

## STATUTORY INSTRUMENTS

**1996 No. 2567**

### **SOCIAL SECURITY**

#### **The Jobseeker's Allowance (Transitional Provisions) Regulations 1996**

<i>Made</i>	- - - -	<i>10th October 1996</i>
<i>Laid before Parliament</i>		<i>14th October 1996</i>
<i>Coming into force</i>	- -	<i>4th November 1996</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 35(1), 36(2) to (5) and 40 of the Jobseekers Act 1995<sup>F1</sup>, and of all other powers enabling him in that behalf, by this instrument, which is made for the purpose only of consolidating other regulations revoked by these Regulations<sup>F2</sup>, hereby makes the following Regulations:

**F1** 1995 c.18; [section 35\(1\)](#) is an interpretation provision and is cited because of the meanings ascribed to the words "prescribed" and "regulations".

**F2** See paragraph 10 of Schedule 7 to the [Social Security Administration Act 1992 \(c.5\)](#).

#### **Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Jobseeker's Allowance (Transitional Provisions) Regulations 1996 and shall come into force on 4th November 1996.

(2) In these Regulations—

"the Act" means the Jobseekers Act 1995;

"benefit week"—

- (a) where the benefit is income support, has the meaning it has in the Income Support Regulations by virtue of regulation 2(1) of those Regulations;
- (b) where the benefit is unemployment benefit, means a period of 7 days ending on the day corresponding to the particular day specified in a written notice last given him by the Secretary of State for the purpose of claiming unemployment benefit;
- (c) where the benefit is a jobseeker's allowance, has the same meaning it has in the Jobseeker's Allowance Regulations by virtue of regulation 1(3) of those Regulations<sup>F3</sup>;

"Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations 1987<sup>F4</sup>;

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"day of unemployment" means a day which would, for the purposes of section 25A of the Benefits Act as in force on 6th October 1996 <sup>F5</sup>, be treated as a day of unemployment;

"the Income Support Regulations" means the Income Support (General) Regulations 1987 <sup>F6</sup>;

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996 <sup>F7</sup>;

"jobseeking period" has the meaning specified in regulation 2;

"period of interruption of employment" in relation to unemployment benefit has the same meaning in these Regulations as it had in the Benefits Act by virtue of section 25A of that Act as in force on 6th October 1996;

"the relevant day" means—

- (a) in relation to income support, 6th October 1996; and
- (b) in relation to unemployment benefit—
  - (i) except in a case to which head (ii) applies, 5th October 1996; or
  - (ii) where in any particular case 6th October 1996 is a day of unemployment, that day;

"training" means training for which a training allowance is payable;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise; and
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by or on behalf of the Secretary of State for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 <sup>F8</sup>, or section 2 of the Enterprise and New Towns (Scotland) Act 1990 <sup>F9</sup> or is training as a teacher;

"transitionally protected period" means the period specified in regulation 10;

"the Unemployment Benefit Regulations" means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 <sup>F10</sup>.

(3) In these Regulations, unless the context otherwise requires a reference—

- (a) to a numbered section is to the section of the Act bearing that number;
- (b) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (c) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
- (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(4) For the avoidance of doubt, a person complies with any requirement or provision of these Regulations if he is treated as complying with that requirement or provision.

**F3** S.I. 1996/207; regulation 1(3) was amended by S.I. 1996/1517.

**F4** S.I. 1987/1968.

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- F5** Section 25A was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), section 11(1), [Schedule 1](#), paragraph 5.
- F6** [S.I. 1987/1967](#).
- F7** [S.I. 1996/207](#).
- F8** [1973 c.50](#).
- F9** [1990 c.35](#).
- F10** [S.I. 1983/1598](#); the relevant amending instrument is [S.I. 1989/2122](#).

## Jobseeking Period

2.—(1) For the purposes of these Regulations, but subject to the following provisions of this regulation, the “jobseeking period” means any period throughout which the claimant satisfies or is treated as satisfying the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1 (conditions of entitlement to a jobseeker’s allowance).

(2) Any period in which—

- (a) a claimant does not satisfy any of the requirements in section 1(2)(a) to (c); and
- (b) a jobseeker’s allowance is payable to him on the grounds that the adjudication officer is satisfied that unless a jobseeker’s allowance is paid to the claimant he or a member of his family will suffer hardship,

shall, for the purposes of paragraph (1), be treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1.

(3) Any period in which a claimant is entitled to a jobseeker’s allowance in accordance with regulation 13(3) shall, for the purposes of paragraph (1), be treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1.

