

*Draft Statutory Instrument laid before Parliament under section 37(2) of the Jobseekers Act 1995 for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**1998 No.**

**SOCIAL SECURITY**

**The Social Security Amendment (New Deal) Regulations 1998**

*Made* - - - - 1998  
*Coming into force* - - 1998

Whereas a draft of this instrument was laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995(1) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in relation to regulation 10, and the Secretary of State for Education and Employment in relation to the remainder of the Regulations, in exercise of the powers conferred by sections 123(1)(d) and (e), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(2) and sections 6(4), 7(4), 19(8) and (10)(c), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(3), and of all other powers enabling each of them in that behalf, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), and after consultation in respect of provisions in these Regulations relating to housing benefit and council tax benefit, with organisations appearing to the Secretary of State for Social Security to be representative of the authorities concerned(5), hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Amendment (New Deal) Regulations 1998 and shall come into force on 1 June 1998.

(2) In these Regulations, “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(6).

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(1) 1995 c. 18.  
(2) 1992 c. 4: sections 123(1)(e) and 137 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraphs 1 and 9; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.  
(3) Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.  
(4) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5); paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.  
(5) See section 176(1) of the Social Security Administration Act 1992 (c. 5).  
(6) S.I. 1996/207; relevant amending instruments are S.I. 1996/2538 and S.I. 1997/2863.

### Interpretation of the Jobseeker's Allowance Regulations

2. In regulation 1(3) of the Jobseeker's Allowance Regulations, in the definition of "jobseeking period" there shall be added after the words "regulation 47" the words "except where otherwise provided".

### Interpretation of Parts II and IV of the Jobseeker's Allowance Regulations

3. In regulation 4 of the Jobseeker's Allowance Regulations—

- (a) in the definition of "casual employment" there shall be inserted after the words "any notice" the words "except where otherwise provided";
- (b) after the definition of "employment officer" the following definitions shall be inserted—
  - ““examination” in relation to a qualifying course means an examination which is specified as an examination related to the qualifying course in a document signed on behalf of the establishment at which the qualifying course is being undertaken;
  - “made a claim for a jobseeker's allowance” includes treated as having made a claim for the allowance and treated as having an award of the allowance in accordance with regulation 5, 6 or 7 of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996(7);”;
- (c) after the definition of "a person who is laid off" the following definitions shall be inserted—
  - ““qualifying course” has the meaning given in regulation 17A;
  - “term-time” in relation to a qualifying course means the period specified as term-time in relation to a person to whom regulation 17A(2) applies in a document signed on behalf of the establishment at which the qualifying course is being undertaken;
  - “vacation” in relation to a qualifying course means any period falling within the period of study, which is not term-time;”.

### Further circumstances in which a person is to be treated as available for employment

4. After regulation 17 of the Jobseeker's Allowance Regulations there shall be inserted the following regulation—

**“Further circumstances in which a person is to be treated as available: full-time students participating in a qualifying course**

**17A.—**(1) A person to whom paragraph (2) applies shall, notwithstanding regulation 15(a), be treated as available for employment in accordance with paragraph (3).

(2) This paragraph applies to a person—

- (a) who is aged 25 years or over; and
- (b) who has made a claim for a jobseeker's allowance and has been receiving benefit within a jobseeking period for not less than 2 years as at the date he started, or is due to start, the qualifying course and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

(3) Subject to paragraph (4), where an employment officer has determined, having regard to the factors specified in paragraph (5), that a person to whom paragraph (2) applies may undertake a qualifying course, that person shall be treated as available for employment in any week in which he is undertaking the qualifying course as a full-time student and—

