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STATUTORY INSTRUMENTS

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**1996 No. 207**

**The Jobseeker's Allowance Regulations 1996**

**PART II**

**JOBSEEKING**

*Chapter I*

*Interpretation*

**Interpretation of Parts II, IV and V**

**4.** In Parts II, IV and V and, as provided below, the Act—

“appropriate office” means the office of the Department for Education and Employment which the claimant is required to attend in accordance with a notice under regulation 23, or any other place which he is so required to attend;

“caring responsibilities” means responsibility for caring for a child or for an elderly person or for a person whose physical or mental condition requires him to be cared for, who is either in the same household or a close relative;

“casual employment” means employment from which the employee can be released without his giving any notice;

“close relative” means a spouse or other member of an unmarried couple, parent, step-parent, grandparent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, sister, grandchild or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“elderly person” means a person of or over pensionable age;

“employment” in sections 1, 3, 6, 8, 14, 19 and 20 and paragraph 8 of Schedule 1 to the Act and in Parts II, IV and V means employed earner's employment except where otherwise provided;

“employment officer” means a person who is an employment officer for the purposes of sections 9 and 10;

“Outward Bound course” means any course or programme for personal development which is made available to persons who are not in employment by the charitable trust known as the Outward Bound Trust Limited;

“part-time member of a fire brigade” means a person who is a part-time member of a fire brigade maintained in pursuance of the Fire Services Acts 1947-1959(1);

“pattern of availability” has the meaning given in regulation 7;

“period of study” means the period beginning with the start of the course of study and ending with the last day of the course or such earlier date as the student abandons it or is dismissed from it; but any period of attendance by the student at his educational establishment, or any

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(1) 1947 c. 41, 1951 c. 27, and 1959 c. 44.

period of study undertaken by the student, in connection with the course which occurs before or after the period of the course shall be treated as part of the period of study;

“a person who is kept on short-time” means a person whose hours of employment have been reduced owing to temporary adverse industrial conditions;

“a person who is laid off” means a person whose employment has been suspended owing to temporary adverse industrial conditions;

“voluntary work” means work for an organisation the activities of which are carried on otherwise than for profit, or work other than for a member of the claimant’s family, where no payment is received by the claimant or the only payment due to be made to him by virtue of being so engaged is a payment in respect of any expenses reasonably incurred by him in the course of being so engaged;

“week” in sections 6 and 7 and in Parts II and IV means benefit week except where provided otherwise in Parts II and IV;

“work camp” means any place in Great Britain where people come together under the auspices of a charity, a local authority or a voluntary organisation to provide a service of benefit to the community or the environment.

## *Chapter II*

### *Availability for Employment*

#### **Exceptions to requirement to be available immediately: carers, voluntary workers, persons providing a service and persons under an obligation to provide notice**

5.—(1) In order to be regarded as available for employment, a person who has caring responsibilities or who is engaged in voluntary work is not required to be able to take up employment immediately, providing he is willing and able to take up employment on being given 48 hours' notice.

(2) In order to be regarded as available for employment, a person who is engaged, whether by contract or otherwise, in providing a service with or without remuneration, other than a person who has caring responsibilities or who is engaged in voluntary work, is not required to be able to take up employment immediately, providing he is willing and able to take up employment on being given 24 hours' notice.

(3) In order to be regarded as available for employment, a person who is in employed earner’s employment and is not engaged in remunerative work and who is required by section 49 of the Employment Protection (Consolidation) Act 1978<sup>(2)</sup> to give notice to terminate his contract is not required to be able to take up employment immediately, providing he is willing and able to take up employment immediately he is able to do so in accordance with his statutory obligations.

(4) Where in accordance with regulation 7, 13 or 17 a person is only available for employment at certain times, he is not required to be able to take up employment at a time at which he is not available, but he must be willing and able to take up employment immediately he is available.

(5) Where in accordance with paragraph (1) or (2) a person is not required to be able to take up employment immediately, the 48 hour and 24 hour periods referred to in those paragraphs include periods when in accordance with regulation 7 or 13 he is not available.

#### **Employment of at least 40 hours per week**

6.—(1) In order to be regarded as available for employment, a person must be willing and able to take up employment of at least 40 hours per week, unless he has restricted his availability in

(2) 1978 c. 44; section 49 was amended by the Employment Act 1982, section 20 and paragraph 3 of schedule 2.

accordance with paragraph (3) or (4) of regulation 13 or paragraph (2) of regulation 17 or two or more of those provisions.

(2) In order to be regarded as available for employment, a person must be willing and able to take up employment of less than 40 hours per week but not for a greater number of hours per week than the number for which he is available in accordance with paragraph (3) or (4) of regulation 13 or paragraph (2) of regulation 17 or two or more of those provisions.

### **Restriction of hours for which a person is available to 40 hours per week**

7.—(1) Except as provided in regulation 13 and in regulation 17(2), a person may not restrict the total number of hours for which he is available for employment to less than 40 hours in any week.

(2) A person may restrict the total number of hours for which he is available for employment in any week to 40 hours or more providing

- (a) the times at which he is available to take up employment (his “pattern of availability”) are such as to afford him reasonable prospects of securing employment;
- (b) his pattern of availability is recorded in his jobseeker’s agreement and any variations in that pattern are recorded in a varied agreement and
- (c) his prospects of securing employment are not reduced considerably by the restriction imposed by his pattern of availability.