(4) The following periods shall not be, or be part of, a jobseeking period—

- (a) any period in respect of which no claim for a jobseeker’s allowance has been made or treated as made;
- (b) such period as falls before the day on which a claim for a jobseeker’s allowance is made or is treated as made or, where good cause is shown for a claim outside the prescribed time for claiming, before the earliest date in respect of which good cause is shown;
- (c) where a claim for a jobseeker’s allowance has been made or treated as made but no entitlement to benefit arises in respect of a period before the date of claim by virtue of section 1(2) of the Administration Act (limits for backdating entitlement), that period;
- (d) where—
  - (i) a claimant satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1; and
  - (ii) entitlement to a jobseeker’s allowance ceases on the ground that the claimant failed to comply with requirements imposed by regulations made under section 8(1) (attendance, information and evidence),

the period beginning with the date in respect of which, in accordance with any such regulations, entitlement ceases and ending with the day before the date in respect of which the claimant again becomes entitled to a jobseeker’s allowance; or

- (e) any week in which a claimant is not entitled to a jobseeker’s allowance in accordance with section 14 (trade disputes).

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## Linking Periods

**3.—(1)** For the purposes of these Regulations, two or more jobseeking periods shall be treated as one jobseeking period where they are separated by a period comprising only—

- (a) any period of not more than 12 weeks;
- (b) a linked period;
- (c) any period of not more than 12 weeks falling between—
  - (i) any two linked periods; or
  - (ii) a jobseeking period and a linked period;
- (d) a period in respect of which the claimant is summoned to jury service and is required to attend court.

**(2)** Linked periods for the purposes of these Regulations are any of the following periods—

- (a) to the extent specified in [<sup>F11</sup>paragraph (5)], any period throughout which the claimant is entitled to an invalid care allowance [<sup>F12</sup>or carer's allowance, as the case may be,] under section 70 of the Benefits Act;
- (b) any period throughout which the claimant is incapable of work, or is treated as incapable of work, in accordance with Part XIIA of the Benefits Act <sup>F13</sup>;
- (c) any period throughout which the claimant was entitled to a maternity allowance under section 35 of the Benefits Act;
- (d) any period throughout which the claimant was engaged in training;
- (e) a period which includes 6th October 1996 during which the claimant attends court in response to a summons for jury service and which was immediately preceded by a period of entitlement to unemployment benefit.

**(3)** For the purpose of paragraph (4) a day of unemployment shall form part of a period of interruption of employment if a jobseeking period begins within 6 days of that day.

**(4)** Any period of interruption of employment which ends within 8 weeks of the commencement of a jobseeking period as described in regulation 2(1) shall be treated, for the purposes of this regulation, as a jobseeking period.

**(5)** A period of entitlement to an invalid care allowance [<sup>F12</sup>or carer's allowance, as the case may be,] shall be a linked period only where it enables the claimant to satisfy contribution conditions for entitlement to a contribution-based jobseeker's allowance which he would otherwise be unable to satisfy.

**F11** Words in reg. 3(2)(a) substituted (21.3.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), reg. 1(a), **4(2)**

**F12** Words in reg. 3 added (1.4.2003) by [Social Security Amendment \(Carer's Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), **Sch. 2 para. 3(b)**

**F13** Part XIIA was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), **section 5**.

## Termination and Cancellation of Awards of Income Support

**4.—(1)** An award of income support current in the benefit week which includes the relevant day ("the current benefit week") shall terminate immediately before the beginning of the benefit week which follows the current benefit week—

- (a) where—

- (i) the person entitled was required to satisfy the provisions of section 124(1)(d)(i) of the Benefits Act (available for and actively seeking employment) as in force on the relevant day; and
  - (ii) but for any provision of the Act and these Regulations, the award would have continued beyond the current benefit week; or
- (b) where the person—
  - (i) is not required, in accordance with regulation 8 of, and Schedule 1 to, the Income Support Regulations to be available for employment; and
  - (ii) is not a person to whom regulation 8 of the Claims and Payments Regulations (attendance in person) applies; and
  - (iii) does in fact make himself available for and actively seek employment and declares himself to be so.

(2) An award of income support to a person commencing on a date after the current benefit week, shall be cancelled where the person's entitlement was dependent upon his satisfying the requirements of section 124(1)(d)(i) of the Benefits Act (available for and actively seeking employment) as in force on the relevant day.

### **Transition from Unemployment Benefit to a Jobseeker's Allowance**

**5.—**(1) Paragraph (2) shall apply in the case of a person to whom unemployment benefit was payable in respect of the relevant day.

(2) In a case where, in accordance with a notice issued to him under regulation 19 of, and paragraph 1 of Schedule 5 to, the Claims and Payments Regulations, a person claims unemployment benefit—

- (a) on or after 7th October 1996 but before 13th October 1996 and in consequence of that claim unemployment benefit is awarded, that award shall have effect as—
  - (i) an award of unemployment benefit until the end of the benefit week that includes the relevant day; and
  - (ii) thereafter as an award of a jobseeker's allowance until such date as the claimant fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance that applies in his case;
- (b) on a day falling on or after 14th October 1996 but before 20th October 1996 and in consequence of that claim unemployment benefit is awarded, that award shall have effect as—
  - (i) an award of unemployment benefit for the first benefit week falling within the period of the claim; and
  - (ii) thereafter as an award of a jobseeker's allowance until such date as the claimant fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance which applies in his case.
- (3) An award of unemployment benefit—
  - (a) made in accordance with regulation 17(2)(b) of the Claims and Payments Regulations; or
  - (b) which is made on or after 7th October 1996 for a period commencing before 7th October 1996,

and which extends beyond the benefit week which includes the relevant day shall terminate at the end of that benefit week.

