

2012 No. 44

HOUSING; RATES; SOCIAL SECURITY

**The Jobseeker's Allowance (Sanctions for Failure to Attend)
Regulations (Northern Ireland) 2012**

Made - - - - *13th February 2012*

Coming into operation - *6th March 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 22(5), 122(1)(d) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 10 and 36(2) of, and paragraph 15 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(b) and Articles 10(1), 11(3) and (6) and 74(1) of the Social Security (Northern Ireland) Order 1998(c), and now vested in it(d), section 60(1) and (2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(e).

Regulation 3(4) and (5) is made with the consent of the Department of Finance and Personnel(f).

The Social Security Advisory Committee has agreed that proposals in respect of regulation 3(4) and (5) should not be referred to it(g)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Sanctions for Failure to Attend) Regulations (Northern Ireland) 2012 and shall come into operation on 6th March 2012.

(2) The Interpretation Act (Northern Ireland) 1954(h) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (a) 1992 c. 7; section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and paragraph 3(3)(b) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (2007 c. 2 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21)
- (b) S.I. 1995/2705 (N.I. 15); Article 10 was amended by paragraph 8 of Schedule 7 and paragraph 27(3) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and section 27(1) to (3) of the Welfare Reform Act (Northern Ireland) 2010 (2010 c. 13 (N.I.)) and Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (c) S.I. 1998/1506 (N.I. 10); Article 74 was amended by paragraph 17 of Schedule 4 to the Tax Credits Act 2002
- (d) See Article 8(b) of S.R. 1999 No. 481
- (e) 2000 c. 4 (N.I.)
- (f) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481
- (g) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (h) 1954 c. 33 (N.I.)

Amendment of the Jobseeker's Allowance Regulations

2.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(a) are amended in accordance with paragraphs (2) to (17).

(2) In regulation 25 (entitlement ceasing on a failure to comply)—

(a) in paragraph (1) for “Subject to regulation 27 (where entitlement is not to cease), entitlement” substitute “Entitlement”;

(b) for paragraph (1)(a)(b) substitute—

“(a) if a claimant fails to attend on the day specified in a relevant notification, and fails to make contact with an employment officer in the manner set out in that notification before the end of the period of 5 working days beginning with and including the first working day after the day on which the claimant failed to attend;”;

(c) in paragraph (1)(b)(i)(c)—

(i) for “notification under regulation 23 or 23A” substitute “relevant notification”;

(ii) omit “(other than a notice requiring attendance under an employment programme or a training scheme)”, and

(iii) after “ceasing” insert “or the benefit not being payable for a period”;

(d) in paragraph (1)(b)(ii)(d) at the end add “and”;

(e) after paragraph (1)(b)(ii) add—

“(iii) that claimant fails to make contact with an employment officer in the manner set out in such a notification before the end of the period of 5 working days beginning with and including the first working day after the day on which that claimant failed to attend at the time specified;”;

(f) in paragraph (1)(c)(e) before “if” insert “subject to regulation 27,”; and

(g) after paragraph (1) insert—

“(1A) In this regulation and in regulations 27A, 28 and 30—

“relevant notification” means a notification under regulation 23 or 23A (attendance), other than a notification requiring attendance under an employment programme or a training scheme;

“working day” means any day on which the appropriate office is not closed.”.

(3) For regulation 27(f) (where entitlement is not to cease) substitute—

“Where entitlement is not to cease under regulation 25(1)(c)

27. Entitlement to a jobseeker's allowance is not to cease by virtue of regulation 25(1)(c) (entitlement ceasing on a failure to comply) if, before the end of the period of 5 working days beginning with and including the first working day after the day on which a claimant failed to provide a signed declaration in accordance with regulation 24(10) (provision of information and evidence), he makes contact with an employment officer in the manner set out in a notification under regulation 23 or 23A (attendance) and shows that he had good cause for the failure.