(3) A person who has restricted the total number of hours for which he is available in accordance with paragraph (2) and who is not available for employment, and is not to be treated as available for employment in accordance with regulation 14, for one day or more in a week in accordance with his pattern of availability shall not be regarded as available for employment even if he was available for employment for a total of 40 hours or more during that week.

### **Other restrictions on availability**

8. Subject to regulations 6, 7 and 9, any person may restrict his availability for employment by placing restrictions on the nature of the employment for which he is available, the terms or conditions of employment for which he is available (including the rate of remuneration) and the locality or localities within which he is available, providing he can show that he has reasonable prospects of securing employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulations 7(2), 13(2), (3), (4) or 17(2).

### **No restrictions on pay after six months**

9. After the expiry of the six month period beginning with the date of claim, a person may not restrict his availability for employment by placing restrictions on the level of remuneration in employment for which he is available.

### **Reasonable prospects of employment**

10.—(1) For the purposes of regulations 7 and 8 and paragraphs (2) and (4) of regulation 13, in deciding whether a person has reasonable prospects of securing employment, regard shall be had, in particular, to the following matters—

- (a) his skills, qualifications and experience;
- (b) the type and number of vacancies within daily travelling distance from his home;
- (c) the length of time for which he has been unemployed;
- (d) the job applications which he has made and their outcome;

- (e) if he wishes to place restrictions on the nature of the employment for which he is available, whether he is willing to move home to take up employment.
- (2) It shall be for the claimant to show that he has reasonable prospects of securing employment if he wishes to restrict his availability in accordance with regulation 7 or 8 or paragraph (2) or (4) of regulation 13.

### **Part-time students**

**11.—**(1) If in any week a person is a part-time student and

- (a) he falls within paragraph (2)
- (b) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), 13(4) or 17(2); and
- (c) the hours of his course of study fall in whole or in part within his pattern of availability, in determining whether he is available for employment no matter relating to his course of study shall be relevant providing he is willing and able to re-arrange the hours of his course in order to take up employment at times falling within his pattern of availability, to take up such employment immediately or, if he falls within paragraph (1), (2) or (3) of regulation 5, at the time specified in that paragraph and providing he complies with the requirements of regulation 6.

(2) A person falls within this paragraph if

- (a) for a continuous period of not less than 3 months falling immediately before the date on which he first attended the course of study he was in receipt of jobseeker's allowance or incapacity benefit or was on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations<sup>(3)</sup> or
- (b) during the period of 6 months falling immediately before the date on which he first attended the course of study he was
  - (i) for a period, or periods in the aggregate, of not less than 3 months in receipt of jobseeker's allowance or incapacity benefit or on a course of training or he was in receipt of income support and he fell within paragraph 7 of Schedule 1B to the Income Support Regulations and
  - (ii) after the period referred to in (i), or in the case of periods in the aggregate, after the first such period and throughout the remainder of the 6 months for which that sub-paragraph did not apply to him, engaged in remunerative work or other work the emoluments of which are such as to disentitle him from receipt of jobseeker's allowance or incapacity benefit or from receipt of income support which would have been payable because he fell within paragraph 7 of Schedule 1B to the Income Support Regulations

and the period of 3 months referred to in sub-paragraph (i) or, as the case may be, the period of 6 months referred to in sub-paragraph (ii), fell wholly after the terminal date.

(3) In this regulation, "training" means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible provided in England and Wales directly or indirectly by a Training and Enterprise Council pursuant to its arrangement with the Secretary of State (whether that arrangement is known as an Operating Agreement or by any other name) and, in Scotland, directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be, Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

(3) Schedule 1B was inserted by regulation 3 of and Schedule 1 to the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996, [S.I. 1996/206](#).

## **Volunteers**

**12.** If in any week a person is engaged in voluntary work and

- (a) he has restricted the total number of hours for which he is available in accordance with regulation 7(2), 13(4) or 17(2) and
- (b) the hours in which he is engaged in voluntary work fall in whole or in part within his pattern of availability

in determining whether he is available for employment no matter relating to his voluntary work shall be relevant providing he is willing and able to re-arrange the hours in which he is engaged in voluntary work in order to take up employment on being given 48 hours' notice at times falling within his pattern of availability and providing he complies with the requirements of regulation 6.

## **Additional restrictions on availability for certain groups**

**13.—**(1) In any week a person may restrict his availability for employment in the following ways, if the circumstances set out apply.

(2) Subject to regulations 6, 7 and 9, a person may impose restrictions on the nature of the employment for which he is available by reason of a sincerely held religious belief, or a sincerely held conscientious objection providing he can show that he has reasonable prospects of employment notwithstanding those restrictions and any restrictions on his availability in accordance with regulation 7(2), 8, paragraph (3) or (4) of this regulation or regulation 17(1) or (2).

(3) A person may restrict his availability in any way providing the restrictions are reasonable in the light of his physical or mental condition.

(4) A person with caring responsibilities may restrict the total number of hours for which he is available for employment to less than 40 hours in any week providing

- (a) in that week he is available for employment for as many hours as his caring responsibilities allow and for the specific hours that those responsibilities allow and
- (b) he has reasonable prospects of securing employment notwithstanding that restriction and
- (c) he is available for employment of at least 16 hours in that week.

(5) In deciding whether a person satisfies the conditions in paragraph (4)(a), regard shall be had, in particular, to the following matters—

- (a) the particular hours and days spent in caring;
- (b) whether the caring responsibilities are shared with another person;
- (c) the age and physical and mental condition of the person being cared for.