(4) In the case of a person to whom paragraph (2) or (3) applies, his entitlement to unemployment benefit in the benefit week which includes the relevant day shall be determined as if the provisions

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of the Benefits Act, the Administration Act and the Regulations made under those Acts relating to unemployment benefit had continued in force in his case until the end of that benefit week and as if the Act did not apply to him in that benefit week.

(5) A person who is treated as making a claim for a jobseeker's allowance under this regulation shall, if he satisfies the conditions of entitlement to unemployment benefit in force on 6th October 1996, but subject to the provisions of these Regulations, be treated as satisfying the requirements of sections 1 and 2.

### **Transition from Unemployment Benefit to a Jobseeker's Allowance: further provisions**

**6.—**(1) A person who has an award of unemployment benefit, or unemployment benefit and income support, for the benefit week that includes the 7th October 1996, but to whom unemployment benefit is not payable in respect of the relevant day shall—

- (a) be treated as having an award of a jobseeker's allowance from the first day of the benefit week after the benefit week that includes the relevant day until such date as he fails to satisfy, or ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance that applies in his case; and
- (b) be treated as satisfying the requirements of section 1(2)(b) (jobseeker's agreement) until the day he actually enters into a jobseeker's agreement in accordance with section 9(1) or until, in a case where a proposed jobseeker's agreement is referred to an adjudication officer for him to determine, the day the adjudication officer gives a direction in accordance with section 9(7).

(2) For the purposes of paragraph (1), a person who is disqualified for receiving unemployment benefit in accordance with section 28 of the Benefits Act as in force on 6th October 1996 for the benefit week that includes 7th October 1996 shall be treated as having an award of unemployment benefit for that week.

(3) A person who, in respect of his claim for unemployment benefit, or unemployment benefit and income support, has restricted the hours he is available for work to 40 hours or more a week, shall be treated as having recorded his pattern of availability in the jobseeker's agreement he is treated as having entered into under paragraph (1)(b).

### **Jobseeker's Allowance to replace Income Support and Unemployment Benefit**

**7.—**(1) Subject to the following provisions of this regulation, a person who is paid benefit in respect of the relevant day in accordance with an award of income support or unemployment benefit, or income support and unemployment benefit, and the award is terminated in accordance with the preceding provisions of these Regulations shall be treated as having been awarded a jobseeker's allowance for a period commencing on the first day of the next benefit week to begin for that claimant on or after 7th October 1996 and continuing until such date as he fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance, except in relation to a contribution-based jobseeker's allowance, those specified in sections 1(2)(e) and 2(1)(c), which applies in his case.

(2) A person whose award of income support is cancelled in accordance with regulation 4(2) shall be treated as having been awarded an income-based jobseeker's allowance as from the date the award of income support would have taken effect and continuing until such date as he fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance which applies in his case.

(3) A person—

- (a) to whom unemployment benefit was payable in respect of the relevant day; and

- (b) to whom unemployment benefit was not payable in respect of either 6th or 7th April 1996; and
  - (c) who had on the relevant day been entitled to unemployment benefit for 156 days or more (including the relevant day) in the period of interruption of employment which included the relevant day,
- shall not be treated as entitled to a contribution-based jobseeker's allowance in accordance with paragraph (1) nor as having an award of a jobseeker's allowance in accordance with regulation 5(2).

### **Claims for Entitlement to a Jobseeker's Allowance**

8.—(1) The following provisions of this regulation shall apply in the case of a person who is treated as having an award of a jobseeker's allowance in accordance with regulation 5 or 7.

(2) A person to whom regulation 5 or 7 applies shall be treated as having satisfied the condition mentioned in section 1(2)(b) (jobseeker's agreement) for so long as the award is in force or, if earlier, until the day he actually enters into such an agreement in accordance with section 9(1) or until, in a case where a proposed jobseeker's agreement is referred to an adjudication officer for him to determine, the day the adjudication officer gives a direction in accordance with section 9(7).

(3) A person who, in respect of his claim for income support or unemployment benefit, or income support and unemployment benefit, has restricted the hours he is available for work to 40 hours or more a week shall be treated as having recorded his pattern of availability in the jobseeker's agreement he is treated as having entered into under paragraph (2).

(4) In the case of a person to whom unemployment benefit was payable in respect of either 6th or 7th April 1996 and where the period of interruption of employment that was current on that date was also current on the relevant day—

- (a) section 5(1) shall have effect as if the reference to 182 days was a reference to 312 days [F14]but only in so far as this sub-paragraph has effect in the case of any person in respect of any date falling before 1st December 1997] ; and
- (b) in any benefit week commencing on or after 7th October 1996, Sunday or such other day of the week which before that date was, in the claimant's case, substituted for Sunday in accordance with regulation 4 of the Unemployment Benefit Regulations as in force on 6th October 1996 F15 shall be disregarded solely for the purpose of determining whether in the aggregate a person has been entitled to a contribution-based jobseeker's allowance for 312 days.