- (a) which falls wholly or partly in term-time, providing he—
    - (i) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is attending the establishment when required to attend, in such form as may be required by the employment officer; and
    - (ii) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is making satisfactory progress on the course, in such form as may be required by the employment officer;
  - (b) in which he is taking examinations relating to the qualifying course; or
  - (c) which falls wholly in a vacation from the qualifying course, if he is willing and able to take up immediately any casual employment.
- (4) In a case where the combined duration of—
- (a) any qualifying course, other than one falling within paragraph (6), which a person to whom paragraph (2) applies has previously undertaken in respect of which he was, for any part of such qualifying course, treated as available for employment in accordance with paragraph (3); and
  - (b) the qualifying course which he is currently undertaking
- is more than 1 year, the person shall only be treated as available for employment in accordance with paragraph (3) if he has been receiving benefit within a jobseeking period for not less than 2 years since the last day of the most recent such qualifying course in respect of which he was, for any part, treated as available in accordance with paragraph (3), and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.
- (5) The factors which an employment officer must take into account when determining whether a person may undertake a qualifying course are—
- (a) the skills, qualifications and abilities of that person;
  - (b) whether the course would assist him to acquire new skills and qualifications;
  - (c) whether he would have to give up a course of study in order to undertake this course;
  - (d) any needs arising from his physical or mental condition;
  - (e) the time which has elapsed since he was last engaged in employment as an employed earner or as a self-employed earner;
  - (f) his work experience;
  - (g) the number of jobs in the labour market and, if relevant, the local labour market, which require the skills and qualifications which he would acquire on the course; and
  - (h) any evidence about whether this course or this type of course has facilitated the obtaining by persons of work.
- (6) A qualifying course falls within this paragraph if the person had good cause for any act or omission for the purposes of section 19(5)(b) in relation to that course.
- (7) In this regulation—

“benefit” means income support, unemployment benefit or a jobseeker’s allowance and “receiving benefit” means receiving benefit which that person has claimed and received as an unemployed person or in accordance with Part I of the Act;

“casual employment” means employment from which the employee can be released without his giving any notice or, if he is required to give notice, employment from which he can be released before the end of the vacation;

“duration” in relation to a qualifying course means the period beginning with the start of the course and ending with the last day of the course;

“jobseeking period” means the period described in regulation 47 and any period treated as a jobseeking period pursuant to regulation 47A;

“last day” in relation to a qualifying course means the date on which the last day of the course falls, or the date on which the final examination relating to that course is completed, whichever is the later;

“qualifying course” means a course which—

- (a) is an employment-related course;
- (b) lasts no more than 12 consecutive months; and
- (c) except where it falls within paragraph (8), is either—
  - (i) a course of a description falling within Schedule 2 to the Further and Higher Education Act 1992(8); or
  - (ii) a programme of learning falling within section 6 of the Further and Higher Education (Scotland) Act 1992(9).

(8) A course or a programme of learning which is of a standard above that of a course or programme of learning falling within paragraph (c) of the definition of “qualifying course” falls within this paragraph if an employment officer so determines in a particular case.”.

### **Circumstances in which a person is to be treated as actively seeking employment**

5. For paragraph (1)(r) of regulation 19 of the Jobseeker’s Allowance Regulations there shall be substituted the following:

- “(r) in any week, being part of a single period not exceeding 8 weeks falling within a period of continuous entitlement to a jobseeker’s allowance, during which he is taking active steps to establish himself in self-employed earner’s employment under any scheme for assisting persons to become so employed—
- (i) where, in Wales, his participation under the scheme is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(10),
  - (ii) where, in Scotland, the scheme—
    - (aa) is established by virtue of arrangements made by Scottish Enterprise or Highlands and Islands Enterprise under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990(11) or
    - (bb) is directly or indirectly provided by, or with financial assistance from, the Secretary of State,

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(8) 1992 c. 13.

(9) 1992 c. 37.

(10) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(11) 1990 c. 35; section 2(3) was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(4) (a) and Schedule 10.

- (iii) where, in England, the scheme is directly or indirectly provided by, or with financial assistance from, the Secretary of State, the Urban Regeneration Agency, an urban development corporation or a housing action trust, and the single period referred to above shall begin with the week in which he is accepted on a place under the scheme.”.