## **Circumstances in which a person is to be treated as available**

**14.—**(1) A person, other than one to whom regulation 15 applies, shall be treated as available for employment in the following circumstances for as long as those circumstances apply, subject to any maximum period specified in this paragraph—

- (a) notwithstanding regulation 15(a), if he is participating as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;
- (b) if he is attending a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) if he is temporarily absent from Great Britain because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;

- (d) if he is engaged in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple and is looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course and is attending, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) if he is temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) if he has been discharged from detention in a prison, remand centre or youth custody institution, for one week commencing with the date of his discharge;
- (i) if there is a period between the date of claim and the beginning of the first week after that date, for that period;
- (j) if there is a period between the date the award is terminated and the end of the week in which the award is terminated, for the period between the beginning of the week in which the award is terminated and the date the award is terminated;
- (k) notwithstanding regulation 15(a), if he is participating in a programme provided by the Venture Trust in pursuance of an arrangement made by the Secretary of State for the Home Department with the Trust, for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) if he is treated as capable of work in accordance with regulation 55, for the period determined in accordance with that regulation;
- (m) if he is temporarily absent from Great Britain to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment officer, that he will be so absent for a maximum of one week;
- (n) if he is a member of a couple and he and his partner are both absent from Great Britain and a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks.

(2) A person, other than one to whom regulation 15 applies, shall be treated as available for employment in the following circumstances—

- (a) if there is a death or serious illness of a close relative or close friend of his;
- (b) if there is a domestic emergency affecting him or a close relative or close friend of his;
- (c) if there is a funeral of a close relative or close friend of his;
- (d) if he has caring responsibilities and the person being cared for has died;

for the time required to deal with the emergency or other circumstance and for a maximum of one week on the occurrence of any of the circumstances set out in sub-paragraphs (a) to (d), or any combination of those circumstances, and on no more than 4 such periods in any period of 12 months.

(3) If any of the circumstances set out in paragraph (1), except those in sub-paragraphs (i) and (j), or any of those set out in paragraph (2) apply to a person for part of a week, he shall for the purposes of regulation 7(1) be treated as available for 8 hours on any day on which those circumstances applied subject to the maximum specified in paragraph (1) or (2), unless he has restricted the total number of hours for which he is available in a week in accordance with regulation 7(2), 13(3) or 17(2). If he has so restricted the total number of hours for which he is available, he shall, for the purposes of regulation 7(1) or 13(4), be treated as available for the number of hours for which he would be available on that day in accordance with his pattern of availability recorded in his jobseeker's

agreement, if any of the circumstances set out in paragraph (1) except those in sub-paragraphs (i) and (j) or any of those set out in paragraph (2) applied on that day, subject to the maximum specified in paragraph (1) or (2).

(4) In paragraph (1)(c), “treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

(5) For the purposes of paragraph (1)(d),

(a) a person is engaged in duties for the benefit of others while—

- (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
- (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
- (iii) assisting in measures being taken to prevent a serious threat to the health of the people,

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;

(b) events which may give rise to an emergency include—

- (i) a fire, a flood or an explosion,
- (ii) a natural catastrophe,
- (iii) a railway or other transport accident,
- (iv) a cave or mountain accident,
- (v) an accident at sea,
- (vi) a person being reported missing and the organisation of a search for that person.

(6) In paragraph (1), except in sub-paragraphs (i) and (j), and in paragraph (2), “week” means any period of 7 consecutive days.

### **Circumstances in which a person is not to be regarded as available**

**15.** A person shall not be regarded as available for employment in the following circumstances—

- (a) if he is a full-time student during the period of study unless he has a partner who is also a full-time student, if either he or his partner is treated as responsible for a child or a young person, but this exception shall apply only for the period of the summer vacation appropriate to his course and providing he is available for employment in accordance with the provisions of this Chapter or unless he is treated as available in accordance with regulation 14(1)(a) or 14(1)(k);
- (b) if he is a prisoner on temporary release in accordance with the provisions of the Prison Act 1952(4) or rules made under section 39(6) of the Prisons (Scotland) Act 1989(5);
- (c) if she is in receipt of maternity allowance or maternity pay in accordance with section 35 or sections 164-171 respectively of the Benefits Act.

### **Further circumstances in which a person is to be treated as available: permitted period**

**16.—(1)** A person who is available for employment—

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(4) 1952 c. 52.

(5) 1989 c. 45

- (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

may be treated for a permitted period as available for employment in that period.

(2) Whether a person should be treated as available for a permitted period and if so, the length of that permitted period shall be determined having regard to the following factors—

- (a) the person's usual occupation and any relevant skills or qualifications which he has;
- (b) the length of any period during which he has undergone training relevant to that occupation;
- (c) the length of the period during which he has been employed in that occupation and the period since he was so employed;
- (d) the availability and location of employment in that occupation.

(3) A permitted period shall be for a minimum of one week and a maximum of 13 weeks and shall start on the date of claim and in this paragraph "week" means any period of 7 consecutive days.

#### **Laid off and short-time workers**

**17.—**(1) A person who is laid off shall be treated as available for employment providing he is willing and able to resume immediately the employment from which he has been laid off and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph (1) or (2) of regulation 5, at the time specified in that regulation.

