

SCHEDULES

SCHEDULE 1

AMENDMENTS CONNECTED TO SECTION 4

PART 1

AMENDMENTS OF JOBSEEKERS (NORTHERN IRELAND) ORDER 1995

Directions given by officers of Departments etc.

4. After Article 20 insert—

“Claimants to comply with directions etc.

Requirements imposed on claimants by officers of Departments, etc.

20A.—(1) A claimant must carry out any direction given by an officer of the Department or of the Department for Employment and Learning to the claimant with a view to achieving one or both of the following—

- (a) assisting the claimant to find employment;
- (b) improving the claimant’s existing or future prospects of being or remaining employed.

(2) A direction under paragraph (1)—

- (a) must be reasonable, having regard to the claimant’s circumstances;
- (b) must be in writing; and
- (c) may be varied or revoked by a subsequent direction given under that paragraph.

(3) If an officer of the Department or of the Department for Employment and Learning notifies a claimant of a place on a training scheme which is vacant or about to become vacant, the claimant

- (a) must apply for the place; and
- (b) if offered the place, must accept it and attend the scheme.

(4) If an officer of the Department or of the Department for Employment and Learning notifies a claimant of a place on an employment programme which is vacant or about to become vacant, the claimant—

- (a) must apply for the place; and
- (b) if offered the place, must accept it and attend the programme.

(5) If an officer of the Department or of the Department for Employment and Learning notifies a claimant of a situation in any employment which is vacant or about to become vacant, the claimant—

- (a) must apply for the situation; and
- (b) if offered the situation, must accept it.

(6) In the case of a person whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A—

- (a) a paragraph (1)(a) direction may not be given except as mentioned in paragraph (7); and
- (b) paragraphs (4) and (5) do not apply (but see paragraph (7)).

(7) If a person whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A so agrees—

- (a) a paragraph (1)(a) direction may be given to the person; and
- (b) a paragraph (1)(b) direction may require the person to apply for a place on an employment programme and, if offered the place, accept it and attend the programme.

(8) Regulations may, in the case of a person of a prescribed description whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A, provide—

- (a) for a paragraph (1)(b) direction not to be given or not to be given in prescribed circumstances;
- (b) for paragraph (3) not to apply or not to apply in prescribed circumstances.

(9) For the purposes of this Article—

“employment programme” has such meaning as may be prescribed;

“paragraph (1)(a) direction” means a direction under paragraph (1) given with a view to achieving the purpose mentioned in sub-paragraph (a) of that paragraph;

“paragraph (1)(b) direction” means a direction under paragraph (1) given with a view to achieving the purpose mentioned in sub-paragraph (b) of that paragraph;

“training scheme” has such meaning as may be prescribed.

Status: This is the original version (as it was originally enacted).

(10) For the purposes of the application of this Article in the case of a joint-claim couple claiming a joint-claim jobseeker's allowance

- (a) a direction or notification under this Article may be given to only one member of the couple, or
- (b) separate directions or notifications under this Article may be given to each member of the couple,

and references in this Article to a claimant are to be read accordingly.

(11) Nothing in any provision of this Article is to be read as prejudicing the generality of any other provision of this Article or of Article 20B.

(12) For the sanctions for failure to comply with this Article, see Articles 21 and 22A (as read with Articles 20C and 20D).

Work-related activity: Article 3A(4) claimants

20B.—(1) Regulations may make provision for or in connection with imposing on a person—

- (a) whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A, and
- (b) who is not a lone parent of a child under the age of 3,

a requirement to undertake work-related activity in accordance with regulations.

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

- (a) prescribing circumstances in which a person is to be subject to any requirement imposed by the regulations (a “relevant requirement”);
- (b) for notifying a person of a relevant requirement;
- (c) prescribing the time or times at which a person who is subject to a relevant requirement is required to undertake work-related activity and the amount of work-related activity the person is required at any time to undertake;
- (d) prescribing circumstances in which a person who is subject to a relevant requirement is, or is not, to be regarded as undertaking work-related activity.

(3) Regulations under this Article may include provision that in such circumstances as the regulations may provide a person's obligation under the regulations to undertake work-related activity at a particular time is not to apply, or is to be treated as not having applied.