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- (a) S.R. 1996 No. 198; relevant amending Rules are S.R. 1996 No. 358, S.R. 1997 No. 165, S.R. 1999 Nos. 107, 145 and 428 (C. 32), S.R. 2000 Nos. 37, 255 and 350, S.R. 2001 Nos. 56 and 120, S.R. 2002 Nos. 80 and 388, S.R. 2004 No. 308, S.R. 2006 No. 234, S.R. 2008 No. 478 and S.R. 2011 No. 291
- (b) Paragraph 1(a) was amended by regulation 2(a) of S.R. 1999 No. 145, regulation 2(4) of S.R. 2000 No. 255 and paragraph 4(a) and (b) of Schedule 2 to S.R. 2000 No. 350
- (c) Paragraph 1(b)(i) was substituted by regulation 2(b) of S.R. 1999 No. 145 and amended by regulation 2(5) of S.R. 2000 No. 37, regulation 2(4) of S.R. 2000 No. 255 and paragraph 4(b) and (c) of Schedule 2 to S.R. 2000 No. 350
- (d) Paragraph 1(b)(ii) was amended by regulation 2(4) of S.R. 2000 No. 255
- (e) Paragraph 1(c) was amended by paragraph 4(c) of Schedule 2 to S.R. 2000 No. 350
- (f) Regulation 27 was amended by regulation 2(5) of S.R. 2000 No. 255 and paragraph 6 of Schedule 2 to S.R. 2000 No. 350

Circumstances in which an allowance is not to be payable

27A.—(1) A jobseeker's allowance is not to be payable for the period prescribed in regulation 27B (prescribed period for the purposes of regulation 27A) if either the first or the second condition is satisfied.

(2) The first condition is satisfied if a claimant—

- (a) fails to attend on the day specified in a relevant notification;
- (b) makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of 5 working days beginning with and including the first working day after the day on which he failed to attend on the day specified; and
- (c) fails to show good cause for that failure to attend.

(3) The second condition is satisfied if—

- (a) he attends on the day specified in a relevant notification, but fails to attend at the time specified in that notification;
- (b) the employment officer has informed him in writing that a failure to attend, on the next occasion on which he is required to attend, at the time specified in a relevant notification, may result in his entitlement to a jobseeker's allowance ceasing or the benefit not being payable for a period;
- (c) he fails to attend at the time specified in a relevant notification on the next occasion;
- (d) he makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of 5 working days beginning with and including the first working day after the day on which he failed to attend at the time specified; and
- (e) he fails to show good cause for that failure to attend.

Prescribed period for the purposes of regulation 27A

27B.—(1) The period prescribed for the purposes of regulation 27A (circumstances in which an allowance is not to be payable) is—

- (a) one week on the first occasion on which a jobseeker's allowance is determined not to be payable to the claimant by virtue of regulation 27A; and
- (b) 2 weeks on the second and each subsequent occasion during the same jobseeking period on which a jobseeker's allowance is determined not to be payable to the claimant by virtue of regulation 27A.

(2) The period begins—

- (a) where, in accordance with regulation 26A(1)(a) (jobseeker's allowance) of the Claims and Payments Regulations, a jobseeker's allowance is paid otherwise than fortnightly in arrears, on and including the day following the end of the last benefit week in respect of which that allowance was paid; and
- (b) in any other case, on and including the first day of the benefit week following the date on which a jobseeker's allowance is determined not to be payable.”.

(a) Regulation 26A was inserted by regulation 2(14) of S.R. 1996 No. 354 and amended by regulation 3(4) of S.R. 2000 No. 215

(4) In regulation 28(1)(a) (matters to be taken into account in determining whether a claimant has good cause for failing to comply with a notification under regulation 23)—

- (a) for “27 (where entitlement is not to cease)” substitute “27A (circumstances in which an allowance is not to be payable)”; and
- (b) for “notification under regulation 23 or 23A (attendance)” substitute “relevant notification”.