(2) A person who is kept on short-time shall be treated as available for employment, providing he is willing and able to resume immediately the employment in which he is being kept on short-time and to take up immediately any casual employment which is within daily travelling distance of his home or, if he falls within paragraph (1) or (2) of regulation 5, at the time specified in that regulation in the hours in which he is not working short-time but the total number of hours for which he works and is available for casual employment must be at least 40 in any week.

(3) A person shall not be treated as available for employment in accordance with this regulation for more than 13 weeks, starting with the day after the day he was laid off or first kept on short-time.

(4) A person who is laid off or kept on short-time may not be treated as available for employment for a permitted period in accordance with regulation 16, unless he ceases to be laid off or kept on short-time within 13 weeks of the day on which he was laid off or first kept on short time, in which case he may be treated as available for employment for a permitted period ending a maximum of 13 weeks after the date of claim.

(5) In paragraphs (3) and (4), "week" means any period of 7 consecutive days.

### *Chapter III*

#### *Actively Seeking Employment*

#### **Steps to be taken by persons actively seeking employment**

**18.—**(1) For the purposes of section 7(1) (actively seeking employment) a person shall be expected to have to take more than one step on one occasion in any week unless taking one step on one occasion is all that it is reasonable for that person to do in that week.

(2) Steps which it is reasonable for a person to be expected to have to take in any week include—

- (a) oral or written applications (or both) for employment made to persons—



- (i) who have advertised the availability of employment; or
    - (ii) who appear to be in a position to offer employment;
  - (b) seeking information on the availability of employment from—
    - (i) advertisements;
    - (ii) persons who have placed advertisements which indicate the availability of employment;
    - (iii) employment agencies and employment businesses;
    - (iv) employers;
  - (c) registration with an employment agency or employment business;
  - (d) appointment of a third party to assist the person in question in finding employment;
  - (e) seeking specialist advice, following referral by an employment officer, on how to improve the prospects of securing employment having regard to that person's needs and in particular in relation to any mental or physical limitations of that person;
  - (f) drawing up a curriculum vitae;
  - (g) seeking a reference or testimonial from a previous employer;
  - (h) drawing up a list of employers who may be able to offer employment to him with a view to seeking information from them on the availability of employment;
  - (i) seeking information about employers who may be able to offer employment to him;
  - (j) seeking information on an occupation with a view to securing employment in that occupation.
- (3) In determining whether, in relation to any steps taken by a person, the requirements of section 7(1) are satisfied in any week, regard shall be had to all the circumstances of the case, including—
- (a) his skills, qualifications and abilities;
  - (b) his physical or mental limitations;
  - (c) the time which has elapsed since he was last in employment and his work experience;
  - (d) the steps which he has taken in previous weeks and the effectiveness of those steps in improving his prospects of securing employment;
  - (e) the availability and location of vacancies in employment;
  - (f) any time during which he was—
    - (i) engaged in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others,
    - (ii) attending an Outward Bound course,
    - (iii) in the case of a blind person, participating in a course of training in the use of guide dogs,
    - (iv) participating in training in the use of aids to overcome any physical or mental limitations of his in order to improve his prospects of securing employment,
    - (v) engaged in duties as a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979<sup>(6)</sup>,
    - (vi) participating as a part-time student in an employment-related course,

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(6) S.I. 1979/591, amended by S.I. 1980/1975, 1994/1553.

- (vii) participating for less than 3 days in an employment or training programme for which a training allowance is not payable;
  - (g) any time during which he was engaged in voluntary work and the extent to which it may have improved his prospects of securing employment;
  - (h) whether he is treated as available for employment under regulation 14;
  - (i) whether he has applied for, or accepted, a place on, or participated in, a course or programme the cost of which is met in whole or in part out of central funds or by the European Community and the purpose of which is to assist persons to select, train for, obtain or retain employed earner's employment or self-employed earner's employment; and
  - (j) where he had no living accommodation in that week the fact that he had no such accommodation and the steps which he needed to take and has in fact taken to seek such accommodation.
- (4) Any act of a person which would otherwise be relevant for purposes of section 7 shall be disregarded in the following circumstances—
- (a) where, in taking the act, he acted in a violent or abusive manner,
  - (b) where the act comprised the completion of an application for employment and he spoiled the application,
  - (c) where by his behaviour or appearance he otherwise undermined his prospects of securing the employment in question,

unless those circumstances were due to reasons beyond his control.

(5) In this regulation—

“employment agency” and “employment business” mean an employment agency or (as the case may be) employment business within the meaning of the Employment Agencies Act 1973(7);

“employment or training programme” means a course or programme the person's participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(8) for the purpose of assisting persons to select, train for, obtain or retain employed earner's employment.

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

**19.—(1)** A person shall be treated as actively seeking employment in the following circumstances, subject to paragraph (2) and to any maximum period specified in this paragraph—

- (a) in any week during which he is participating for not less than 3 days as a full-time student in an employment-related course where participation by him has been approved before the course started by an employment officer, for a maximum of 2 weeks and one such course in any period of 12 months;
- (b) in any week during which he is attending for not less than 3 days a residential work camp, for a maximum of 2 weeks and one such occasion in any period of 12 months;
- (c) in any week during which he is temporarily absent from Great Britain for not less than 3 days because he is taking a member of his family who is a child or young person abroad for treatment, for a maximum of 8 weeks;

(7) 1973 c. 35.

(8) 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).

