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## STATUTORY INSTRUMENTS

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# 1995 No. 2705

## The Jobseekers (Northern Ireland) Order 1995

### Part II

#### The Jobseeker's Allowance

##### *Entitlement*

##### **The jobseeker's allowance**

**3.—(1)** An allowance, to be known as a jobseeker's allowance, shall be payable in accordance with the provision of this Order.

(2) Subject to the provisions of this Order, a claimant is entitled to a jobseeker's allowance if he—

- (a) is available for employment;
- (b) has entered into a jobseeker's agreement which remains in force;
- (c) is actively seeking employment;
- [<sup>F1</sup>(d) satisfies the conditions set out in Article 4;]
- (e) is not engaged in remunerative work;
- (f) is capable of work;
- (g) is not receiving relevant education;
- (h) is under pensionable age; and
- (i) is in Northern Ireland

[<sup>F1</sup>(2A) Subject to the provisions of this Order, a claimant who is not a member of a joint-claim couple is entitled to a jobseeker's allowance if he satisfies—

- (a) the conditions set out in sub-paragraphs (a) to (c) and (e) to (i) of paragraph (2); and
- (b) the conditions set out in Article 5.

(2B) Subject to the provisions of this Order, a joint-claim couple are entitled to a jobseeker's allowance if—

- (a) a claim for the allowance is made jointly by the couple;
- (b) each member of the couple satisfies the conditions set out in sub-paragraphs (a) to (c) and (e) to (i) of paragraph (2); and
- (c) the conditions set out in Article 5A are satisfied in relation to the couple.

(2C) Regulations may prescribe circumstances in which paragraph (2A) is to apply to a claimant who is a member of a joint-claim couple.

(2D) Regulations may, in respect of cases where a person would (but for the regulations) be a member of two or more joint-claim couples, make provision for only one of those couples to be a joint-claim couple; and the provision which may be so made includes provision for the couple which is to be the joint-claim couple to be nominated—

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- (a) by the persons who are the members of the couples, or
- (b) in default of one of the couples being so nominated, by the Department.]
- (3) A jobseeker's allowance is payable in respect of a week.
- (4) In this Order—
  - “a contribution-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 4;<sup>F1</sup> . . .
  - “an income-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 5.<sup>F1</sup> or a joint-claim jobseeker's allowance;]
  - <sup>F1</sup>“a joint-claim couple” means a<sup>F2</sup> couple] who—
    - (a) are not members of any family whose members include a person in respect of whom a member of the couple is entitled to child benefit, and
    - (b) are of a prescribed description;
  - “a joint-claim jobseeker's allowance” means a jobseeker's allowance entitlement to which arises by virtue of paragraph (2B).]

**F1** 1999 NI 11

**F2** 2004 c.33

### The contribution-based conditions

- 4.—(1) The conditions referred to in<sup>F3</sup> Article 3(2)(d)] are that the claimant—
  - (a) has actually paid Class 1 contributions in respect of one ( “the base year”) of the last two complete years before the beginning of the relevant benefit year and satisfies the additional conditions set out in paragraph (2);
  - (b) has, in respect of the last two complete years before the beginning of the relevant benefit year, either paid Class 1 contributions or been credited with earnings and satisfies the additional condition set out in paragraph (3);
  - (c) does not have earnings in excess of the prescribed amount; and
  - (d) is not entitled to income support.
- (2) The additional conditions mentioned in paragraph (1)(a) are that—
  - (a) the contributions have been paid before the week for which the jobseeker's allowance is claimed;
  - (b) the earnings factor derived<sup>F4</sup> from so much of the claimant's earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions have been paid or treated as paid is not less than the base year's lower earnings limit multiplied by 25.
- (3) The additional condition mentioned in paragraph (1)(b) is that the earnings factor derived<sup>F4</sup> from so much of the claimant's earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions have been paid or treated as paid or<sup>F4</sup> from so much of the claimant's earnings as did not exceed the upper earnings limit and] credited is not less, in each of the two complete years, than the lower earnings limit for the year multiplied by 50.
- <sup>F5</sup>(3A) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, paragraphs (2)(b) and (3) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit.]

(4) For the purposes of this Article—

- (a) “benefit year” means a period which is a benefit year for the purposes of Part II of the Benefits Act or such other period as may be prescribed for the purposes of this Article;
- (b) “the relevant benefit year” is the benefit year which includes—
  - (i) the beginning of the jobseeking period which includes the week for which a jobseeker's allowance is claimed, or
  - (ii) (if earlier) the beginning of any linked period; and
- (c) other expressions which are used in this Article and the Benefits Act have the same meaning in this Article as they have in the Act.

**F3** 1999 NI 11

**F4** 2002 c. 19

**F5** 1998 NI 10

### The income-based conditions

5.—(1) The conditions referred to in<sup>[F6]</sup> Article 3(2A)(b)] are that the claimant—

- (a) has an income which does not exceed the applicable amount (determined in accordance with regulations under Article 6) or has no income;
- (b) is not entitled to income support<sup>[F7]</sup> or state pension credit];
- (c) is not a member of a family one of whose members is entitled to income support;
- (d) is not a member of a family one of whose members is entitled to an income-based jobseeker's allowance;

<sup>[F7]</sup>(dd) is not a member of a<sup>[F8]</sup> couple] the other member of which is entitled to state pension credit;]

- (e) is not a member of a<sup>[F8]</sup> couple] the other member of which is engaged in remunerative work; and
- (f) is a person—
  - (i) who has reached the age of 18; or
  - (ii) in respect of whom a direction under Article 18 is in force; or
  - (iii) who has, in prescribed circumstances to be taken into account for a prescribed period, reached the age of 16 but not the age of 18.

(2) Regulations may provide for one or both of the following conditions to be included in the income-based conditions, in the case of a person to whom paragraph (1)(f)(ii) or (iii) applies—

- (a) a condition that the claimant must register for employment;
- (b) a condition that the claimant must register for training.

(3) In paragraph (1)(f)(iii) “period” includes—

- (a) a period of a determinate length;
- (b) a period defined by reference to the happening of a future event; and
- (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

(4) Regulations under paragraph (2) may, in particular, make provision by reference to persons designated by the Department for the purpose of the regulations.

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- F6** 1999 NI 11  
**F7** 2002 c. 14 (NI)  
**F8** 2004 c.33

**[<sup>F9</sup>The conditions for claims by joint-claim couples**

**5A.**—(1) The conditions referred to in Article 3(2B)(c) are—

- (a) that the income of the joint-claim couple does not exceed the applicable amount (determined in accordance with regulations under Article 6) or the couple have no income;
- (b) that no member of a family of which the couple are members is entitled to income support;
- (c) that no member of any such family (other than the couple) is entitled to an income-based jobseeker's allowance;

[ that neither member of the couple is entitled to state pension credit;]  
<sup>F10</sup>(cc)

- (d) that at least one member of the couple has reached the age of 18; and
- (e) that if only one member of the couple has reached the age of 18, the other member of the couple is a person—
  - (i) in respect of whom a direction under Article 18 is in force; or
  - (ii) who has, in prescribed circumstances to be taken into account for a prescribed period, reached the age of 16.

(2) Paragraphs (2) and (4) of Article 5 shall apply in relation to a member of the couple to whom paragraph (1)(e)(i) or (ii) applies as they apply in relation to a claimant to whom paragraph (1)(f)(ii) or (iii) of that Article applies.

(3) In paragraph (1)(e)(ii) “period” shall be construed in accordance with Article 5(3).]

- F9** 1999 NI 11  
**F10** 2002 c. 14 (NI)

**Joint-claim couples: the nominated member**

**5B.**—(1) Where a joint-claim couple make a claim for a joint-claim jobseeker's allowance, they may nominate one of them as the member of the couple to whom the allowance is to be payable.

(2) In default of one of them being so nominated, the allowance shall be payable to whichever of them is nominated by the Department.

(3) Paragraphs (1) and (2) have effect subject to Article 6A(4) and (7).