(5) In regulation 30(b) (circumstances in which a claimant is to be regarded as having good cause for failing to comply with a notification under regulation 23)—

- (a) for “27 (where entitlement is not to cease)” substitute “27A (circumstances in which an allowance is not to be payable)”; and
- (b) for “notification under regulation 23 or 23A (attendance)” substitute “relevant notification”.

(6) In regulation 47(4)(b)(ii)(c) (jobseeking period)—

- (a) after “(circumstances in which jobseeker’s allowance is not payable),” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”; and
- (b) after “Article 22A of the Order” insert “or regulation 27A”.

(7) In regulation 55(1)(a)(d) (short periods of sickness) after “of the Order apply” add “, or is a person whose jobseeker’s allowance is not payable by virtue of regulation 27A (circumstances in which an allowance is not to be payable)”.

(8) In regulation 55A(1)(a)(e) (periods of sickness and persons receiving treatment outside Northern Ireland) after “of the Order apply” add “, or is a person whose jobseeker’s allowance is not payable by virtue of regulation 27A (circumstances in which an allowance is not to be payable)”.

(9) In regulation 65(5)(f) (active seeking) after “do not apply to a young person” insert “whose jobseeker’s allowance is not payable by virtue of regulation 27A (circumstances in which an allowance is not to be payable), or”.

(10) In regulation 66(1)(g) (the jobseeker’s agreement)—

- (a) before “read with Part V (sanctions)” insert “, or regulation 27A (circumstances in which an allowance is not to be payable),”; and
- (b) before “Articles 21 and 22” insert “, Article 10 or”.

(11) In regulation 68(h) (reduced amount of allowance)—

- (a) in paragraph (1) after “Article 22A(2)(a) to (c), (f) or (g) of the Order ” insert “or satisfies a condition referred to in regulation 27A (circumstances in which an allowance is not to be payable)”; and
- (b) in paragraph (2) after “Article 22A(2)(a) to (c), (f) or (g) of the Order” insert “or satisfies a condition referred to in regulation 27A ”.

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- (a) Regulation 28 was amended by regulation 2(5) of S.R. 2000 No. 255 and paragraph 7 of Schedule 2 to S.R. 2000 No. 350
 - (b) Regulation 30 was amended by regulation 2(4) of S.R. 1999 No. 107, regulation 2(5) of S.R. 2000 No. 255, paragraph 8 of Schedule 2 to S.R. 2000 No. 350, regulation 2(5) of S.R. 2002 No. 388, regulation 3(5) of S.R. 2006 No. 234 and regulation 11(8) of S.R. 2008 No. 478
 - (c) Regulation 47(4)(b) was substituted by regulation 14(3) of S.R. 1996 No. 358 and amended by regulation 2(5) of S.R. 2001 No. 120, regulation 5(3) of S.R. 2002 No. 80 and regulation 5(2) of S.R. 2011 No. 291
 - (d) Regulation 55(1)(a) was amended by regulation 17(2) of S.R. 1996 No. 358 and paragraph 17 of Schedule 2 to S.R. 2000 No. 350
 - (e) Regulation 55A was inserted by regulation 3(6) of S.R. 2004 No. 308
 - (f) Regulation 65(5) was amended by regulation 2(5) of S.R. 2001 No. 56
 - (g) Regulation 66(1) was amended by paragraph 22 of Schedule 2 to S.R. 2000 No. 350
 - (h) Regulation 68 was amended by regulation 6(2) and (3) of S.R. 1997 No. 165, Article 9(9) of S.R. 1999 No. 428 (C. 32) and paragraph 24 of Schedule 2 to S.R. 2000 No. 350

(12) In regulation 74B(1)(a) (reduced allowance where one member of a joint-claim couple is subject to a sanction) after “(denial or reduction of joint-claim jobseeker’s allowance)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