- (d) in any week during which he is engaged for not less than 3 days in the manning or launching of a lifeboat or in the performance of duty as a part-time member of a fire brigade or engaged during an emergency in duties for the benefit of others;
- (e) if he is a member of a couple, in any week during which he is for not less than 3 days looking after a member of his family who is a child while the other member is temporarily absent from the United Kingdom, for a maximum of 8 weeks;
- (f) if he is following an Open University course, in any week during which he is attending for not less than 3 days, as a requirement of that course, a residential course, for a maximum of one week per course;
- (g) in any week during which he is for not less than 3 days temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily absent from home or the person is looking after a member of the family who is ill, for a maximum of 8 weeks;
- (h) in the first week after the date of claim if he is treated as available for employment to any extent in that week under regulation 14(1)(h);
- (i) if there is a period between the date of claim and the beginning of the first week after that date, for that period;
- (j) if there is a period between the date the award is terminated and the end of the week in which the award is terminated, for the period between the beginning of the week in which the award is terminated and the date the award is terminated;
- (k) in any week during which he is participating for not less than 3 days in a programme provided by the Venture Trust in pursuance of an arrangement made by the Secretary of State for the Home Department with the Trust, for a maximum of 4 weeks and one such programme in any period of 12 months;
- (l) in any week during which he is for not less than 3 days treated as capable of work in accordance with regulation 55;
- (m) in any week during which he is temporarily absent from Great Britain for not less than 3 days in order to attend an interview for employment and has given notice to an employment officer, in writing if so required by the employment officer, that he will be so absent, for a maximum of 1 week;
- (n) if he is a member of a couple, in any week during which he and his partner are both absent from Great Britain for not less than 3 days and in which a premium referred to in paragraph 10, 11, 12, 13 or 15 of Schedule 1 (applicable amounts) is applicable in respect of his partner, for a maximum of 4 weeks;
- (o) in any week during which he is treated as available for employment on not less than 3 days under regulation 14(2);
- (p) in any week in respect of which he has given notice to an employment officer, in writing if so required by the employment officer, that—
  - (i) he does not intend to be actively seeking employment, but
  - (ii) he does intend to reside at a place other than his usual place of residence for at least one day;
- (q) in any week during which he is participating for not less than 3 days in an employment or training programme for which a training allowance is not payable;
- (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,
- (ii) where, in Scotland, the scheme 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<sup>(9)</sup>,
- (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.

(2) In any period of 12 months a person shall be treated as actively seeking employment under paragraph (1)(p) only for the number of weeks specified in one of the following sub-paragraphs—

- (a) a maximum of 2 weeks; or
- (b) a maximum of 3 weeks during which he is attending for at least 3 days in each such week an Outward Bound course; or
- (c) if he is a blind person, a maximum of 6 weeks during which, apart from a period of no more than 2 weeks, he participates for a maximum period of 4 weeks in a course of training in the use of guide dogs of which at least 3 days in each such week is spent in that training.

(3) In this regulation—

“employment or training programme” means a course or programme the person’s participation in which is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973 for the purpose of assisting persons to select, train for, obtain or retain employment;

“housing action trust” means a corporation established by an order of the Secretary of State pursuant to section 62(1) of the Housing Act 1988<sup>(10)</sup>;

“treatment” means treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment;

“urban development corporation” means a corporation established by an order of the Secretary of State pursuant to section 135(1) of the Local Government, Planning and Land Act 1980<sup>(11)</sup>;

“Urban Regeneration Agency” means the agency referred to in section 158(1) of the Leasehold Reform, Housing and Urban Development Act 1993<sup>(12)</sup>.

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

**20.**—(1) A person to whom paragraph (2) does not apply shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment in that week—

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

(9) 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.

(10) 1988 c. 50.

(11) 1980 c. 65.

(12) 1993 c. 28.

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

(2) A person to whom this paragraph applies shall be treated as actively seeking employment in any week during any permitted period determined in his case in accordance with regulation 16, if he is actively seeking employment, self-employed earner's employment, or employment and self-employed earner's employment in that week—

- (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.

(3) Paragraph (2) applies to a person who has, at any time during the period of 12 months immediately preceding the date of claim, been engaged in his usual occupation in self-employed earner's employment.

**Further circumstances in which a person is to be treated as actively seeking employment: laid off and short-time workers**

**21.** A person who has restricted his availability for employment in accordance with regulation 17(1) or, as the case may be, regulation 17(2), shall in any week in which he has so restricted his availability for not less than 3 days be treated as actively seeking employment in that week if 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 17.

**Interpretation of certain expressions for the purposes of regulations 18(3)(f)(i) and 19(1)(d)**

**22.** For the purposes of regulations 18(3)(f)(i) and 19(1)(d)—

- (a) a person is engaged in duties for the benefit of others while—
  - (i) providing assistance to any person whose life may be endangered or who may be exposed to the risk of serious bodily injury or whose health may be seriously impaired,
  - (ii) protecting property of substantial value from imminent risk of serious damage or destruction, or
  - (iii) assisting in measures being taken to prevent a serious threat to the health of the people,

as a member of a group of persons organised wholly or partly for the purpose of providing such assistance or, as the case may be, protection;

- (b) events which may give rise to an emergency include—
  - (i) a fire, a flood or an explosion,
  - (ii) a natural catastrophe,
  - (iii) a railway or other transport accident,
  - (iv) a cave or mountain accident,
  - (v) an accident at sea,
  - (vi) a person being reported missing and the organisation of a search for that person.