(5) In the case of a person to whom unemployment benefit was not payable in respect of either 6th or 7th April 1996—

- (a) section 5(1) shall have effect as if the reference to 182 days was a reference to 156 days; and
- (b) in any benefit week commencing on or after 7th October 1996, Sunday or such other day of the week which before that date was, in the claimant's case, substituted for Sunday in accordance with regulation 4 of the Unemployment Benefit Regulations as in force on 6th October 1996 shall be disregarded solely for the purpose of determining whether in the aggregate a person has been entitled to a contribution-based jobseeker's allowance for 156 days.

(6) Any day of unemployment which fell within a period of interruption of employment current on the relevant day shall be treated as a day of entitlement to a contribution-based jobseeker's allowance for the purpose of determining whether the 182 days mentioned in section 5(1), or 312 days in a case to which [F16]paragraph (4)] applies [F17]or 156 days in a case to which paragraph (5) applies], has been exceeded.

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(7) In the case of a person who on the relevant day—

- (a) was summoned for jury service and unemployment benefit was payable to him in respect of the day immediately preceding the day on which he was required to serve as a juror; or
- (b) was taking part in training and unemployment benefit or income support was, or both were, payable to him in respect of the day immediately preceding the day in respect of which that training began; and
- (c) would, but for being summoned for jury service or taking part in training, have been available for and actively seeking employment,

he shall be treated for the purposes of these Regulations as if—

- (i) on the relevant day, he had an award of unemployment benefit if he had such an award immediately before the jury service or, as the case may be, the training began; or
- (ii) on the relevant day, he had an award of income support if he had such an award before the training began; and
- (iii) the award he was treated as having was terminated in accordance with paragraph (1) or, as the case may be, paragraph (2) of regulation 4.

(8) Where a person to whom paragraph (7) applies had been entitled to an increase in his unemployment benefit in respect of an adult dependant and that increase was payable to him immediately preceding the day on which he was required to serve as a juror or the day training began, he shall be treated for the purposes of these Regulations as if that increase was payable to him in respect of the relevant day.

(9) In the case of a person to whom the requirements of one or more of sub-paragraphs (a), (b) or (c) of paragraph (7) apply on either 6th or 7th April 1996, regulation 7 shall apply in his case as if he had in fact been in receipt of unemployment benefit for one of those days.

(10) In the case of a person who on the relevant day—

- (a) was summoned for jury service and was required to serve as a juror; and
- (b) was entitled to income support; and
- (c) would but for being summoned for jury service have been available for and actively seeking employment,

and where income support was payable to him in respect of the day immediately preceding the day on which he was required to serve as a juror, his award of income support shall end at the end of the benefit week which includes the last day in respect of which he was summoned for jury service and regulation 7 shall apply in his case as if paragraph (1) referred to that benefit week and not the benefit week which commenced on or after 7th October 1996.

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| <b>F14</b> | Words in reg. 8(4)(a) inserted (1.12.1997) by <a href="#">The Jobseeker's Allowance (Amendment) (No. 2) Regulations 1997 (S.I. 1997/2677)</a> , regs. 1, <b>3</b>          |
| <b>F15</b> | Regulation 4 was amended by <a href="#">S.I. 1995/829</a> .  |
| <b>F16</b> | Words in reg. 8(6) substituted (21.3.1997) by <a href="#">The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454)</a> , regs. 1(a), <b>4(3)(a)</b> |
| <b>F17</b> | Words in reg. 8(6) inserted (21.3.1997) by <a href="#">The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454)</a> , regs. 1(a), <b>4(3)(b)</b>    |

### Further provisions applying to a continuing entitlement to a Jobseeker's Allowance

9.—(1) A person's continuing entitlement to a jobseeker's allowance shall be subject to the following provisions of this regulation where an award of jobseeker's allowance—

- (a) is made on a claim treated as made for that benefit in accordance with regulation 5; or