(13) In regulation 140(1)(f)(i) (meaning of “person in hardship”) after “(circumstances in which a jobseeker’s allowance is not payable)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

(14) In regulation 141(6) (circumstances in which an income-based jobseeker’s allowance is payable to a person in hardship) after “(circumstances in which a jobseeker’s allowance is not payable)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

(15) In regulation 146A(1)(c)(i)(b) (meaning of “couple in hardship”) after “(denial or reduction of joint-claim jobseeker’s allowance)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

(16) In regulation 146C(6)(c) (circumstances in which a joint-claim jobseeker’s allowance is payable where a joint-claim couple is a couple in hardship) after “(denial of joint-claim jobseeker’s allowance)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

(17) In regulation 152(1)(c)(d) (relevant week) after “(circumstances in which a jobseeker’s allowance is not payable)” insert “or regulation 27A (circumstances in which an allowance is not to be payable)”.

Consequential amendments relating to sanctions

3.—(1) In regulation 8A(5) of the Social Security (Credits) Regulations (Northern Ireland) 1975(e) (credits for unemployment)—

- (a) in sub-paragraph (c) after “(circumstances in which a jobseeker’s allowance is not payable)” insert “or regulation 27A of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (circumstances in which an allowance is not to be payable)”; and
- (b) in sub-paragraph (cc) after “(denial or reduction of joint-claim jobseeker’s allowance)” insert “or regulation 27A of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996” and after “that Article” insert “or that regulation”.

(2) In the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(f)—

- (a) in regulation 3(6)(g) (revision of decisions) after “the Jobseekers Order” insert “or regulation 27A of the Jobseeker’s Allowance Regulations”;
- (b) in regulation 6(2)(f)(h) (supersession of decisions) after “the Jobseekers Order” insert “or regulation 27A of the Jobseeker’s Allowance Regulations”;
- (c) in regulation 7(8)(i) (date from which a decision superseded under Article 11 takes effect) before sub-paragraph (a) insert—

“(za) where regulation 27A of the Jobseeker’s Allowance Regulations applies, from the beginning of the period specified in regulation 27B of those Regulations;”.

(a) Regulation 74B was inserted by paragraph 31 of Schedule 2 to S.R. 2000 No. 350
(b) Regulation 146A was inserted by regulation 2(3) of S.R. 2000 No. 350
(c) Regulation 146C was inserted by regulation 2(3) of S.R. 2000 No. 350
(d) Regulation 152(1)(c) was amended by paragraph 50(a) of Schedule 2 to S.R. 2000 No. 350
(e) S.R. 1975 No. 113; regulation 8A was inserted by regulation 2(6) of S.R. 1996 No. 430 and paragraph (5)(cc) was inserted by regulation 3(a) of S.R. 2001 No. 120
(f) S.R. 1999 No. 162; relevant amending Regulations are S.R. 1999 No. 408, S.R. 2000 No. 365 and S.R. 2003 No. 224
(g) Regulation 3(6) was amended by regulation 4(a) of S.R. 2000 No. 365
(h) Regulation 6(2)(f) was substituted by regulation 3(3)(a) of S.R. 1999 No. 408 and amended by regulation 4(b) of S.R. 2000 No. 365 and regulation 3(4)(c) of S.R. 2003 No. 224
(i) Regulation 7(8) was substituted by regulation 3(4) of S.R. 1999 No. 408 and amended by regulation 4(c) of S.R. 2000 No. 365

(3) In regulation 3(g) of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001(a) (circumstances in which discretionary housing payments may be made) after “(circumstances in which a jobseeker’s allowance is not payable or denial or reduction of joint-claim jobseeker’s allowance)” add “or regulation 27A of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996”.

(4) In regulation 2(3) of the Housing Benefit Regulations (Northern Ireland) 2006(b) (interpretation)—

- (a) in sub-paragraph (a) after “(circumstances in which a jobseeker’s allowance is not payable)” add “or regulation 27A of the Jobseeker’s Allowance Regulations”; and
- (b) in sub-paragraph (b) after “Article 21 or 22A of that Order” add “or regulation 27A of the Jobseeker’s Allowance Regulations”.