## Chapter IV

### *Attendance, Information and Evidence*

#### **Attendance**

**23.** A claimant shall attend at such place and at such time as the Secretary of State may specify by a notice in writing given or sent to the claimant.

#### **Provision of information and evidence**

**24.—**(1) A claimant shall provide such information as to his circumstances, his availability for employment and the extent to which he is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the claimant to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount.

(2) A claimant shall furnish such other information in connection with the claim, or any question arising out of it, as may be required by the Secretary of State.

(3) Where—

- (a) a jobseeker's allowance may be claimed by either member of a couple, or
- (b) entitlement to a jobseeker's allowance or whether that allowance is payable and, if so, in what amount, is or may be affected by the circumstances of either member of a couple or any member of a polygamous marriage,

the Secretary of State may require the member of the couple other than the claimant to certify in writing whether he agrees to the claimant's making the claim, or that he, or any member of a polygamous marriage, confirms the information given about his circumstances.

(4) A claimant shall furnish such certificates, documents and other evidence as may be required by the Secretary of State for the determination of the claim.

(5) A claimant shall furnish such certificates, documents and other evidence affecting his continuing entitlement to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount as the Secretary of State may require.

(6) A claimant shall, if the Secretary of State requires him to do so, provide a signed declaration to the effect that—

- (a) he is, and has been since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph, either available for employment or satisfied the circumstances to be treated as available for employment, save as he has otherwise notified the Secretary of State,
- (b) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph he has either been actively seeking employment to the extent necessary to give him his best prospects of securing employment or he has satisfied the circumstances to be treated as actively seeking employment, save as he has otherwise notified the Secretary of State, and
- (c) since making a claim for a jobseeker's allowance or since he last provided a declaration in accordance with this paragraph there has been no change to his circumstances which might affect his entitlement to a jobseeker's allowance or the payability or amount of such an allowance, save as he has notified the Secretary of State.

(7) A claimant shall notify the Secretary of State—

- (a) of any change of circumstances which has occurred which he might reasonably be expected to know might affect his entitlement to a jobseeker's allowance or the payability or amount of such an allowance; and

(b) of any such change of circumstances which he is aware is likely so to occur, and shall do so as soon as reasonably practicable after its occurrence or, as the case may be, after he becomes so aware, by giving notice in writing (unless the Secretary of State determines in any particular case to accept notice given otherwise than in writing) to the appropriate office.

(8) Where, pursuant to paragraph (1) or (2), a claimant is required to provide information he shall do so when he attends in accordance with a notice under regulation 23, if so required by the Secretary of State, or within such period as the Secretary of State may require.

(9) Where, pursuant to paragraph (4) or (5), a claimant is required to provide certificates, documents or other evidence he shall do so within seven days of being so required or such longer period as the Secretary of State may consider reasonable.

(10) Where, pursuant to paragraph (6), a claimant is required to provide a signed declaration he shall provide it on the day on which he is required to attend in accordance with a notice under regulation 23 or on such other day as the Secretary of State may require.

### **Entitlement ceasing on a failure to comply**

**25.**—(1) Subject to regulation 27, entitlement to a jobseeker's allowance shall cease in the following circumstances—

- (a) if the claimant fails to attend on the day specified in a notice under regulation 23, other than a notice requiring attendance under an employment programme or a training scheme;
- (b) if—
  - (i) following a failure to attend at the time specified in a notice under regulation 23, the Secretary of State has informed the claimant in writing that a failure to attend, on the next occasion on which he is required to attend, at the time specified in such a notice may result in his entitlement to a jobseeker's allowance ceasing, and
  - (ii) he fails to attend at the time specified in such a notice on the next occasion;
- (c) if the claimant was required to provide a signed declaration as referred to in regulation 24(6) and he fails to provide it on the day on which he ought to do so in accordance with regulation 24(10).

(2) In this regulation, “an employment programme” and “a training scheme” have the meaning given in regulation 75.

### **Time at which entitlement is to cease**

**26.** Entitlement to a jobseeker's allowance shall cease in accordance with regulation 25 on whichever is the earlier of—

- (a) the day after the last day in respect of which the claimant has provided information or evidence which establishes his entitlement to a jobseeker's allowance,
- (b) if regulation 25(a) or (b) applies, the day on which he was required to attend, and
- (c) if regulation 25(c) applies, the day on which he ought to have provided the signed declaration,

provided that it shall not cease earlier than the day after he last attended in compliance with a notice under regulation 23.

### **Where entitlement is not to cease**

**27.**—(1) Entitlement to a jobseeker's allowance shall not cease if the claimant shows, before the end of the fifth working day after the day on which he failed to comply with a notice under

regulation 23 or to provide a signed declaration in accordance with regulation 24, that he had good cause for the failure.

(2) In this regulation, “working day” means any day on which the appropriate office is not closed.

**Matters to be taken into account in determining whether a claimant has good cause for failing to comply with a notice under regulation 23**

**28.**—(1) Subject to regulation 30, in determining, for the purposes of regulation 27, whether a claimant has good cause for failing to comply with a notice under regulation 23 the matters which are to be taken into account shall include the following—

- (a) whether the claimant misunderstood the requirement on him due to any learning, language or literacy difficulties of the claimant or any misleading information given to the claimant by an employment officer;
- (b) whether the claimant was attending a medical or dental appointment, or accompanying a person for whom the claimant has caring responsibilities to such an appointment, and whether it would have been unreasonable, in the circumstances, to rearrange the appointment;
- (c) any difficulty with the claimant’s normal mode of transport and whether there was any reasonable available alternative;
- (d) the established customs and practices of the religion, if any, to which the claimant belongs;
- (e) whether the claimant was attending an interview for employment.