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- (b) has effect in accordance with regulation 7.
- (2) A claimant is required to satisfy—
- (a) the conditions of entitlement set out in section 1(2)(a) to (c) on a weekly basis; and
  - (b) the other conditions for entitlement to a contribution-based jobseeker's allowance other than those specified in sections 1(2)(e) and 2(1)(c), for each day of the week except Sunday or, where in a particular case another day was substituted for Sunday under regulation 4 of the Unemployment Benefit Regulations <sup>F18</sup> as in force on 6th October 1996, except that day of the week.
- (3) Paragraph (4) applies—
- (a) as from the first day in the benefit week which in a particular case immediately follows the benefit week which includes 6th April 1997 except in the case of a person whose transitionally protected period ended before that date; or
  - (b) as from the first day in an award of a jobseeker's allowance where the claimant satisfied the requirements of section 2 and where—
    - (i) that day forms part of a jobseeking period separated by more than 8 weeks but less than 12 weeks from the last day of the transitionally protected period, or where there is no such day, the relevant day if unemployment benefit was payable in respect of that day; [<sup>F19</sup>or]
    - (ii) that day [<sup>F20</sup>is after the last day of the transitionally protected period and] forms part of a jobseeking period which is separated by not more than 12 weeks from a period of interruption of employment <sup>F21</sup>...
    - <sup>F22</sup>(iii) .....
- (4) Where this paragraph applies the number of days which are to be aggregated for the purposes of section 5(1) shall be determined in accordance with the formula—

$$(A + B) \times \frac{7}{6}$$

where—A=the number of days entitlement to unemployment benefit in any period of interruption of employment to which paragraph (3) refers;

B=the number of days entitlement to a contribution-based jobseeker's allowance falling within the transitionally protected period.

- (5) Any fraction produced by applying the formula set out in paragraph (4) shall be disregarded.
- (6) Paragraphs (4) and (5) shall apply to a claimant to whom a jobseeker's allowance is awarded other than in accordance with regulation 5 or 7 where—
- (a) the first day of that award forms part of a jobseeking period which is separated by not more than 12 weeks from a period of interruption of employment; or
  - (b) the tax years which in accordance with section 2 are to be satisfied for entitlement to a contribution-based jobseeker's allowance to arise are the same tax years as those by reference to which entitlement to unemployment benefit arose on a claim made by the claimant in respect of a day before 7th October 1996.

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- F18** Regulation 4 was amended by [S.I. 1995/829](#).
- F19** Word in reg. 9(3)(b)(i) inserted (21.3.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(a), [4\(4\)\(a\)](#)
- F20** Words in reg. 9(3)(b)(ii) inserted (21.3.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(a), [4\(4\)\(b\)](#)
- F21** Word in reg. 9(3)(b)(ii) omitted (21.3.1997) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(a), [4\(4\)\(c\)](#)
- F22** Reg. 9(3)(b)(iii) omitted (21.3.1997) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(a), [4\(4\)\(d\)](#)

### Transitionally Protected Period

**10.**—(1) The transitionally protected period commences in the case of any particular claimant on the first day in the benefit week which commences in his case on or after 7th October 1996 and applies to a claimant—

- (a) who was awarded a jobseeker's allowance on a claim treated as made under regulation 5(2); or
- (b) whose award of unemployment benefit terminated in accordance with regulation 5(3).

(2) The transitionally protected period ends in the case of any particular claimant on the last day in the benefit week which includes 6th April 1997 or, if earlier, on the termination of any period of entitlement to a contribution-based jobseeker's allowance which does not link, in accordance with this regulation, with any subsequent period of entitlement to a contribution-based jobseeker's allowance.

(3) For the purposes of determining whether in any particular case the transitionally protected period has ended, periods of entitlement to a contribution-based jobseeker's allowance—

- (a) separated by not more than 8 weeks shall link;
- (b) separated by more than 8 weeks shall not link,

and in determining whether any particular periods of entitlement link, any period which is for the purposes of regulation 3(2) a linked period shall be disregarded.

(4) Where a person—

- (a) is entitled to a jobseeker's allowance and that entitlement falls within the transitionally protected period;
- (b) satisfies the requirements of section 2 but not those of section 3; and
- (c) unemployment benefit was payable in respect of the relevant day and the benefit included an increase for an adult dependant,

that dependency increase shall be payable as an addition to the person's contribution-based jobseeker's allowance but only for so long as he continues to satisfy the conditions of entitlement to the dependency increase which applied on that day, and the provisions of Part III of the Social Security (Dependency) Regulations 1977 <sup>F23</sup> and Part III of the Social Security (Hospital In-Patients) Regulations 1975 <sup>F24</sup> as they apply to unemployment benefit as in force on 6th October 1996 shall apply to it.

(5) Where a person had not attained the age of 55 on the relevant day then for any week falling within the transitionally protected period in which he has still not attained that age section 30 of the Benefits Act shall apply in his case as if it had not been repealed, and the deductions prescribed under section 4(1)(b) in so far as they relate to pension payments shall not be made.

(6) In the case of a person who, on the relevant day—

- (a) had attained pensionable age; and

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- (b) to whom unemployment benefit was payable in accordance with an award made by virtue of section 25(2)(b) or (c) of the Benefits Act,

his continuing entitlement to a contribution-based jobseeker's allowance shall be determined in the transitionally protected period as if those provisions of the Benefits Act continued to apply in his case and the requirement of section 1(2)(h) did not apply, but subject to section 5(1) and regulation 9 (further provisions applying to a continuing entitlement to a jobseeker's allowance).