(4) In this Order references to the nominated member of a joint-claim couple are, except where Article 22A(7) applies, to the member of the couple nominated under paragraph (1) or (2); and where Article 22A(7) applies, references to the nominated member of such a couple are to the member of the couple to whom Article 22A(7) provides for the allowance to be payable.

(5) Nothing in this Article or Article 22A(7) affects the operation of any statutory provision by virtue of which any amount of the allowance is required or authorised to be paid to someone other than the nominated member of the couple.

### Amount payable by way of a jobseeker's allowance

6.—(1) In the case of a contribution-based jobseeker's allowance, the amount payable in respect of a claimant ( “his personal rate”) shall be calculated by—

- (a) determining the age-related amount applicable to him; and
- (b) making prescribed deductions in respect of earnings and pensions payments.

(2) The age-related amount applicable to a claimant, for the purposes of paragraph (1)(a), shall be determined in accordance with regulations.

(3) In the case of an income-based jobseeker's allowance<sup>[F11]</sup> (other than a joint-claim jobseeker's allowance)], the amount payable shall be—

- (a) if a claimant has no income, the applicable amount;
- (b) if a claimant has an income, the amount by which the applicable amount exceeds his income.

<sup>[F11]</sup>(3A) In the case of a joint-claim jobseeker's allowance, the amount payable in respect of a joint-claim couple shall be—

- (a) if the couple have no income, the applicable amount;
- (b) if the couple have an income, the amount by which the applicable amount exceeds the couple's income.]

(4) Except in prescribed circumstances, a jobseeker's allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

(5) The applicable amount shall be such amount or the aggregate of such amounts as may be determined in accordance with regulations.

(6) Where a claimant<sup>[F11]</sup> is entitled to both a contribution-based jobseeker's allowance and an income-based jobseeker's allowance] but has no income, the amount payable<sup>[F11]</sup> by way of a jobseeker's allowance] shall be—

- (a) the applicable amount, if that is greater than his personal rate; and
- (b) his personal rate, if it is not.

(7) Where the amount payable to a claimant to whom paragraph (6) applies is the applicable amount, the amount payable to him by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the excess of the applicable amount over his personal rate.

(8) Where a claimant<sup>[F11]</sup> is entitled to both a contribution-based jobseeker's allowance and an income-based conditions] and has an income, the amount payable<sup>[F11]</sup> by way of a jobseeker's allowance] shall be—

- (a) the amount by which the applicable amount exceeds his income, if the amount of that excess is greater than his personal rate; and
- (b) his personal rate, if it is not.

(9) Where the amount payable to a claimant to whom paragraph (8) applies is the amount by which the applicable amount exceeds his income, the amount payable to him by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the amount by which the difference between the applicable amount and his income exceeds his personal rate.

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(10) The element of a jobseeker's allowance mentioned in paragraph (7)(a) and that mentioned in paragraph (9)(a) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to a contribution-based jobseeker's allowance.

(11) The element of a jobseeker's allowance mentioned in paragraph (7)(b) and that mentioned in paragraph (9)(b) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to an income-based jobseeker's allowance.

[<sup>F11</sup>(11A) In paragraphs (6) to (11) “claimant” does not include—

- (a) a joint-claim couple, or
- (b) a member of such a couple (other than a person to whom regulations under Article 3(2C) apply);

but Article 6A, which contains corresponding provisions relating to joint-claim couples, applies instead.]

(12) Regulations under paragraph (5) may provide that, in prescribed cases, an applicable amount is to be nil.

**F11** 1999 NI 11

#### [<sup>F12</sup>**Amount payable in respect of joint-claim couple**

**6A.—**(1) This Article applies where—

- (a) a joint-claim couple are entitled to a joint-claim jobseeker's allowance, and
- (b) one or each of the members of the couple is in addition entitled to a contribution-based jobseeker's allowance;

and in such a case the provisions of this Article have effect in relation to the couple in place of Article 6(3A).

(2) If a joint-claim couple falling within paragraph (1) have no income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be—

- (a) the applicable amount, if that is greater than the couple's personal rate; and
- (b) the couple's personal rate, if it is not.

(3) Where the amount payable in accordance with paragraph (2) is the applicable amount, the amount payable in respect of the couple by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to the couple's personal rate; and
- (b) the other being an amount equal to the excess of the applicable amount over the couple's personal rate.

(4) Where the amount payable in accordance with paragraph (2) is the couple's personal rate, then—

- (a) if each member of the couple is entitled to a contribution-based jobseeker's allowance, an amount equal to the member's own personal rate shall be payable in respect of the member by way of such an allowance;
- (b) if only one of them is so entitled, an amount equal to that member's personal rate shall be payable in respect of the member by way of such an allowance;

and in either case nothing shall be payable in respect of the couple by way of a joint-claim jobseeker's allowance.

(5) If a joint-claim couple falling within paragraph (1) have an income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be—

- (a) the amount by which the applicable amount exceeds the couple's income, if the amount of that excess is greater than the couple's personal rate; and
- (b) the couple's personal rate, if it is not.

(6) Where the amount payable in accordance with paragraph (5) is the amount by which the applicable amount exceeds the couple's income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to the couple's personal rate; and
- (b) the other being an amount equal to the amount by which the difference between the applicable amount and the couple's income exceeds the couple's personal rate.

(7) Where the amount payable in accordance with paragraph (5) is the couple's personal rate, paragraph (4) shall apply as it applies in a case where the amount payable in accordance with paragraph (2) is that rate.

(8) The element of a jobseeker's allowance mentioned in paragraph (3)(a) and that mentioned in paragraph (6)(a) shall be treated, for the purpose of identifying the source of the allowance, as attributable—

- (a) in a case where only one member of the joint-claim couple is entitled to a contribution-based jobseeker's allowance, to that member's entitlement to such an allowance; and
- (b) in a case where each member of the couple is entitled to a contribution-based jobseeker's allowance, rateably according to their individual entitlements to such an allowance.

(9) The element of a jobseeker's allowance mentioned in paragraph (3)(b) and that mentioned in paragraph (6)(b) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the couple's entitlement to a joint-claim jobseeker's allowance.

(10) In this Article “the couple's personal rate”, in relation to a joint-claim couple, means—

- (a) where only one member of the couple is entitled to a contribution-based jobseeker's allowance, that member's personal rate;
- (b) where each member of the couple is entitled to such an allowance, the aggregate of their personal rates.]

**F12** 1999 NI 11

### **Duration of a contribution-based jobseeker's allowance**

7.—(1) The period for which a person is entitled to a contribution-based jobseeker's allowance shall not exceed, in the aggregate, 182 days in any period for which his entitlement is established by reference (under Article 4(1)(b)) to the same two years.

(2) The fact that a person's entitlement to a contribution-based jobseeker's allowance ( “his previous entitlement”) has ceased as a result of paragraph (1) does not prevent his being entitled to a further contribution-based jobseeker's allowance if—

- (a) he satisfies the contribution-based conditions; and
- (b) the two years by reference to which he satisfies those conditions include at least one year which is later than the second of the two years by reference to which his previous entitlement was established.

(3) Regulations may provide that a person who would be entitled to a contribution-based jobseeker's allowance but for the operation of prescribed provisions of, or made under, this Order shall be treated as if entitled to the allowance for the purposes of this Article.

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## Jobseeking

### Availability for employment

**8.—**(1) For the purposes of this Order, a person is available for employment if he is willing and able to take up immediately any employed earner's employment.

(2) Paragraph (1) is subject to such provisions as may be made by regulations; and those regulations may, in particular, provide that a person—

- (a) may restrict his availability for employment in any week in such ways as may be prescribed; or
- (b) may restrict his availability for employment in any week in such circumstances as may be prescribed (for example, on grounds of conscience, religious conviction or physical or mental condition or because he is caring for another person) and in such ways as may be prescribed.

(3) The following are examples of restrictions for which provision may be made by the regulations—

- (a) restrictions on the nature of the employment for which a person is available;
- (b) restrictions on the periods for which he is available;
- (c) restrictions on the terms or conditions of employment for which he is available;
- (d) restrictions on the locality or localities within which he is available.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is or is not to be treated as available for employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is available for employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive,

to be treated, for a permitted period, as available for employment.