(2) In this regulation, “employment” means employed earner’s employment except in relation to a claimant to whom regulation 20(2) applies and for the duration only of any permitted period determined in his case in accordance with regulation 16, in which case, for the duration of that period, it means employed earner’s employment or self-employed earner’s employment.

**Matters to be taken into account in determining whether a claimant has good cause for failing to provide a signed declaration**

**29.** In determining, for the purposes of regulation 27, whether a claimant has good cause for failing to comply with a requirement to provide a signed declaration, as referred to in regulation 24(6), on the day on which he ought to do so the matters which are to be taken into account shall include the following—

- (a) whether there were adverse postal conditions;
- (b) whether the claimant misunderstood the requirement on him due to any learning, language or literacy difficulties of the claimant or any misleading information given to the claimant by an employment officer.

**Circumstances in which a claimant is to be regarded as having good cause for failing to comply with a notice under regulation 23**

**30.** For the purposes of regulation 27, a claimant is to be regarded as having good cause for failing to comply with a notice under regulation 23—

- (a) where, if regulation 5(1) applies in his case, he was required to attend at a time less than 48 hours from receipt by him of the notice;
- (b) where, if regulation 5(2) applies in his case, he was required to attend at a time less than 24 hours from receipt by him of the notice;
- (c) where he was, in accordance with regulation 14(1)(a)—(g), (k)—(n) or 14(2), treated as available for employment on the day on which he failed to attend;



- (d) where the day on which he failed to attend falls in a week in which he was, in accordance with regulation 19(1)(p) and 19(2), treated as actively seeking employment.

## *Chapter V*

### *Jobseeker's Agreement*

#### **Contents of Jobseeker's Agreement**

**31.** The prescribed requirements for a jobseeker's agreement are that it shall contain the following information—

- (a) the claimant's name;
- (b) where the hours for which the claimant is available for employment are restricted in accordance with regulation 7, the total number of hours for which he is available and any pattern of availability;
- (c) any restrictions on the claimant's availability for employment, including restrictions on the location or type of employment, in accordance with regulations 5, 8, 13 and 17;
- (d) a description of the type of employment which the claimant is seeking;
- (e) the action which the claimant will take—
  - (i) to seek employment; and
  - (ii) to improve his prospects of finding employment;
- (f) the dates of the start and of the finish of any permitted period in his case for the purposes of sections 6(5) and 7(5);
- (g) a statement of the claimant's right—
  - (i) to have a proposed jobseeker's agreement referred to an adjudication officer;
  - (ii) to seek a review of any determination of, or direction given by, an adjudication officer; and
  - (iii) to appeal to a social security appeal tribunal against any determination of, or direction given by, an adjudication officer on a review.
- (h) the date of the agreement.

#### **Back-dating of a Jobseeker's Agreement by an Adjudication Officer**

**32.** In giving a direction under section 9(7)(c), the adjudication officer shall take into account all relevant matters including—

- (a) where the claimant refused to accept the agreement proposed by the employment officer, whether he was reasonable in so refusing;
- (b) where the claimant has signified to the employment officer or to the adjudication officer that the claimant is prepared to accept an agreement which differs from the agreement proposed by the employment officer, whether the terms of the agreement which he is prepared to accept are reasonable;
- (c) where the claimant has signified to the employment officer or to the adjudication officer that the claimant is prepared to accept the agreement proposed by the employment officer, that fact;
- (d) the date on which, in all the circumstances, he considers that the claimant was first prepared to enter into an agreement which the adjudication officer considers reasonable; and

- (e) where the date on which the claimant first had an opportunity to sign a jobseeker's agreement was later than the date on which he made a claim, that fact.

### **Notification of Determinations and Directions under Section 9**

**33.** The claimant shall be notified of—

- (a) any determination of the adjudication officer under section 9;
- (b) any direction given by the adjudication officer under section 9.

### **Jobseeker's Agreement treated as having been made**

**34.** A claimant is to be treated as having satisfied the condition mentioned in section 1(2)(b)—

- (a) where he is permitted to make a claim for a jobseeker's allowance without attending at an office of the Department for Education and Employment or of the Department of Social Security, for the period beginning with the date of claim and ending on the date on which he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (b) where, after the date of claim, the claim is terminated before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (c) as long as he is treated as available for employment in accordance with regulation 14 where the circumstances set out in that regulation arise after the date of claim and before he has an interview with an employment officer for the purpose of drawing up a jobseeker's agreement;
- (d) as long as there are circumstances not peculiar to the claimant which make impracticable or unduly difficult the normal operation of the provisions governing, or the practice relating to, the claiming, awarding or payment of jobseeker's allowance.

### **Automatic Back-dating of Jobseeker's Agreement**

**35.** Where a jobseeker's agreement is signed on a date later than the date of claim and there is no reference of that agreement to an adjudication officer under section 9(6), the agreement shall be treated as having effect on the date of claim.