(4) Regulations under this Article must include provision for securing that lone parents are entitled (subject to meeting any prescribed conditions)

to restrict the times at which they are required to undertake work-related activity.

(5) In prescribed circumstances, the Department or the Department for Employment and Learning may by direction given to a person subject to a requirement imposed under paragraph (1) provide that the activity specified in the direction is—

- (a) to be the only activity which, in the person's case, is to be regarded as being work-related activity; or
- (b) to be regarded, in the person's case, as not being work-related activity.

(6) But a direction under paragraph (5) may not specify medical or surgical treatment as the only activity which, in any person's case, is to be regarded as being work-related activity.

(7) A direction under paragraph (5) given to any person—

- (a) must be reasonable, having regard to the person's circumstances;
- (b) must be given to the person by being included in an action plan provided to the person under Article 13C; and
- (c) may be varied or revoked by a subsequent direction under that paragraph.

(8) Where a direction under paragraph (5) varies or revokes a previous direction, it may provide for the variation or revocation to have effect from a time before the giving of the direction.

(9) For the purposes of this Article—

“lone parent” means a person who—

- (a) is not a member of a couple, and
- (b) is responsible for, and a member of the same household as, a child;

“work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so.

(10) Nothing in this Article is to be read as prejudicing the generality of any provision of Article 20A.

(11) For the sanctions for failure to comply with this Article, see Article 21 (as read with Articles 20C and 20D).”.

5. Before Article 21 (but after the italic heading immediately before that Article) insert—

“Definitions for purposes of Articles 21 and 22A

20C.—(1) This Article applies for the purposes of Articles 21 and 22A.

(2) A person (“P”) is in breach of a jobseeker’s direction if P has, without good cause, refused or failed to carry out a direction given to P under Article 20A(1).

(3) A person (“P”) is in breach of a training scheme requirement if P—

- (a) has, without good cause, refused or failed to do as mentioned in Article 20A(3);
- (b) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of a place on a training scheme;
- (c) has, without good cause, given up a place on a training scheme;
- (d) has, without good cause, failed to attend a training scheme on which P has been given a place; o
- (e) has lost a place on a training scheme through misconduct.

(4) A person (“P”) is in breach of an employment programme requirement if P—

- (a) has, without good cause, refused or failed to do as mentioned in Article 20A(4);
- (b) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of a place on an employment programme;
- (c) has, without good cause, given up a place on an employment programme;
- (d) has, without good cause, failed to attend an employment programme on which P has been given a place; or
- (e) has lost a place on an employment programme through misconduct.

(5) A person (“P”) is in breach of an employment requirement if P—

- (a) has, without good cause, refused or failed to do as mentioned in Article 20A(5);
- (b) has lost employment as an employed earner through misconduct;
- (c) has, without just cause, voluntarily left employment as an employed earner; or
- (d) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of employment.

(6) A person (“P”) is in breach of a work-related activity requirement if P has, without good cause, refused or failed to comply with a requirement imposed on P under Article 20B.

(7) In this Article “employment programme” and “training scheme” have the same meaning as in Article 20A.

Article 20C: supplemental

20D.—(1) A person is not to be regarded as breaching any requirement under Article 20C merely because the person 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) A person is not to be regarded as breaching a jobseeker’s direction, a training scheme requirement or an employment programme requirement under Article 20C if—

- (a) a direction is in force under Article 18 with respect to the person; and
- (b) the person has acted in such a way as to risk—
 - (i) having that direction revoked under Article 18(3)(b), or
 - (ii) having the amount of jobseeker’s allowance reduced by virtue of Article 19 because the condition mentioned in Article 19(3)(b) or (c) is satisfied.

(3) In such circumstances as may be prescribed, a person who might otherwise be regarded as having left employment voluntarily is to be treated for the purposes of Article 20C as not having left voluntarily

(4) The circumstances that may be prescribed include, in particular, where the person has been dismissed by reason of redundancy within the meaning of Article 174(1) of the Employment Rights (Northern Ireland) Order 1996 after volunteering or agreeing to be so dismissed.

(5) Regulations must make provision for the purpose of enabling any person of a prescribed description to accept any employed earner’s employment without breaching an employment requirement by virtue of Article 20C(5)(c) or (d) should the person leave that employment voluntarily and without just cause at any time during a trial period.

(6) “Trial period” has such meaning as may be prescribed.