(6) Where it has been determined<sup>F13</sup> ( “the first determination”) that a person is to be treated, for the purposes of this Order, as available for employment in any week, the question whether he is available for employment in that week may be subsequently determined<sup>F14</sup> on a review of the first determination.

(7) In this Article “permitted period”, in relation to any person, means such period as may be determined in accordance with the regulations made under paragraph (4).

(8) Regulations under paragraph (4) may prescribe, in relation to permitted periods—

- (a) the day on which any such period is to be regarded as having begun in any case;
- (b) the shortest and longest periods which may be determined in any case;
- (c) factors which<sup>F14</sup> an adjudication officer may take into account in determining the period in any case.

(9) For the purposes of this Article “employed earner's employment” has the same meaning as in the Benefits Act.

**F13** prosp. in pt. rep. by 1998 NI 10

**F14** prosp. in pt. subst. by 1998 NI 10



## Actively seeking employment

9.—(1) For the purposes of this Order, a person is actively seeking employment in any week if he takes in that week such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment.

(2) Regulations may make provision—

- (a) with respect to steps which it is reasonable, for the purposes of paragraph (1), for a person to be expected to have to take in any week;
- (b) as to circumstances (for example, his skills, qualifications, abilities and physical or mental limitations) which, in particular, are to be taken into account in determining whether, in relation to any steps taken by a person, the requirements of paragraph (1) are satisfied in any week.

(3) Regulations may make provision for acts of a person which would otherwise be relevant for purposes of this Article to be disregarded in such circumstances (including circumstances constituted by, or connected with, his behaviour or appearance) as may be prescribed.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is to be treated as actively seeking employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is actively seeking employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive,

to be treated, for the permitted period determined in his case for the purposes of Article 8(5), as actively seeking employment during that period.

(6) Regulations may provide for this Article, and any regulations made under it, to have effect in relation to a person who has reached the age of 16 but not the age of 18 as if “employment” included “training”.

(7) Where it has been determined<sup>F15</sup> ( “the first determination”) that a person is to be treated, for the purposes of this Order, as actively seeking employment in any week, the question whether he is actively seeking employment in that week may subsequently be determined<sup>F16</sup> on a review of the first determination.

(8) For the purposes of this Article—

“employment” means employed earner's employment or, in prescribed circumstances—

- (a) self-employed earner's employment; or
- (b) employed earner's employment and self-employed earner's employment; and “employed earner's employment” and

“self-employed earner's employment” have the same meanings as in the Benefits Act.

**F15** prosp. in pt. rep. by 1998 NI 10

**F16** prosp. in pt. subst. by 1998 NI 10

## Attendance, information and evidence

10.—(1) Regulations may make provision for requiring a claimant<sup>F17</sup> (other than a joint-claim couple claiming a joint-claim jobseeker's allowance)]

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- (a) To attend at such place and at such time as<sup>[F17]</sup> an employment officer] may specify; and
- (b) to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment.

<sup>[F17]</sup>(1A) Regulations may make provision—

- (a) for requiring each member of a joint-claim couple claiming a joint-claim jobseeker's allowance to attend at such place and such time as the Department, or any other Department, may specify;
- (b) for requiring a member of such a couple to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment;
- (c) for requiring such a couple to jointly provide information and such evidence as may be prescribed as to the circumstances of each or either member of the couple, the availability for employment of each or either member of the couple and the extent to which each or either member of the couple is actively seeking employment;
- (d) where any requirement to provide information or evidence is imposed on such a couple by virtue of sub-paragraph (c), for the joint obligation of the couple to be capable of being discharged by the provision of the information or evidence by one member of the couple.]

(2) Regulations under paragraph (1)<sup>[F17]</sup> or (1A)] may, in particular—

- (a) prescribe circumstances in which entitlement to a jobseeker's allowance is to cease in the case of a claimant who<sup>[F17]</sup>, or (as the case may be) a joint-claim couple claiming a joint-claim jobseeker's allowance a member of which,] fails to comply with any regulations made under that paragraph;
- (b) provide for entitlement to cease at such time (after he<sup>[F17]</sup> or, as the case may be, a member of the joint-claim couple] last attended in compliance with requirements of the kind mentioned in paragraph (1)(a)<sup>[F17]</sup> or (1A)(a)] as may be determined in accordance with any such regulations;

<sup>[F17]</sup>(c) provide for entitlement not to cease if the claimant or (as the case may be) either member of the joint-claim couple shows, within a prescribed period of the failure to comply on the part of the claimant or (as the case may be) a member of the couple, that the claimant or (as the case may be) the defaulting member of the couple had good cause for that failure; and]

- (d) prescribe—
  - (i) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to comply with any such regulations; and
  - (ii) circumstances in which a person is, or is not, to be regarded as having, or not having, good cause for failing to comply with any such regulations.

<sup>[F17]</sup>(3) In paragraph (1) “employment officer” means an officer of the Department, an officer of any other Department, or such other person as may be designated for the purposes of that paragraph by an order made by the Department.]

**F17** 1999 NI 11

### The jobseeker's agreement

**11.—**(1) An agreement which is entered into by a claimant and an employment officer and which complies with the prescribed requirements in force at the time when the agreement is made is referred to in this Order as “a jobseeker's agreement”.

- (2) A jobseeker's agreement shall have effect only for the purposes of Article 3.
- (3) A jobseeker's agreement shall be in writing and be signed by both parties.
- (4) A copy of the agreement shall be given to the claimant.
- (5) An employment officer shall not enter into a jobseeker's agreement with a claimant unless, in the officer's opinion, the conditions mentioned in Article 3(2)(a) and (c) would be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the proposed agreement.
- (6) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed jobseeker's agreement to<sup>F18</sup> an adjudication officer for him to determine—
  - (a) whether, if the claimant concerned were to comply with the proposed agreement, he would satisfy—
    - (i) the condition mentioned in Article 3(2)(a), or
    - (ii) the condition mentioned in Article 3(2)(c); and
  - (b) whether it is reasonable to expect the claimant to have to comply with the proposed agreement.
- (7) <sup>F18</sup> An adjudication officer to whom a reference is made under paragraph (6)—
  - (a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;
  - (b) may give such directions, with respect to the terms on which the employment officer is to enter into a jobseeker's agreement with the claimant, as<sup>F18</sup> the adjudication officer considers appropriate;
  - (c) may direct that, if such conditions as<sup>F18</sup> he considers appropriate are satisfied, the proposed jobseeker's agreement is to be treated (if entered into) as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
- (8) Regulations may provide—
  - (a) for such matters as may be prescribed to be taken into account by<sup>F18</sup> an adjudication officer in giving a direction under paragraph (7)(c); and
  - (b) for such persons as may be prescribed to be notified of—
    - (i) any determination of<sup>F18</sup> an adjudication officer under this Article;
    - (ii) any direction given by<sup>F18</sup> an adjudication officer under this Article.
- <sup>F19</sup>(9) Any determination of adjudication officer under this Article shall be binding.
- (10) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in Article 3(2)(b).
- (11) Regulations may provide that, in prescribed circumstances, a jobseeker's agreement is to be treated as having effect on a date, to be determined in accordance with the regulations, before it would otherwise have effect.
- (12) Except in such circumstances as may be prescribed, a jobseeker's agreement entered into by a claimant shall cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him<sup>F20</sup> or to a joint-claim couple of which he is a member.].
- (13) In this Article and Article 12 “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department.

**F18** prosp. in pt. subst. by 1998 NI 10

**Status:** Point in time view as at 01/01/2006. This version of this part contains provisions that are not valid for this point in time.

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**F19** prosp. in pt. rep. by 1998 NI 10

**F20** 1999 NI 11

### Variation of jobseeker's agreement

**12.—**(1) A jobseeker's agreement may be varied, in the prescribed manner, by agreement between the claimant and any employment officer.

(2) Any agreement to vary a jobseeker's agreement shall be in writing and be signed by both parties.

(3) A copy of the agreement, as varied, shall be given to the claimant.