(5) In regulation 2(3) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(c) (interpretation)—

- (a) in sub-paragraph (a) after “(circumstances in which a jobseeker’s allowance is not payable)” add “or regulation 27A of the Jobseeker’s Allowance Regulations”; and
- (b) in sub-paragraph (b) after “Article 21 or 22A of that Order” add “or regulation 27A of the Jobseeker’s Allowance Regulations”.

Revocations

4. Regulation 2(a) of the Jobseeker’s Allowance (Amendment) Regulations (Northern Ireland) 1999(d) and paragraphs 4(a) and (b) and 6 to 8 of Schedule 2 to the Jobseeker’s Allowance (Joint Claims) Regulations (Northern Ireland) 2000(e) are revoked.

Sealed with the Official Seal of the Department for Social Development on 13th February 2012

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulation 3(4) and (5).

Sealed with the Official Seal of the Department of Finance and Personnel on 13th February 2012

(L.S.)

Bill Pauley
A senior officer of the Department of Finance and Personnel

(a) S.R. 2001 No. 216
(b) S.R. 2006 No. 405
(c) S.R. 2006 No. 406
(d) S.R. 1999 No. 145
(e) S.R. 2000 No. 350

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 27 of the Welfare Reform Act (Northern Ireland) 2010 amended Article 10 of the Jobseekers (Northern Ireland) Order 1995 to allow for a new sanction to be applied in certain circumstances when a jobseeker's allowance claimant fails to attend an appointment. The sanction is that, although entitlement to jobseeker's allowance will continue, the benefit will not be payable for a period of at least one week and not more than 2 weeks.

Regulation 2(3) inserts new regulations 27A and 27B into the Jobseeker's Allowance Regulations (Northern Ireland) 1996 ("the 1996 Regulations") to provide for this new sanction. New regulation 27A provides for the new sanction to be applied where a claimant:

- fails to attend an interview on the day specified, makes contact with the Social Security Office/Jobs and Benefits Office within 5 working days but fails to show good cause for the failure to attend; or
- attends an interview on the day specified but fails to attend at the time specified and (having been warned in writing of the consequences of a subsequent failure to attend on time), then fails on a subsequent occasion to attend at the time specified, makes contact with the Social Security Office/Jobs and Benefits Office within 5 working days of the failure to attend at the time specified but fails to show good cause for that failure.

New regulation 27B sets out the period for which jobseeker's allowance is not to be payable and prescribes when this period will begin.

Regulation 2(2) and (3) make consequential amendments to regulations 25 and 27 of the 1996 Regulations. As a result of these amendments, in future entitlement to jobseeker's allowance will end only where a claimant:

- fails to attend an interview on the day specified and fails to make contact with the Social Security Office/Jobs and Benefits Office within 5 working days;
- attends an interview on the day specified but fails to attend at the time specified and (having been warned in writing of the consequences of a subsequent failure to attend on time), then fails on a subsequent occasion to attend at the time specified, and fails to make contact with the Social Security Office/Jobs and Benefits Office within 5 working days of that failure; or
- fails to provide a signed declaration as required under regulation 24 and fails to make contact with the Social Security Office/Jobs and Benefits Office and shows good cause for that failure within 5 working days.

Regulations 2(4) to (17) and 3 make consequential amendments to other provisions of the 1996 Regulations, the Social Security (Credits) Regulations (Northern Ireland) 1975, the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999, the Discretionary Financial Assistance Regulations (Northern Ireland) 2001, the Housing Benefit Regulations (Northern Ireland) 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006.

Regulation 4 makes consequential revocations.

In so far as these Regulations are required, for the purposes of regulation 3(4) and (5), to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.

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