(7) Regulations may for the purposes of Article 20C—

- (a) prescribe matters which are, or are not, to be taken into account in determining whether a person has good cause or just cause for any act or omission;
- (b) prescribe circumstances in which a person is, or is not, to be regarded as having good cause or just cause for any act or omission.

(8) Subject to those regulations, in determining whether, for the purposes of Article 20C, a person has, or does not have, good cause or just cause for

any act or omission, any matter relating to the level of remuneration in the employment in question is to be disregarded.

(9) Regulations may, in the case of a person of a prescribed description whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A, provide that Article 20C(3)(b) to (e)—

- (a) are not to apply, or
- (b) are not to apply in prescribed circumstances.

(10) Regulations may make provision for the purposes of Article 20C(6)

- (a) prescribing the evidence which a person who is subject to a requirement imposed under Article 20B needs to provide in order to show compliance with the requirement;
- (b) prescribing matters which are, or are not, to be taken into account in determining whether a person has complied with such a requirement.

(11) 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 starting."

6. For Articles 21 and 22 substitute—

“Certain circumstances in which a jobseeker's allowance is not payable

21.—(1) This Article applies in relation to a jobseeker's allowance other than a joint-claim jobseeker's allowance (as to which see Article 22A).

(2) In the case of a claimant whose claim to a jobseeker's allowance is not based on meeting condition B in Article 3A, a jobseeker's allowance is not payable in respect of the claimant for the relevant period if the claimant is in breach of—

- (a) a jobseeker's direction,
- (b) a training scheme requirement,
- (c) an employment programme requirement, or
- (d) an employment requirement,

even though the claimant meets the conditions for entitlement to the allowance.

(3) In the case of a claimant whose claim to a jobseeker's allowance is based on meeting condition B in Article 3A, a jobseeker's allowance is not payable in respect of the claimant for the relevant period if the claimant is in breach of—

- (a) a jobseeker's direction,

- (b) a training scheme requirement, or
- (c) a work-related activity requirement,

even though the claimant meets the conditions for entitlement to the allowance.

(4) In this Article “the relevant period” means—

- (a) in any case where the allowance is not payable because the claimant is in breach of an employment requirement, such period as may be determined by the Department; and
- (b) in any other case, such period as may be prescribed.

(5) The period which may be determined or prescribed under paragraph (4) must be at least one week but not more than 26 weeks.

(6) Regulations may prescribe—

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

in determining a period under paragraph (4)(a).

Exemptions from Article 21

22.—(1) In such circumstances as may be prescribed, an income-based jobseeker’s allowance is payable in respect of a claimant even though Article 21 prevents payment of a jobseeker’s allowance to the claimant.

(2) An income-based jobseeker’s allowance is payable by virtue of paragraph (1) 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.

(3) Regulations under paragraph (1) may, in particular, provide for an income-based 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(4)).”.

7. For Articles 22A and 22B substitute—

“Certain circumstances in which a joint-claim jobseeker’s allowance is not payable

22A.—(1) This Article applies in relation to a joint-claim jobseeker’s allowance.

Status: This is the original version (as it was originally enacted).

(2) A member of a joint-claim couple is subject to sanctions for the purposes of this Article for the relevant period if the member is in breach of—

- (a) a jobseeker’s direction,
- (b) a training scheme requirement,
- (c) an employment programme requirement, or
- (d) an employment requirement.

(3) In this Article “the relevant period” means—

- (a) in any case where the member is subject to sanctions because the member is in breach of an employment requirement, such period as may be determined by the Department; and
- (b) in any other case, such period as may be prescribed.

(4) The period which may be determined or prescribed under paragraph (3) must be at least one week but not more than 26 weeks.

(5) Even though the couple meet the conditions for entitlement to a joint-claim jobseeker’s allowance—

- (a) the allowance is not 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 is 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 is the reduced amount, the allowance is 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 the Department is not to take into account,

in determining a period under paragraph (3)(a).

Exemptions from Article 22A

22B.—(1) In such circumstances as may be prescribed, a joint-claim jobseeker's allowance is payable in respect of a joint-claim couple even though Article 22A(5)(a) prevents payment of the allowance to the couple.

(2) A jobseeker's allowance is payable by virtue of paragraph (1) 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.

(3) Regulations under paragraph (1) 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).”.