(4) An employment officer shall not agree to a variation of a jobseeker's agreement, unless, in the officer's opinion, the conditions mentioned in Article 3(2)(a) and (c) would continue to be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the agreement as proposed to be varied.

(5) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed variation of a jobseeker's agreement to<sup>F21</sup> an adjudication officer for him to determine—

(a) whether, if the claimant concerned were to comply with the agreement as proposed to be varied, he would satisfy—

(i) the condition mentioned in Article 3(2)(a), or

(ii) the condition mentioned in Article 3(2)(c); and

(b) whether it is reasonable to expect the claimant to have to comply with the agreement as proposed to be varied.

(6) <sup>F21</sup>An adjudication officer to whom a reference is made under paragraph (5)—

(a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;

(b) shall give such directions as<sup>F21</sup> he considers appropriate as to—

(i) whether the jobseeker's agreement should be varied, and

(ii) if so, the terms on which the claimant and the employment officer are to enter into an agreement to vary it;

(c) may bring the jobseeker's agreement to an end where the claimant fails, within a prescribed period, to comply with a direction given under sub-paragraph (b)(ii);

(d) may direct that, if—

(i) the jobseeker's agreement is varied, and

(ii) such conditions as<sup>F21</sup> he considers appropriate are satisfied,

the agreement as varied is to be treated as having effect on such date, before it would otherwise have effect, as may be specified in the direction.

(7) Regulations may provide—

(a) or such matters as may be prescribed to be taken into account by<sup>F21</sup> an adjudication officer in giving a direction under paragraph (6)(b) or (d); and

(b) for such persons as may be prescribed to be notified of—

(i) any determination of<sup>F21</sup> an adjudication officer under this Article;

(ii) any direction given by<sup>F21</sup> an adjudication officer under this Article.

<sup>F22</sup>(8) Any determination of an adjudication officer under this Article shall be binding.

**F21** prosp. in pt. subst. by 1998 NI 10

**F22** prosp. in pt. rep. by 1998 NI 10

### **<sup>F23</sup>Jobseeker's agreement: reviews and appeals**

**13.**—(1) Any determination of, or direction given by, an adjudication officer under Article 11 or 12 may be reviewed (by a different adjudication officer) on the application of the claimant or of an employment officer.

(2) Regulations may make provision with respect to the procedure to be followed on a review under this Article.

(3) The claimant may appeal to a social security appeal tribunal against any determination of, or direction given by, an adjudication officer on a review under this Article.

(4) A social security appeal tribunal determining an appeal under this Article may give a direction of a kind which an adjudication officer may give under Article 11(7)(b) or (c) or (as the case may be) Article 12(6)(b) or (d).

(5) Where a social security appeal tribunal gives a direction under paragraph (4) of a kind which may be given by an adjudication officer under Article 12(6)(b)(ii), an adjudication officer may bring the job seeker's agreement to an end if the claimant fails to comply with the direction within a prescribed period.

(6) An appropriate person may, on the ground that it was erroneous in point of law, appeal to a Commissioner against the decision of a social security appeal tribunal on an appeal under this Article.

(7) Any of the following is an appropriate person for the purposes of paragraph (6)—

- (a) the claimant;
- (b) an adjudication officer;
- (c) in prescribed circumstances, a trade union;
- (d) in prescribed circumstances, any other association which exists to promote the interests and welfare of its members.

(8) Subsections (7) to (10) of section 21 of the Administration Act (appeals to Commissioners) shall apply in relation to appeals under this Article as they apply in relation to appeals under that section.

(9) In this Article "Commissioner" has the same meaning as in the Administration Act.

**F23** prosp. in pt. rep. by 1998 NI 10

## *Income and Capital*

### **Income and capital: general**

**14.**—(1) In relation to a claim for a jobseeker's allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.

(2) A person's income in respect of a week shall be calculated in accordance with prescribed rules.

(3) The rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(4) Circumstances may be prescribed in which—

- (a) a person is treated as possessing capital or income which he does not possess;

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- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital;
- (d) capital is to be treated as income;

### **Income and capital: income-based jobseeker's allowance**

**15.**—(1) No person shall be entitled to an income-based jobseeker's allowance if his capital, or a prescribed part of it, exceeds the prescribed amount.

(2) Where a person claiming an income-based jobseeker's allowance is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of the claimant.

[<sup>F24</sup>(2A) Paragraphs (1) and (2) do not apply as regards a joint-claim jobseeker's allowance; but a joint-claim couple shall not be entitled to a joint-claim jobseeker's allowance if the couple's capital, or a prescribed part of it, exceeds the prescribed amount.

(2B) Where a joint-claim couple claim a joint-claim jobseeker's allowance—

- (a) the couple's income and capital includes the separate income and capital of each of them; and
- (b) the income and capital of any other person who is a member of any family of which the couple are members shall, except in prescribed circumstances, be treated as income and capital of the couple.]

(3) Regulations may provide that capital not exceeding the amount prescribed under paragraph (1)[<sup>F24</sup> or (2A)], but exceeding a prescribed lower amount, shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

**F24** 1999 NI 11

## *Trade disputes*

### **Trade disputes**

**16.**—(1) Where—

- (a) there is a stoppage of work which causes a person not to be employed on any day, and
- (b) the stoppage is due to a trade dispute at his place of work,

that person, is not entitled to a jobseeker's allowance for the week which includes that day unless he proves that he is not directly interested in the dispute.

(2) A person who withdraws his labour on any day in furtherance of a trade dispute, but to whom paragraph (1) does not apply, is not entitled to a jobseeker's allowance for the week which includes that day.

(3) If a person who is prevented by paragraph (1) from being entitled to a jobseeker's allowance proves that during the stoppage—

- (a) he became bona fide employed elsewhere;
- (b) his employment was terminated by reason of redundancy within the meaning of [<sup>F25</sup> Article 174(1) of the Employment Rights (Northern Ireland) Order 1996], or
- (c) he bona fide resumed employment with his employer but subsequently left for a reason other than the trade dispute,



paragraph (1) shall be taken to have ceased to apply to him on the occurrence of the event referred to in sub-paragraph (a) or (b) or (as the case may be) the first event referred to in sub-paragraph (c).

(4) In this Article “place of work”, in relation to any person, means the premises or place at which he was employed.

(5) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall, for the purposes of paragraph (4), be deemed to be separate premises or (as the case may be) a separate place.

**F25** 1996 NI 16

### Effect on other claimants

**17.—**(1) Except in prescribed circumstances, paragraph (2) applies in relation to a claimant for an income-based jobseeker's allowance where a member of his family ( “A”) is, or would be, prevented by Article 16 from being entitled to a jobseeker's allowance.

(2) For the purposes of calculating the claimant's entitlement to an income-based jobseeker's allowance—

- (a) any portion of the applicable amount which is included in respect of A shall be disregarded for the period for which this paragraph applies to the claimant;
- (b) where the claimant and A are a<sup>F26</sup> couple], any portion of the applicable amount which is included in respect of them shall be reduced to one half for the period for which this paragraph applies to the claimant;
- (c) except so far as regulations provide otherwise, there shall be treated as the claimant's income—
  - (i) any amount which becomes, or would on an application duly made become, available to A in relation to that period by way of repayment of income tax deducted from A's<sup>F27</sup> taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003 under regulations made under section 684 of that Act (PAYE regulations)); and
  - (ii) any other payment which the claimant or any member of his family receives or is entitled to obtain because A is without employment for that period; and
- (d) any payment by way of a jobseeker's allowance for that period or any part of it which apart from this sub-paragraph would be made to the claimant—
  - (i) shall not be made, if the weekly rate of payment ( “the rate”) would be equal to or less than the prescribed sum; and
  - (ii) shall be at a weekly rate equal to the difference between the rate and the prescribed sum, if the rate would be more than the prescribed sum.

(3) Where a reduction under paragraph (2)(b) would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.

(4) Where A returns to work with the same employer after a period during which paragraph (2) applied to the claimant (whether or not his return is before the end of any stoppage of work in relation to which he is, or would be, prevented from being entitled to a jobseeker's allowance), paragraph (2) shall cease to apply to the claimant at the commencement of the day on which A returns to work.

