it. Yet, when economies in the social security budget must be made, it is not now reasonable to protect entitlement to a year's unemployment benefit for people who have retired and are in receipt of significant occupational pensions.[2]

Mr Jenkin set out the rationale for the change in greater detail at Second Reading. He argued that:

> Unemployment benefit is intended for unexpected and unforeseeable contingencies. It really cannot be said that retirement at the end of a pensionable career – this clause applies to people over 60 years of age – constitutes "unemployment" in the accepted sense of the word.[3]

He added:

> I can tell the House that a recent survey found that over half of unemployed men with occupational pensions of a size to be affected by this change admitted that they were not actually looking for work. Yet the cost of paying unemployment benefit for people with significant pensions is no less than £25 million a year. In today's conditions, I do not regard that as a sensible use of money. A similar view is taken in West Germany and in France where unemployment benefit cannot be paid to a person in receipt of an occupational pension because such a person is deemed to be outside the labour market. It is sometimes said that pensioners – and I know that a number of my hon. Friends are worried about this – claim unemployment benefit only in order to secure eligibility for their retirement pension payable at 65. However, contribution credits do not depend upon drawing

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1 See Wikeley, Ogus and Barendt's *The Law of Social Security*, 5th edition, 2002, p 516. See also the National Insurance Advisory Committee's *Report on the Question of Conditions for Unemployment Benefit and Contribution Conditions for Occupational Pensioners*, Cmnd 3545, 1968; and *Draft National Insurance (Occupational Pensions) (Unemployment Benefit) Regulations 1970: report of the National Insurance Advisory Committee preceded by a statement made by the Secretary of State for Social Services*, HC 211 1969-70

2 HC Deb 27 March 1980 c1661

3 HC Deb 15 April 1980 c1046

> benefit. People can and do claim credits for unemployment, although they receive no benefit.[4]

The new rule was criticised by trade unionists in particular, who argued that many of their members were being more or less compelled to take early retirement as part of redundancy programmes.[5]

The age threshold was reduced to 55 by section 7 of the *Social Security Act 1988*. The £35 limit was however to remain unchanged until the introduction of the Jobseeker's Allowance in October 1996. Had it been uprated in line with prices, its level would have been around £76.95 by 1996.[6]

Contribution-based Jobseekers Allowance replaced Unemployment Benefit on 7 October 1996. The abatement provisions for UB were retained, but the age limit was removed and the threshold was increased to £50 a week.[7] The provisions were also extended to cover people receiving personal pensions.

In 2006 the regulations were further amended to provide that payments made from the Pension Protection Fund (PPF) or under the Financial Assistance Scheme (FAS) are treated in the same way as occupational pensions for those claiming contribution-based JSA.[8]

The £50 threshold has not been increased since 1996. Had it been increased in line with prices, it would be around £84 today.[9]

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4 Ibid.
5 SC Deb (B) 8 May 1980 cc921-972
6 Calculated using all-items Retail Price Index for September 1980 and September 1995
7 Section 4(1)(b) Jobseekers Act 1995; and regulation 81(1) Jobseeker's Allowance Regulations 1996; SI 1996/207
8 The Social Security (PPF Payments and FAS Payments) (Consequential Amendments) Regulations 2006; SI 2006/1069.
9 Calculated using all-items Retail Price Index for September 1996 and September 2015

3. The current rules

The current rules are in regulation 81 of the *Jobseeker's Allowance Regulations*,[10] which states:

> **81.**—(1) The deduction in respect of pension payments, PPF payments or FAS payments from the amount which apart from this regulation would be payable to a claimant by way of a contribution-based jobseeker's allowance for any benefit week shall be a sum equal to the amount by which that payment exceeds or, as the case may be, the aggregate of those payments exceed £50 per week.

"Pension payments" are:

> (a) periodical payments made in relation to a person, under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme; and
>
> (b) such other payments as may be prescribed.[11]

Lump sums are not "periodical payments" and do not therefore lead to abatement. This applies even if the person chose to receive a lump sum rather than pension payments at regular intervals.[12] Wikeley, Ogus and Barendt's *The Law of Social Security* comments that this is "somewhat anomalous."[13]

The internal DWP guidance on the application of the abatement provisions is in Volume 23, paragraphs 23800-23932 of the Decision Maker's Guide.

Pension income does not in itself affect a claimant's *entitlement* to JSA - it simply reduces the amount payable. Having an "underlying entitlement" to JSA – even where no benefit is actually payable – means that a claimant can receive National Insurance credits which can help towards meeting the contribution conditions for the Retirement Pension.

To receive NI credits for unemployment a person must "sign on" at a Jobcentre on the same basis as a recipient of JSA, and must likewise be available for and actively seeking work.[14] "Credits only" JSA claimants cannot be mandated to take part in the Work Programme, but can decide to join the Work Programme and participate on a voluntary basis.[15]

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10 SI 1996/207 as amended. When Universal Credit – which will replace among other things income-based JSA – is introduced, contributory JSA will be covered by a new set of regulations, the Jobseeker's Allowance Regulations 2013; SI 2013/378. Regulation 51 of the 2013 Regulations makes equivalent provision in respect of pension payments to regulation 81 of the 1996 Regulations.

11 Section 35(1) Jobseekers Act 1995

12 R(U) 5/85

13 5th edition, 2002, p 517

14 Men who do not work, who are between the current women's State Pension age and 65, and who live in the UK at least 183 days a year, get Class 1 credits automatically ("autocredits"); see National Insurance credits at GOV.UK [accessed 9 April 2015]

15 See DWP FoI responses VTR 4521 and VTR 4594 of October 2014, available at the website WhatDoTheyKnow.com

People who are claiming NI credits for unemployment but who are not actually receiving contribution-based JSA because of the abatement rules are also included in the unemployment claimant count.[16]

[16] Office for National Statistics, A guide to labour market statistics, 14 November 2012, p8 [accessed 9 April 2015]

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