(7) In the transitionally protected period, where the weekly amount payable in accordance with section 4(1)(a) is less than the amount of unemployment benefit payable in the claimant's case for the benefit week which includes the relevant day or which would have been payable in that week, but for any adjustments made in that week, in accordance with paragraph 1 of [<sup>F25</sup>Part I of] Schedule 4 to the Benefits Act, the age-related amount applicable in that case shall be an amount equal to the amount formerly payable by way of unemployment benefit under that provision.

(8) In paragraph (7) the reference to the amount of unemployment benefit includes a reference to the amount of unemployment benefit which would have been payable had not the claimant been summoned as a juror or been undergoing training.

(9) Where a person is entitled to an income-based jobseeker's allowance, an amount equal to any dependency increase payable to him in accordance with section 82 of the Benefits Act in respect of an adult dependant for the relevant day who does not reside with him, or any dependency increase payable to him in accordance with section 80(2)(a) of the Benefits Act in respect of the relevant day in respect of a child who does not reside with him, shall be—

- (a) included in the applicable amount of the person; and
- (b) disregarded in determining the amount of the person's income,

but only for so long as he continues to satisfy the conditions of entitlement to the dependency increase which applied on that day, or until the end of the benefit week which for him includes 7th April 1997, whichever is the earlier.

(10) In a case where unemployment benefit was payable in respect of the relevant day and the benefit included an increase for an adult dependant, continuing entitlement to the benefit and the increase shall be determined as if the provisions of regulation 14(1)(b) of the Social Security (Overlapping Benefits) Regulations 1979 <sup>F26</sup> continued to apply, notwithstanding that those provisions have ceased to have effect.

(11) In the transitionally protected period, the provisions of regulation 14(2) of the Social Security (Overlapping Benefits) Regulations 1979 shall continue to apply in order to adjust the amount of unemployment benefit payable to a claimant for part of a week, notwithstanding that those provisions have ceased to have effect.

**F23** [S.I. 1977/343](#); relevant amending instrument is [S.I. 1996/1345](#).

**F24** [S.I. 1975/555](#).

**F25** Words in [reg. 10\(7\)](#) inserted (21.3.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), [regs. 1\(a\), 4\(5\)](#)

**F26** [S.I. 1979/597](#).

## Saving provisions

**11.—**(1) During the transitionally protected period—

- (a) regulation 3(3), (4A), (4B), (5) and (6) of the Social Security Benefit (Computation of Earnings) Regulations 1978 <sup>F27</sup> as in force on 6th October 1996 shall continue to apply for the purposes of calculating or estimating a person's earnings in determining his entitlement to a contribution-based jobseeker's allowance; and

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- (b) regulation 4 of the Unemployment Benefit Regulations as in force on 6th October 1996 shall continue to apply for the purpose of determining whether a day of the week substituted for Sunday shall be disregarded in calculating a person's aggregate entitlement to a contribution-based jobseeker's allowance.

**F27** [S.I. 1978/1698](#); relevant amending instruments are [S.I. 1989/606](#) and 2123 and 1992/300.

### **Jurors entitled to Income Support on the relevant day**

**12.**—(1) This regulation applies to a person who in the benefit week which includes the relevant day was a juror and—

- (a) was entitled to income support without satisfying the requirement that he be available for employment in that week by virtue of regulation 8(1) of, and paragraph 17 of Schedule 1 to, the Income Support Regulations;
  - (b) immediately before commencing his duties as a juror was entitled to income support where the applicable amount was reduced in accordance with regulation 21A or 22 of the Income Support Regulations <sup>F28</sup>; and
  - (c) before the benefit week which includes 6th April 1997, he ceases to be a juror.
- (2) When the person to whom paragraph (1) applies ceases to be a juror—
- (a) his award of income support shall terminate at the end of the benefit week in which he ceases to be a juror; and
  - (b) he shall be treated as having been awarded an income-based jobseeker's allowance for a period commencing on the first day of the benefit week which follows the benefit week in which his award of income support is terminated.

(3) Where an amount prescribed in accordance with section 4(5) which is applicable in the case of a person treated as having been awarded an income-based jobseeker's allowance under paragraph (2) (b) is less than the amount which was applicable for the purpose of his award of income support under Schedule 2, or, as the case may be, Schedule 7 to the Income Support Regulations, reduced in accordance with regulation 21A or 22 of those Regulations, in the last benefit week to which his applicable amount was subject to such a reduction, then the higher amount which was applicable in the award of income support shall also be applicable for the purposes of determining the amount of income-based jobseeker's allowance payable in his case.

(4) An award having effect in accordance with this regulation shall continue until such date as the claimant fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement which applies in his case, or if earlier, until the end of the benefit week which includes 6th April 1997.

**F28** [Regulation 21A](#) was inserted by [S.I. 1990/2324](#); the relevant amending instrument is [S.I. 1993/315](#).  
Regulation 22 is amended by [S.I. 1987/1969](#), 1988/663, 1989/43, 534, 1034, 1324, 1990/547, 1991/236, 1995/482.