(5) In relation to any period of less than a week, paragraph (2) shall have effect subject to such modifications as may be prescribed.

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(6) Paragraphs (7) to (9) apply where an order made under section 132 of the Administration Act (annual up-rating of benefits) has the effect of increasing the sum prescribed in regulations made under Article 6(5) as the personal allowance for a single person aged not less than 25 (“the personal allowance”).

(7) For the sum prescribed in regulations made under paragraph (2)(d) there shall be substituted, from the time when the order comes into operation, a sum arrived at by increasing the prescribed sum by the percentage by which the personal allowance has been increased by the order.

(8) If the sum arrived at under paragraph (7) is not a multiple of 50p—

- (a) any remainder of 25p or less shall be disregarded;
- (b) any remainder of more than 25p shall be rounded up to the nearest 50p.

(9) The order shall state the sum substituted for the sum prescribed in regulations made under paragraph (2)(d).

(10) Nothing in paragraph (7) prevents the making of further regulations under paragraph (2)(d) varying the prescribed sum.

**F26** 2004 c.33

**F27** 2003 c. 1

#### [<sup>F28</sup>Trade disputes: joint-claim couples

**17A.**—(1) Articles 16 and 17 shall, in relation to a joint-claim couple claiming a joint-claim jobseeker's allowance, apply in accordance with this Article.

(2) Where each member of the couple is prevented by Article 16 from being entitled to a jobseeker's allowance, the couple are not entitled to a joint-claim jobseeker's allowance.

(3) But where only one member of the couple is prevented by that Article from being entitled to a jobseeker's allowance, the couple are not for that reason alone prevented from being entitled to a joint-claim jobseeker's allowance.

(4) Article 17(1) does not have effect in relation to the couple but, except in prescribed circumstances, Article 17(2) applies for the purposes of calculating the couple's entitlement to a joint-claim jobseeker's allowance where—

- (a) a member of the couple, or
  - (b) any other person who is a member of any family of which the couple are members,
- is, or would be, prevented by Article 16 from being entitled to a jobseeker's allowance.

(5) Where Article 17(2) applies in relation to the couple by virtue of paragraph (4), that provision and Article 17(4) apply with the following modifications—

- (a) references to the claimant are to be taken as references to the couple;
- (b) references to “A” are to the person mentioned in paragraph (4)(a) or (b);
- (c) Article 17(2)(b) has effect as if for “where the claimant and A are a [<sup>F29</sup>couple],” there were substituted “where A is a member of the couple,”; and
- (d) Article 17(2)(c)(ii) has effect as if for “of his family” there were substituted “of any family of which the couple are members”.]

**F28** 1999 NI 11

**F29** 2004 c.33



## Persons under 18

### Severe hardship

**18.**—(1) If it appears to the Department—

- (a) that a person—
  - (i) has reached the age of 16 but not the age of 18,
  - (ii) is not entitled to a jobseeker's allowance or to income support, and
  - (iii) is registered for training but is not being provided with any training, and
- (b) that severe hardship will result to him unless a jobseeker's allowance is paid to him, the Department may direct that this Article is to apply to him.

(2) A direction may be given so as to have effect for a specified period.

(3) The Department may revoke a direction if—

- (a) it appears to the Department that there has been a change of circumstances as a result of which failure to receive a jobseeker's allowance need no longer result in severe hardship to the person concerned;

<sup>F30</sup>(b) it appears to the Department that the person concerned—

- (i) failed to pursue an opportunity of obtaining training, or
- (ii) rejected an offer of training,

and has not shown good reason for doing so; or

- (c) the Department is satisfied that it was given in ignorance of some material fact or was based on a mistake as to some material fact and considers that, but for the ignorance or mistake, the Department would not have given the direction.

<sup>F30</sup>(4) In this Article—

“period” includes—

- (a) a period of a determinate length;
- (b) a period defined by reference to the happening of a future event; and
- (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

**F30** prosp. in pt. subst. by [1998 NI 10](#)

### Reduced payments

**19.**—(1) Regulations may provide for the amount of an income-based jobseeker's allowance<sup>[F31</sup> payable in respect of] any young person to whom this Article applies to be reduced—

- (a) in such circumstances,
- (b) by such a percentage, and
- (c) for such a period,

as may be prescribed.

<sup>[F31</sup>(1A) Regulations may provide for the amount of a joint-claim jobseeker's allowance payable in respect of any joint-claim couple where a member of the couple is a young person to whom this Article applies to be reduced—

- (a) in such circumstances,

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- (b) by such a percentage, and
  - (c) for such a period,
- as may be prescribed.]
- (2) This Article applies to any young person in respect of whom—
    - (a) a direction is in force under Article 18; and
    - (b) <sup>F32</sup>either of the conditions mentioned in paragraph (3) is satisfied.
  - (3) The conditions are that—
    - (a) the young person was previously entitled to an income-based jobseeker's allowance and that entitlement ceased by virtue of the revocation of a direction under Article 18;
    - <sup>F32</sup>(b) he has failed to complete a course of training and no certificate has been issued to him under paragraph (4) with respect to that failure.
  - <sup>F32</sup>(4) Where a young person who has failed to complete a course of training—
    - (a) claims that there was good cause for the failure, and
    - (b) applies to the Department for a certificate under this paragraph,
 the Department shall, if it is satisfied that there was good cause for the failure, issue a certificate to that effect and give a copy of it to the young person.
  - <sup>F32</sup>(5) In this Article “young person” means a person who has reached the age of 16 but not the age of 18.

**F31** 1999 NI 11

**F32** prosp. in pt. subst. by 1998 NI 10

## Recovery of overpayments

**20.** In the Administration Act, insert after section 69—

*“Jobseeker's allowance*

### **Recovery of jobseeker's allowance: severe hardship cases.**

- 69A.**—(1) Where—
- (a) a severe hardship direction is revoked; and
  - (b) it is determined by an adjudication officer that—
    - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and
    - (ii) in consequence of the failure of misrepresentation, payment of a jobseeker's allowance has been made during the relevant period to the person to whom the direction related,
- an adjudication officer may determine that the Department is entitled to recover the amount of the payment.
- (2) In this section—
- “severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and
  - “the relevant period” means—

- (a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
  - (b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.
- (3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
- (4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—
- (a) who made the misrepresentation or failed to make the disclosure; and
  - (b) whether or not a payment of jobseeker's allowance has been made in consequence of the misrepresentation or failure.
- (5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker's allowance would not have been paid but for the misrepresentation or failure to disclose.
- (6) A certificate under this section shall be conclusive as to any matter certified.
- (7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker's allowance recoverable under subsection (1) above as they apply to a jobseeker's allowance recoverable under section 69(1) above.
- (8) The other provisions of section 69 above do not apply to a jobseeker's allowance recoverable under subsection (1) above.”.

VALID FROM 13/08/2010

*F<sup>33</sup> “Work for your benefit” schemes etc.*

**F33** Arts. 19A, 19B and crossheading inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), **ss. 1(2)**, 36(1)(a)

**Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.**

**19A.**—(1) Regulations may make provision for or in connection with imposing on claimants in prescribed circumstances a requirement to participate in schemes of any prescribed description that are designed to assist them to obtain employment.

(2) Regulations under this Article may, in particular, require participants to undertake work, or work-related activity, during any prescribed period with a view to improving their prospects of obtaining employment.

(3) In paragraph (2) “work-related activity”, in relation to any person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so

(4) Regulations under this Article may not require a person to participate in a scheme unless the person would (apart from the regulations) be required to meet the jobseeking conditions.

(5) Regulations under this Article may, in particular, make provision—

- (a) for notifying participants of the requirement to participate in a scheme within paragraph (1);

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- (b) for securing that participants are not required to meet the jobseeking conditions or are not required to meet such of those conditions as are specified in the regulations;
- (c) for suspending any jobseeker's agreement to which a person is a party for any period during which the person is a participant;
- (d) for securing that the appropriate consequence follows if a participant has failed to comply with the regulations and it is not shown, within a prescribed period, that the participant had good cause for the failure;
- (e) prescribing matters which are, or are not, to be taken into account in determining whether a participant has good cause for any failure to comply with the regulations;
- (f) prescribing circumstances in which a participant is, or is not, to be regarded as having good cause for any failure to comply with the regulations.