### **Further circumstances in which a person is to be treated as actively seeking employment**

6. After regulation 21 of the Jobseeker’s Allowance Regulations there shall be inserted the following regulation—

#### **“Further circumstances in which a qualifying person is to be treated as actively seeking employment: full-time students participating in a qualifying course**

**21A.** A person who is treated as available for employment in accordance with regulation 17A(3) shall be treated as actively seeking employment in any week—

- (a) which, in relation to the qualifying course, falls wholly or partly in term-time;
- (b) in which he is taking examinations relating to the qualifying course; or
- (c) which falls wholly in a vacation from the qualifying course, if in that week he takes such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment for which he is available under regulation 17A(3)(c).”.

### **Good cause for the purposes of section 19(5)(a) and (6)(c) and (d)**

7. In regulation 72 of the Jobseeker’s Allowance Regulations—

- (a) in paragraph (2)(a) for the words “and 13” there shall be substituted the words “, 13 and 17A”;
- (b) after paragraph (3) there shall be inserted the following paragraphs—

“(3A) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) and (d), a person to whom regulation 17A(2) applies, in respect of whom an employment officer has determined that he may undertake a qualifying course, and who is undertaking such a course as a full-time student, is to be regarded as having good cause for any act or omission for the purposes of section 19(6)(c) and (d) where—

- (a) the act or omission took place within a period of 4 weeks before the end of his qualifying course or of his examinations; or
- (b) the employment consists of employment for which he is not required to be available in accordance with regulation 17A(3)(c) unless it is permanent full-time employment.

(3B) In paragraph (3A)(b), “full-time employment” means remunerative work as defined in regulation 51(1)(a).”.

### **Good cause for the purposes of section 19(5)(b)**

8. In regulation 73 of the Jobseeker’s Allowance Regulations—

- (a) after paragraph (2A) there shall be inserted the following paragraph—

“(2B) Without prejudice to any other circumstances in which a person may be regarded as having good cause for any act or omission for the purposes of section 19(5)(b), a

person to whom regulation 17A(2) applies, in respect of whom an employment officer has determined that he may undertake a qualifying course, and who is undertaking such a course as a full-time student, is to be regarded as having good cause for any act or omission—

- (a) for the purposes of section 19(5)(b) where the act or omission was in relation to an employment programme and he was, or would have been, required to attend the employment programme at a time which would have prevented him from attending the qualifying course;
- (b) for the purposes of section 19(5)(b)(iii) and (iv) where—
  - (i) the act or omission was in relation to a qualifying course undertaken by him and occurred less than 4 weeks after the first day of the period of study;
  - (ii) the act or omission was in relation to a qualifying course undertaken by him and was due to his lack of ability; or
  - (iii) the act or omission was in relation to a qualifying course undertaken by him which was not suitable for him;” and
- (b) after paragraph (3) there shall be inserted the following paragraph—
 

“(4) For the purposes of paragraph (2B)(b)(iii), a qualifying course is suitable for a person if it is suitable for him in vocationally relevant respects, namely his personal capacity, aptitude, his preference, the level of qualification aimed at, duration of the course and proportion of time, if any, which the person has spent on the training in relation to the length of the course.”.

### **Interpretation of section 19 of the Jobseekers Act 1995 and Part V of the Jobseeker’s Allowance Regulations**

- 9.** In regulation 75(1)(b) of the Jobseeker’s Allowance Regulations—
- (a) in sub-paragraph (i) the word “and” at the end shall be deleted;
  - (b) in sub-paragraph (ii) for the word “skills.” there shall be substituted the words “skills; and”; and
  - (c) after sub-paragraph (ii) there shall be inserted the following sub-paragraph—
 

“(iii) for the purposes of section 19(5)(b)(iii) and (iv) and section 19(5)(c), in relation to a person who has been treated as available for employment to any extent under regulation 17A(3), the qualifying course in respect of which he has been so treated.”.