### **Earnings during the Transitionally Protected Period**

**13.**—(1) During the transitionally protected period, a person's entitlement to a contribution-based jobseeker's allowance shall be subject to the conditions set out in this regulation.

(2) A person's entitlement to a contribution-based jobseeker's allowance in any week is subject to the condition that, on each day in that week he continues to satisfy the requirements of regulations 7(1)(g)(i) and (iii) and (o) of the Unemployment Benefit Regulations as in force on 6th

October 1996, except on a day on which regulation 9 of those Regulations would have applied to him, notwithstanding that those provisions have ceased to have effect but as if the references to regulations 10, 11 and 12 were omitted and as if regulation 7(5B) <sup>F29</sup> continued to apply.

(3) Regulation 7(1)(g)(i) and (iii) and (o) of the Unemployment Benefit Regulations shall apply as if the reference to "unemployment benefit" was a reference to a contribution-based jobseeker's allowance, and as if for references to "day of unemployment" there were substituted references to a day on which a person satisfies the conditions of entitlement to a jobseeker's allowance specified in sections 1(2)(a) to (c) and (f) to (i) and 2(1)(a), (b) and (d).

(4) Where a person has one or more days in any week on which he fails to satisfy the conditions of paragraph (2)—

- (a) he may nonetheless qualify for a contribution-based jobseeker's allowance on the other days in that week except Sunday or the day which in his case was substituted for Sunday in accordance with regulation 4 of the Unemployment Benefit Regulations <sup>F30</sup> as in force on 6th October 1996; and
- (b) except where sub-paragraph (c) applies, the amount of the contribution-based jobseeker's allowance payable to him in that week shall be reduced by an amount equal to one-sixth of the weekly amount for each day in that week on which he fails to satisfy those requirements; or
- (c) no contribution-based jobseeker's allowance shall be payable to him in that week where, had regulation 7(1)(o) of the Unemployment Benefit Regulations (weekly earnings in excess of lower earnings limit) as in force on 6th October 1996 applied in his case, no unemployment benefit would have been payable for that week.

(5) Where a person has one or more days in a week on which he fails to satisfy the conditions specified in paragraph (2) and in consequence of which a jobseeker's allowance is not payable, those days shall not be treated as days of entitlement to a contribution-based jobseeker's allowance for the purposes of section 5(1).

**F29** Regulation 7(5B) was inserted by S.I. 1995/2192.

**F30** Regulation 4 was amended by S.I. 1995/829.

## Earnings generally

**14.—**(1) In the transitionally protected period, the amount of a person's earnings shall, for the purpose of determining a person's entitlement to an amount of a contribution-based jobseeker's allowance, be calculated or estimated in accordance with section 3 of the Benefits Act and regulations 2 to 4 of the Social Security Benefit (Computation of Earnings) Regulations 1978 <sup>F31</sup>.

(2) In any case where—

- (a) the amount of a person's earnings are determined in accordance with provisions which applied before 7th October 1996 ("the old rules"); and
- (b) the person's earnings subsequently fall to be determined in accordance with the provisions of the Act and the regulations made thereunder ("the new rules"),

any earnings determined in accordance with the old rules shall be disregarded for the purposes of the new rules.

**F31** S.I. 1978/1698; the relevant amending instruments are S.I. 1979/359, 1989/606, 1989/1642, 2123, 1990/2208, 1992/300 and 1995/829.

**Part-time Students**

**15.—(1)** This regulation applies to a person (referred to in this regulation as a “participant”) to whom regulation 5 or 7 applies and who on 31st July 1996 was entitled to income support or unemployment benefit.

(2) In the case of a participant who on 31st July 1996 was treated as available for employment in accordance with regulation 9(1)(c) of the Income Support Regulations, he shall continue to be treated as available for employment for the purposes of a jobseeker's allowance, notwithstanding any regulation to the contrary, for so long as he continues to satisfy—

- (a) the requirements of regulation 9(1)(c) of the Income Support Regulations as in force on 31st July 1996; and
- (b) the provisions of paragraph (4).

(3) A participant who on 31st July 1996—

- (a) although attending a course of study within the meaning of regulation 7(3)(c) of the Unemployment Benefit Regulations was not a student for the purposes of regulation 7(1)(m) of those Regulations <sup>F32</sup>; or
- (b) although attending a course of study was not a student for the purposes of regulation 10 of the Income Support Regulations <sup>F33</sup>,

shall be treated for the purposes of any regulations relating to a jobseeker's allowance as if he was a part-time student within the meaning of those regulations for so long as he continues—

- (i) to attend the course of study referred to in sub-paragraph (a) or (b); and
- (ii) to satisfy the provisions of paragraph (4).

(4) The provisions of this paragraph are that—

- (a) the participant continues to follow the course of study or, as the case may be, the course of education, training or instruction, which he was following on 31st July 1996; and
- (b) his award of a jobseeker's allowance which arose in accordance with regulation 5 or on a claim treated as made under regulation 7 has not terminated and for the purpose of determining whether the award has terminated any period which is a linked period under regulation 3 shall be disregarded and two awards separated by a linking period shall be treated as a single award.