(6) In the case of a jobseeker's allowance other than a joint-claim jobseeker's allowance, the appropriate consequence for the purposes of paragraph (5)(d) is that the allowance is not payable for such period (of at least one week but not more than 26 weeks) as may be prescribed.

(7) In the case of a joint-claim jobseeker's allowance, the appropriate consequence for the purposes of paragraph (5)(d) is that the participant is to be treated as subject to sanctions for the purposes of Article 22A for such period (of at least one week but not more than 26 weeks) as may be prescribed.

(8) Regulations under this Article may make provision for an income-based jobseeker's allowance to be payable in prescribed circumstances even though other provision made by the regulations would prevent payment of it.

This paragraph does not apply in the case of a joint-claim jobseeker's allowance (corresponding provision for which is made by Article 22B(4)).

(9) The provision that may be made by the regulations by virtue of paragraph (8) includes, in particular, provision for the allowance to be—

- (a) payable only if prescribed requirements as to the provision of information are complied with;
- (b) payable at a prescribed rate;
- (c) payable for a prescribed period (which may differ from any period mentioned in paragraph (6))

(10) In this Article—

“claimant”, in relation to a joint-claim couple claiming a joint-claim jobseeker's allowance, means either or both of the members of the couple;

“the jobseeking conditions” means the conditions set out in Article 3(2)(a) to (c);

“participant”, in relation to any time, means any person who is required at that time to participate in a scheme within paragraph (1).

#### **Article 19A: supplemental**

**19B.—**(1) For the purposes of, or in connection with, any scheme within Article 19A(1) the Department or the Department for Employment and Learning may—

- (a) make arrangements (whether or not with other persons) for the provision of facilities;
- (b) provide support (by whatever means) for arrangements made by other persons for the provision of facilities;
- (c) make payments (by way of fees, grants, loans or otherwise) to persons undertaking the provision of facilities under arrangements within sub-paragraph (a) or (b);

(d) make payments (by way of grants, loans or otherwise) to persons participating in the scheme;

(e) make payments in respect of incidental expenses.

(2) In paragraph (1) “facilities” includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(3) The power of the Department for Employment and Learning to make an order under Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (status of trainees) includes power to make, in relation to—

(a) persons participating in any scheme within Article 19A(1), and

(b) payments received by them by virtue of paragraph (1),

provision corresponding to any provision which (by virtue of Article 4(1) or (2) of that Order) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in Article 4(1) of that Order.

### **Recovery of overpayments**

**20.** In the Administration Act, insert after section 69—

#### *“Jobseeker's allowance*

### **Recovery of jobseeker's allowance: severe hardship cases.**

**69A.—**(1) Where—

(a) a severe hardship direction is revoked; and

(b) it is determined by an adjudication officer that—

(i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and

(ii) in consequence of the failure of misrepresentation, payment of a jobseeker's allowance has been made during the relevant period to the person to whom the direction related,

an adjudication officer may determine that the Department is entitled to recover the amount of the payment.

(2) In this section—

“severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and

“the relevant period” means—

(a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and

(b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.

(3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.

(4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—

(a) who made the misrepresentation or failed to make the disclosure; and

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(b) whether or not a payment of jobseeker's allowance has been made in consequence of the misrepresentation or failure.

(5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker's allowance would not have been paid but for the misrepresentation or failure to disclose.

(6) A certificate under this section shall be conclusive as to any matter certified.

(7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker's allowance recoverable under subsection (1) above as they apply to a jobseeker's allowance recoverable under section 69(1) above.

(8) The other provisions of section 69 above do not apply to a jobseeker's allowance recoverable under subsection (1) above.”.]

### *Denial of jobseeker's allowance*

#### **Circumstances in which a jobseeker's allowance is not payable**

**21.**—(1) Even though the conditions for entitlement to a jobseeker's allowance are satisfied with respect to a person, the allowance shall not be payable in any of the circumstances mentioned in paragraph (5) or (6).

[<sup>F34</sup>(1A) Subject to Article 22A(9), this Article does not apply as regards a joint-claim jobseeker's allowance (but Articles 22A and 22B make, in relation to such an allowance, provision corresponding to that made by this Article and Article 22).]

(2) If the circumstances are any of those mentioned in paragraph (5), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be prescribed.

(3) If the circumstances are any of those mentioned in paragraph (6), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be determined by<sup>F35</sup> the adjudication officer.

(4) Regulations may prescribe—

- (a) circumstances which<sup>F35</sup> an adjudication officer is to take into account, and
- (b) circumstances which<sup>F35</sup> he is not to take into account, in determining a period under paragraph (3).

(5) The circumstances referred to in paragraphs (1) and (2) are that the claimant—

- (a) has, without good cause, refused or failed to carry out any jobseeker's direction which was reasonable, having regard to his circumstances,
- (b) has, without good cause—

- (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
- (ii) after a place on such a scheme or programme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him;
- (iii) given up a place on such a scheme or programme; or
- (iv) failed to attend such a scheme or programme on which he has been given a place; or

(c) has lost his place on such a scheme or programme through misconduct.

(6) The circumstances referred to in paragraphs (1) and (3) are that the claimant—

- (a) has lost his employment as an employed earner through misconduct;
  - (b) has voluntarily left such employment without just cause;
  - (c) has, without good cause, after a situation in any employment has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or
  - (d) has, without good cause, neglected to avail himself of a reasonable opportunity of employment.
- (7) In such circumstances as may be prescribed, including in particular where he has been dismissed by his employer by reason of redundancy within the meaning of<sup>F36</sup> Article 174(1) of the Employment Rights (Northern Ireland) Order 1996] after volunteering or agreeing to be so dismissed, a person who might otherwise be regarded as having left his employment voluntarily is to be treated as not having left voluntarily.
- (8) Regulations may—
- (a) prescribe matters which are, or are not, to be taken into account in determining whether a person—
    - (i) has, or does not have, good cause for any act or omission; or
    - (ii) has, or does not have, just cause for any act or omission; or
  - (b) prescribe circumstances in which a person—
    - (i) is, or is not, to be regarded as having, or not having, good cause for any act or omission; or
    - (ii) is, or is not, to be regarded as having, or not having, just cause for any act or omission.
- (9) Subject to any regulations under paragraph (8), in determining whether a person has, or does not have, good cause or (as the case may be) just cause for any act or omission, any matter relating to the level of remuneration in the employment in question shall be disregarded.
- (10) In this Article—
- (a) “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department;
  - (b) “jobseeker’s direction” means a direction in writing given by an employment officer with a view to achieving one or both of the following—
    - (i) assisting the claimant to find employment;
    - (ii) improving the claimant’s prospects of being employed; and
  - (c) “training scheme” and “employment programme” have such meaning as may be prescribed.

**F34** 1999 NI 11

**F35** prosp. in pt. subst. by 1998 NI 10

**F36** 1996 NI 16

## Exemptions from Article 21

**22.**—(1) Nothing in Article 21, or in regulations under that Article, shall be taken to prevent payment of a jobseeker’s allowance merely because the claimant refuses to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute.

(2) Article 21 does not apply, in the circumstances mentioned in paragraph (5) of that Article, if—



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- (a) a direction is in force under Article 18 with respect to the claimant; and
- (b) he has acted in such a way as to risk—
  - (i) having that direction revoked under paragraph (3)(b) of Article 18; or
  - (ii) having the amount of his jobseeker's allowance reduced by virtue of Article 19, because<sup>F37</sup> he has failed to complete a course of training.
- (3) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner's employment without falling within Article 21(6)(b) or (d) should he leave that employment voluntarily and without just cause at any time during a trial period.
- (4) In such circumstances as may be prescribed, an income-based jobseeker's allowance shall be<sup>F38</sup> payable in respect of] a claimant even though Article 21 prevents payment of a jobseeker's allowance to him.
- (5) A jobseeker's allowance shall be payable by virtue of paragraph (4) only if the claimant has complied with such requirements as to the provision of information as may be prescribed for the purposes of this paragraph.
- (6) Regulations under paragraph (4) may, in particular, provide for a jobseeker's allowance payable by virtue of that paragraph to be—
  - (a) payable at a prescribed rate;
  - (b) payable for a prescribed period (which may differ from the period fixed under Article 21(2) or (3)).
- (7) In paragraph (3), “trial period” has such meaning as may be prescribed.
- (8) Regulations may make provision for determining, for the purposes of this Article, the day on which a person's employment is to be regarded as commencing.