### **Amendment of the Council Tax Benefit (General) Regulations 1992 and of the Housing Benefit (General) Regulations 1987**

**10.** In both regulation 38 of the Council Tax Benefit (General) Regulations 1992(**12**) (interpretation of Part V-students) and regulation 46 of the Housing Benefit (General) Regulations 1987(**13**) (interpretation of Part VII-students)—

- (a) for the definition of “last day of the course”(14), there shall be substituted the following definition—
 

““last day of the course” means—

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(12) S.I. 1992/1814.

(13) S.I. 1987/1971.

(14) The definition of “last day of the course” in the Housing Benefit (General) Regulations 1987 was inserted by S.I. 1991/1599.

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
  - (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;”;
- (b) after the definition of “periods of experience” there shall be inserted the following definition—
- ““qualifying course” means a qualifying course as defined for the purposes of Parts II and IV of the Jobseeker’s Allowance Regulations 1996;”;
- (c) for the definition of “student”(15), there shall be substituted the following definition—
- ““student” means a person, other than a person in receipt of a training allowance, who is—
- (a) attending a course of study at an educational establishment; or
  - (b) undertaking a qualifying course,
- and a person who has started on such a course shall be treated as attending, or as the case may be, undertaking it until the last day of the course or such earlier date as he abandons it or is dismissed from it;”.

Signed for the purposes of Regulation 10 on behalf of the Secretary of State for Social Security

1998

Parliamentary Under Secretary of State,  
Department of Social Security

Signed for the purposes of the remainder of the Regulations on behalf of the Secretary of State for Education and Employment

1998

Minister of State,  
Department for Education and Employment

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(15) The definition of “student” in the Council Tax Benefit (General) Regulations 1992 was amended by S.I. 1995/1742 and in the Housing Benefit (General) Regulations 1987, was amended by S.I. 1991/1599, 1992/432 and 1995/1742.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Jobseeker's Allowance Regulations 1996 ("the 1996 Regulations"), the Council Tax Benefit (General) Regulations 1992 and the Housing Benefit (General) Regulations 1987.

Regulations 2 and 3 amend definitions in the 1996 Regulations and add new definitions.

Regulation 4 inserts a new regulation 17A into the 1996 Regulations. It provides for persons to be treated as available for employment in accordance with paragraph (3) of the new regulation 17A, in the case of a person who is aged 25 years or over, has made a claim for jobseeker's allowance and has been receiving benefit for not less than two years and who, with the agreement of an employment officer, is undertaking a qualifying course. A qualifying course is defined in the new regulation 17A(7).

Regulation 5 amends regulation 19 of the 1996 Regulations, which sets out circumstances in which a person is treated as actively seeking employment.

Regulation 6 inserts a new regulation 21A into the 1996 Regulations. This provides that a person who is treated as available for employment in accordance with the new regulation 17A is to be treated as actively seeking employment, as set out in the new regulation 21A.

Regulations 7 and 8 amend regulation 72 (good cause for the purposes of section 19(5)(a) and (6)(c) and (d)) and regulation 73 (good cause for the purposes of section 19(5)(b)) of the 1996 Regulations by adding further cases where a person is to be regarded as having good cause for the purposes of sections 19(6)(c)(d) and 19(5)(b) of the Jobseekers Act 1995 and adding a further factor to be taken into account in determining whether a person has good cause for the purposes of section 19(5)(a) and (6)(c) and (d).

Regulation 9 amends regulation 75 of the 1996 Regulations, by adding a qualifying course (see new regulation 17A(7)) to the list of training schemes in relation to which a person can receive a benefit sanction for certain acts or omissions.

Regulation 10 amends the Council Tax Benefit (General) Regulations 1992 and the Housing Benefit (General) Regulations 1987 in order to ensure that a person undertaking a qualifying course is regarded as a student for the purposes of these Regulations.