### **Jobseeker's Agreement to remain in effect**

**36.** A jobseeker's agreement entered into by a claimant shall not cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him—

- (a) where a further claim for a jobseeker's allowance is made within a period not exceeding 14 days; or
- (b) in respect of any part of a period of suspension, where—
  - (i) payment under an award of a jobseeker's allowance has been suspended by direction of the Secretary of State on the ground that a question arises whether the conditions for entitlement to the allowance are or were fulfilled or the award ought to be revised, and
  - (ii) subsequently that suspension is cancelled in respect of future periods, and
  - (iii) it is then determined that the award should be revised to the effect that there was no entitlement to the allowance in respect of any part of the period of suspension; or

- (c) for as long as the claimant satisfies the conditions of entitlement to national insurance credits, other than any condition relating to the existence of a jobseeker's agreement, in accordance with the Social Security (Credits) Regulations 1975(13).

### **Variation of Jobseeker's Agreement**

**37.** The prescribed manner for varying a jobseeker's agreement shall be in writing and signed by both parties in accordance with section 10(2) on the proposal of the claimant or the employment officer.

### **Direction to vary Agreement: time for compliance**

**38.** The prescribed period for the purposes of section 10(6)(c) shall be the period of 21 days beginning with the date on which the direction was issued.

### **Variation of Agreement: matters to be taken into account**

**39.** In giving a direction under section 10(6)(b) or (d) an adjudication officer shall take into account the preference of the claimant if he considers that both the claimant's proposals and those of the employment officer satisfy the requirements of section 10(5).

### **Notification of Determinations and Directions under Section 10**

**40.** The claimant shall be notified of—

- (a) any determination of the adjudication officer under section 10;
- (b) any direction of the adjudication officer under section 10.

### **Procedure for Reviews**

**41.—(1)** This regulation applies to an application for a review under section 11.

(2) An application for a review to which this regulation applies shall—

- (a) be made in writing,
- (b) set out the grounds for the application, and
- (c) be made to an appropriate office within the period of 3 months beginning with the date on which the determination or direction was notified to the claimant.

(3) Where a claimant submits an application for a review by post which would have arrived in the appropriate office in the ordinary course of the post within the period prescribed by paragraph (2)(c) but is delayed by postal disruption caused by industrial action whether within the postal service or elsewhere, that period shall expire on the day the application is received at the appropriate office if that day does not fall within the period prescribed by paragraph (2)(c).

(4) The adjudication officer shall proceed to deal with any question arising on a review to which this regulation applies in accordance with sections 9 and 10 and regulations 31 to 39.

(5) The claimant shall be notified of any determination of, or direction given by, an adjudication officer on a review to which this regulation applies and shall be notified of his right to appeal to a social security appeal tribunal against any such determination or direction under section 11(3).

(6) Accidental errors in, or in the record of, any determination of, or direction given by, an adjudication officer on a review to which this regulation applies may be corrected by the adjudication officer who made the determination, or gave the direction, or by another adjudication officer.

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(13) S.I. 1975/556; relevant amending instruments are S.I. 1976/1736; 1977/788; 1978/409; 1981/1501; 1982/96; 1983/197; 1987/414; 1987/687; 1988/516; 1988/1545; 1989/1627; 1992/726; 1994/1837 and 1995/829.

(7) A correction made to, or to the record of, a determination or direction shall be deemed to be part of the determination or direction or of that record and the claimant and the employment officer shall be notified of it in writing as soon as practicable.

### **Appeals to Social Security Appeal Tribunal**

**42.** Parts I and II and in Part III regulations 22(1) to (3) and 23 and 24 of the Social Security (Adjudication) Regulations 1995<sup>(14)</sup> shall apply in relation to appeals to the social security appeals tribunal under section 11(3) as they apply to appeals to that tribunal under the Social Security Administration Act 1992 with the following modifications—

- (a) in regulation 6(2), the addition of the words “or section 11(3) of the Jobseekers Act 1995 (c. 18)” after the words “Administration Act”;
- (b) in Schedule 2, after entry 11, the addition of—
  - (i) in column 1, the words “Appeal to an appeal tribunal against any determination of, or direction given by, an adjudication officer on a review under section 11 of the Jobseekers Act 1995”;
  - (ii) in column 2, the words— “the office of the Department for Education and Employment which the claimant is required to attend in accordance with a notice under regulation 23 of the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207), or any other place which he is so required to attend”;
  - (iii) in column 3, the words “3 months beginning with the date when notice in writing of the determination or direction was given to the claimant”.

### **Direction of Social Security Appeal Tribunal: time limit for compliance**

**43.** The prescribed period for the purposes of section 11(5) shall be the period of 21 days beginning with the date on which the direction was issued.

### **Appeals to the Commissioner**

**44.** The Social Security Commissioners Procedure Regulations 1987<sup>(15)</sup>, except regulations 8, 12(2), 23, 28, 31(5), (6), (7) and (8), 32 and 33, shall apply in relation to appeals to the Commissioner under section 11(6) as they apply in relation to appeals under section 23 of the Administration Act.

### **Appropriate person**

**45.** A trade union or other association which exists to promote the interests and welfare of its members shall be an appropriate person for the purposes of section 11(6) where—

- (a) the claimant is a member of the union or of the association, as the case may be, at the time of the appeal and was so immediately before the question at issue arose; or
- (b) the question at issue is a question as to or in connection with entitlement of a deceased person who was at the time of his death a member of the union or of the association, as the case may be.

(14) S.I. 1995/1801.

(15) S.I. 1987/214.