**F37** prosp. in pt. subst. by 1998 NI 10

**F38** 1999 NI 11

### **[<sup>F39</sup>Denial or reduction of joint-claim jobseeker's allowance**

**22A.**—(1) Where this Article applies to a member of a joint-claim couple, that member of the couple shall be subject to sanctions for the purposes of this Article.

- (2) This Article applies to a member of a joint-claim couple if that member of the couple —
  - (a) has, without good cause, refused or failed to carry out any jobseeker's direction which was reasonable, having regard to his circumstances;
  - (b) has, without good cause—
    - (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
    - (ii) after a place on such a scheme or programme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him;
    - (iii) given up a place on such a scheme or programme; or
    - (iv) failed to attend such a scheme or programme on which he has been given a place;
  - (c) has lost his place on such a scheme or programme through misconduct;
  - (d) has lost his employment as an employed earner through misconduct;
  - (e) has voluntarily left such employment without just cause;



- (f) has, without good cause, after a situation in any employment has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or
- (g) has, without good cause, neglected to avail himself of a reasonable opportunity of employment.

(3) Where this Article applies to a member of a joint-claim couple by virtue of any of subparagraphs (a) to (c) of paragraph (2), the period for which he is to be subject to sanctions shall be such period (of at least one week but not more than 26 weeks) as may be prescribed.

(4) Where this Article applies to a member of a joint-claim couple by virtue only of any of subparagraphs (d) to (g) of paragraph (2), the period for which he is to be subject to sanctions shall be such period (of at least one week but not more than 26 weeks) as may be determined by the Department.

(5) Even though the conditions for entitlement to a joint-claim jobseeker's allowance are satisfied in relation to a joint-claim couple—

- (a) the allowance shall not be payable for any period during which both members of the couple are subject to sanctions; and
- (b) the amount of the allowance payable in respect of the couple for any period during which only one member of the couple is subject to sanctions shall be reduced to an amount calculated by the prescribed method ( “the reduced amount”).

(6) The method prescribed for calculating the reduced amount may, in particular, involve—

- (a) deducting amounts from, or making percentage reductions of, the amount which would be the amount of the allowance if neither member of the couple were subject to sanctions;
- (b) disregarding portions of the applicable amount;
- (c) treating amounts as being income or capital of the couple.

(7) During any period for which the amount of a joint-claim jobseeker's allowance payable in respect of a joint-claim couple is the reduced amount, the allowance shall be payable to the member of the couple who is not subject to sanctions.

(8) Regulations may prescribe—

- (a) circumstances which the Department is to take into account, and
- (b) circumstances which it is not to take into account,

in determining a period under paragraph (4).

(9) Paragraphs (7) to (10) of Article 21 apply for the purposes of this Article as for those of that Article but as if references in paragraph (10)(b) of that Article to the claimant were to the member of the joint-claim couple to whom paragraph (2)(a) applies.]

**F39** 1999 NI 11

## Exemptions from Article 22A

**22B.**—(1) Article 22A shall not be taken to apply to a member of a joint-claim couple merely because he has refused to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute.

(2) Article 22A does not apply to a member of a joint-claim couple by virtue of any of subparagraphs (a) to (c) of paragraph (2) of that Article if—

- (a) a direction is in force under Article 18 with respect to that member of the couple; and
- (b) he has acted in such a way as to risk—

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- (i) having that direction revoked under paragraph (3)(b) of Article 18, or
- (ii) having the amount of the couple's entitlement to a joint-claim jobseeker's allowance reduced by virtue of Article 19 because the condition in Article 19(3)(b) or (c) is established.

(3) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner's employment without Article 22A applying to him by virtue of sub-paragraph (e) or (g) of paragraph (2) of that Article should he leave that employment voluntarily and without just cause at any time during a trial period.

(4) In such circumstances as may be prescribed, a joint-claim jobseeker's allowance shall be payable in respect of a joint-claim couple even though Article 22A(5)(a) prevents payment of such a jobseeker's allowance to the couple.

(5) A jobseeker's allowance shall be payable by virtue of paragraph (4) only if the couple have complied with such requirements as to the provision of information as may be prescribed for the purposes of this paragraph.

(6) Regulations under paragraph (4) may, in particular, provide for a jobseeker's allowance payable by virtue of that paragraph to be—

- (a) payable at a prescribed rate;
- (b) payable for a prescribed period (which may differ from the period during which both members of the couple are subject to sanctions for the purposes of Article 22A).

(7) In paragraph (3), “trial period” has such meaning as may be prescribed.

(8) Regulations may make provision for determining, for the purposes of this Article, the day on which a person's employment is to be regarded as commencing.

VALID FROM 13/08/2010

#### *F<sup>40</sup> Violent conduct etc. in connection with claim*

**F40** Arts. 22C-22D and preceding cross-heading inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 20\(2\), 36\(1\)\(f\)](#)

#### **Sanctions for violent conduct etc. in connection with claim**

**22C.—**(1) This Article applies if—

- (a) a person (“the offender”) is convicted of, or is cautioned in respect of, an offence involving violence or harassment,
- (b) the conduct constituting the offence was done to, or in relation to, a person who was in the course of exercising functions under this Order on any premises,
- (c) the conduct occurred while the offender was on those premises for the purposes of a claim to a jobseeker's allowance, and
- (d) the offender is a person, or a member of a joint-claim couple, with respect to whom the conditions for entitlement to a jobseeker's allowance are or become satisfied.

(2) In the case of a jobseeker's allowance other than a joint-claim jobseeker's allowance—

- (a) the allowance is not to be payable in respect of the offender for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and

- (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks.
- (3) For the purposes of paragraph (2)(b)—
  - (a) the reference to another sanctions provision is to any provision made by or under this Order (other than paragraph (2)) which provides for a jobseeker's allowance not to be payable for a period; and
  - (b) the reference to the sanctions period is to the period for which the allowance would (but for paragraph (2)(b)) not be payable by virtue of that provision
- (4) In the case of a joint-claim jobseeker's allowance—
  - (a) the offender is to be treated as subject to sanctions for the purposes of Article 22A for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and
  - (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks.
- (5) For the purposes of paragraph (4)(b)—
  - (a) the reference to another sanctions provision is to any provision made by or under this Order (other than paragraph (4)) which provides for a member of a joint-claim couple to be (or treated as being) subject to sanctions for the purposes of Article 22A for a period; and
  - (b) the reference to the sanctions period is to the period for which the member of the couple would (but for paragraph (4)(b)) be (or be treated as being) subject to sanctions for those purposes by virtue of that provision.
- (6) Regulations may make provision for paragraphs (2) and (4) not to apply at any time after the end of a prescribed period or otherwise in prescribed circumstances.
- (7) Regulations may make provision for an income-based jobseeker's allowance to be payable in prescribed circumstances even though the preceding provisions of this Article prevent payment of it.

This paragraph does not apply in the case of a joint-claim jobseeker's allowance (corresponding provision for which is made by Article 22B(4)).
- (8) The provision that may be made by regulations by virtue of paragraph (7) includes, in particular, provision for the allowance to be—
  - (a) payable only if prescribed requirements as to the provision of information are complied with;
  - (b) payable at a prescribed rate;
  - (c) payable for only part of a week.
- (9) If—
  - (a) a jobseeker's allowance was not payable, or was payable at a reduced rate, as a result of the application of this Article in a case where a person was convicted of an offence involving violence or harassment, and
  - (b) the person's conviction is subsequently quashed,

all such payments and other adjustments are to be made as would be necessary if the person had never been convicted of the offence

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### **Article 22C: supplementary**

**22D.**—(1) For the purposes of Article 22C each of the following is an offence involving violence or harassment—

- (a) common assault, battery or affray;
- (b) an offence under section 16, 18, 20, 42 or 47 of the Offences against the Person Act 1861;
- (c) an offence under Article 9 or 10 of the Public Order (Northern Ireland) Order 1987;
- (d) an offence under Article 4 or 6 of the Protection from Harassment (Northern Ireland) Order 1997;
- (e) an ancillary offence in relation to an offence within any of sub-paragraphs (a) to (d).

(2) In paragraph (1)(e) “ancillary offence”, in relation to an offence, means any of the following—

- (a) aiding, abetting, counselling or procuring the commission of the offence;
- (b) attempting or conspiring to commit the offence.

(3) For the purposes of Article 22C references to a conviction include references to a conviction in relation to which the court makes an order for conditional discharge.

(4) For the purposes of Article 22C “cautioned” means cautioned after the person concerned has admitted the offence.

(5) Regulations may make provision for or in connection with requiring such persons as may be prescribed to notify the Department about prescribed matters for the purposes of Article 22C.

(6) Regulations may amend paragraph (1) or (2) by adding or removing an offence.]

### *Miscellaneous*

VALID FROM 20/06/2011

### **[<sup>F41</sup>Contracting out**

**22E.**—(1) The following functions of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) conducting interviews under Article 13A
- (b) providing documents under Article 13C;
- (c) giving, varying or revoking directions under Article 20B(5).

(2) The following functions of officers of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) specifying places and times, and being contacted, under Article 10;
- (b) entering into or varying any jobseeker's agreement under Article 11 or 12 and referring any proposed agreement or variation to the Department under Article 11 or 12;
- (c) giving notifications under Article 18 or 20A;
- (d) giving, varying or revoking directions under Article 20A.

(3) Regulations may provide for any of the following functions of the Department or of the Department for Employment and Learning to be exercisable by, or by employees of, such person (if any) as that Department may authorise for the purpose—

- (a) any function under regulations under Article 10, 13A, 13C, 19A or 20B, except the making of an excluded decision (see paragraph (4));
- (b) the function under Article 10(1) of the 1998 Order (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
- (c) the function under Article 11(1) of the 1998 Order (superseding of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
- (d) any function under Chapter 2 of Part 2 of the 1998 Order (social security decisions), except Article 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within sub-paragraphs (a) to (c).

(4) Each of the following is an “excluded decision” for the purposes of paragraph (3)—

- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under Article 10, 13A or 19A;
- (b) a decision about whether a person had good cause for failure to comply with such a requirement;
- (c) a decision about not paying or reducing a jobseeker's allowance in consequence of a failure to comply with such a requirement.

(5) Regulations under paragraph (3) may provide that a function to which that paragraph applies may be exercised

- (a) either wholly or to such extent as the regulations may provide,
- (b) either generally or in such cases as the regulations may provide, and
- (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

(6) An authorisation given by virtue of any provision made by or under this Article may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;

but, in the case of an authorisation given by virtue of regulations under paragraph (3), this paragraph is subject to the regulations.

(7) An authorisation given by virtue of any provision made by or under this Article—

- (a) may specify its duration,
- (b) may be revoked at any time by the Department or the Department for Employment and Learning, and
- (c) does not prevent the Department or the Department for Employment and Learning or any other person from exercising the function to which the authorisation relates.

(8) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation

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to the Department or the Department for Employment and Learning or (as the case may be) an officer of that Department.

(9) But paragraph (8) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person).

(10) Any decision which an authorised person makes in exercise of a function of the Department or of the Department for Employment and Learning has effect as a decision of the Department under Article 9 of the 1998 Order.

(11) Where—

- (a) the authorisation of an authorised person is revoked at any time, an
- (b) at the time of the revocation so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department or the Department for Employment and Learning (and not as frustrated by reason of the revocation).

(12) In this Article—

- (a) “the 1998 Order” means the Social Security (Northern Ireland) Order 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this Article;
- (c) references to functions of the Department or of the Department for Employment and Learning under any statutory provision include functions which the Department has by virtue of the application of Article 9(1)(c) of the 1998 Order in relation to the statutory provision.]

**F41** Art. 22E inserted (20.6.2011 for specified purposes otherwise prosp.) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 26\(2\)](#), [36\(2\)](#); [S.R. 2011/213](#), [art. 2](#)

## Supplementary provisions

**23.** Further provisions in relation to a jobseeker's allowance are set out in Schedule 1.

## Members of the forces

**24.—**(1) Regulations may modify any provision of this Order, in such manner as the Secretary of State thinks proper, in its application to persons who are or have been members of Her Majesty's forces.

(2) The regulations may, in particular, provide for Article 21(6)(b) not to apply in relation to a person who is discharged from Her Majesty's forces at his own request.

(3) For the purposes of this Article, Her Majesty's forces shall be taken to consist of such establishments and organisations in which persons serve under the control of the Defence Council as may be prescribed by regulations made by the Secretary of State.

(4) The power to make regulations under this Article is exercisable by statutory instrument.



## Recovery of sums in respect of maintenance

**25.**—(1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-based jobseeker's allowance has been made to that person's spouse<sup>F42</sup> or civil partner].

(2) In this Article “recovery order” means an order requiring the person against whom it is made to make payments to the Department or to such other person or persons as the court may determine.

(3) Regulations under this Article may make provision for the transfer by the Department of the right to receive payments under, and to exercise rights in relation to, a recovery order.

(4) Regulations made under this Article may, in particular, include provision—

- (a) as to the matters to which the court is, or is not, to have regard in determining any application under the regulations; and
- (b) as to the enforcement of recovery orders.

(5) In this Article, “the court” means a court of summary jurisdiction.

**F42** 2004 c.33

## Effect of alteration of rates

**26.** In the Administration Act, insert after section 139—

### “Effect of alteration of rates of a jobseeker's allowance.

**139A.**—(1) This section applies where—

- (a) an award of a jobseeker's allowance is in force in favour of any person ( “the recipient”); and
- (b) an alteration—
  - (i) in any component of the allowance, or
  - (ii) in the recipient's benefit income, affects the amount of the jobseeker's allowance to which he is entitled.

(2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker's allowance to which the recipient is entitled is increased or reduced.

(3) As from the commencing date, the amount of the jobseeker's allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.

(4) In any case where—

- (a) here is an alteration of a kind mentioned in subsection (1)(b); and
- (b) before the commencing date (but after that date is fixed) an award of a jobseeker's allowance is made in favour of a person,

the award may provide for the jobseeker's allowance to be paid as from the commencing date, in which case the amount of the jobseeker's allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.

(5) In this section—

“alteration” means—

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- (a) in relation to any component of a jobseeker's allowance, its alteration by or under any enactment; and
- (b) in relation to a person's benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 above, to the extent that any such alteration affects the amount of the recipient's benefit income;

“applicable sums” has the same meaning as in section 139 above;

“benefit income”, in relation to a recipient, means so much of his income as consists of—

- (a) benefit under the Contributions and Benefits Act; or
- (b) a war disablement pension or war widow's pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into operation in relation to the recipient;

“component”, in relation to a jobseeker's allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker's allowance.”

## Age increases

27. In the Administration Act, insert after section 140—

### **“Implementation of increases in income-based jobseeker's allowance due to attainment of particular ages.**

**140A.**—(1) This section applies where—

- (a) an award of an income-based jobseeker's allowance is in force in favour of a person ( “the recipient”); and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age ( “the qualifying age”).

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an income-based jobseeker's allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of an adjudication officer; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence on the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to—

- (a) a benefit under the Contributions and Benefits Act; or
- (b) a jobseekers's allowance.

(4) Subsection (3)(b) above does not apply to the question—

- (a) whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case; and
- (b) whether, in consequence, the amount of his income-based jobseeker's allowance falls to be varied.

(5) In this section “component”, in relation to a recipient and his jobseeker's allowances, means any of the amounts determined in accordance with regulations made under Article 6(5) of the Jobseekers (Northern Ireland) Order 1995.”.



**Status:**

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