**F32** Regulation 7(1)(m) and (3) was substituted by [S.I. 1990/1549](#).

**F33** The relevant amending instruments are [S.I. 1990/1549](#) and 1657.

**Claimants subject to disqualification or reduction in benefit**

**16.—(1)** In the case of a person who on the relevant day was disqualified for receiving unemployment benefit in accordance with section 28 of the Benefits Act for a period which would not, but for the replacement of unemployment benefit with a jobseeker's allowance, have expired on that day, the award of a contribution-based jobseeker's allowance which arises under regulation 6 (Transition from Unemployment Benefit to a Jobseeker's Allowance: further provisions) shall not be payable for the balance of that period.

(2) A period of disqualification for receiving unemployment benefit as referred to in paragraph (1) shall be treated as a period during which a contribution-based jobseeker's allowance was not payable to the claimant under section 19 and days during that period shall be treated as days of entitlement to a contribution-based jobseeker's allowance for the purposes of section 5(1).

(3) In the case of a person who on the relevant day was entitled to income support at a rate reduced in accordance with regulation 21A or 22 of the Income Support Regulations <sup>F34</sup>, any award



of an income-based jobseeker's allowance which has effect in accordance with regulation 7 shall be payable at the rate appropriate under section 4(3), reduced by a sum equal to the amount by which the income support had been reduced and only the balance (if any) shall be payable.

(4) In the case of a person who on the relevant day had an award of income support and whose weekly applicable amount was reduced after the relevant day in accordance with regulation 21A of the Income Support Regulations—

- (a) any award of an income-based jobseeker's allowance shall be reduced by a sum equal to an amount by which the weekly applicable amount would have been reduced; and
- (b) any denial of a jobseeker's allowance in accordance with section 19 of the Act in respect of the period during which the weekly applicable amount would have been reduced shall be disregarded.

(5) The reduction mentioned in paragraph (3) or (4) shall end—

- (a) in a case where the claimant was disqualified for receiving unemployment benefit and paragraph (1) applies, on the day after the day the balance of the period mentioned in that paragraph ends;
- (b) where a claim for unemployment benefit by the claimant, or a question which arose in connection with his award of unemployment benefit, had not been determined on the relevant day, on the day that claim or question is determined in the claimant's favour;
- (c) except in a case which has already ended in accordance with sub-paragraph (a) or (b), on whichever day is the earlier of—
  - (i) the date the award of an income-based jobseeker's allowance terminates; or
  - (ii) the benefit week which included 6th April 1997.

(6) In the case of a person to whom a jobseeker's allowance is not payable in accordance with section 19 or paragraph (1) for a period ending before or during the benefit week which includes 6th April 1997—

- (a) where the period during which a jobseeker's allowance was not payable ends during a benefit week, any award of an income-based jobseeker's allowance under section 20(4) or paragraph (3) shall end on the last day of the previous benefit week;
- (b) where the period during which a jobseeker's allowance was not payable ends on the last day of a benefit week, any award of an income-based jobseeker's allowance under section 20(4) or paragraph (3) shall end on that day.

(7) For the purpose of determining in accordance with paragraph (5)(c)(i) whether an award has terminated, periods of entitlement to an income-based jobseeker's allowance—

- (a) separated by not more than 8 weeks shall link;
- (b) separated by more than 8 weeks shall not link,

and in determining whether any particular periods of entitlement link, any period which is for the purposes of regulation 3(2) a linked period shall be disregarded.

**F34** Regulation 21A was inserted by [S.I. 1990/2324](#); the relevant amending instrument is [S.I. 1993/315](#).  
Regulation 22 is amended by [S.I. 1987/1969](#), 1988/663, 1989/43, 534, 1034, 1324, 1990/547, 1991/236, 1995/482.

### Treatment of Contribution-based Jobseeker's Allowance as Earnings

**17.—(1)** In the transitionally protected period, a payment of a contribution-based jobseeker's allowance which falls to be taken into account in determining the income of any person shall be treated as if it was payable on a daily basis for six days per week.

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(2) Paragraph (1) shall apply only in a case where the contribution-based jobseeker's allowance is payable to a person who was entitled to unemployment benefit in the benefit week which included the relevant day.

(3) The days of the week in respect of which the payment is treated as made shall be the same days as those in respect of which unemployment benefit was paid in the benefit week which included the relevant day.

(4) The amount payable in respect of each of the 6 days shall be calculated—

- (a) except where sub-paragraph (b) applies, by dividing the total benefit payable for the week by 6; or
- (b) where payment is made for a part-week by dividing the total benefit payable by the number of days in the part-week and assigning no amount to the remaining days.

### **Questions not immediately ascertainable**

**18.**—(1) During the transitionally protected period, where on consideration of a claim or question relating to a jobseeker's allowance it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, that benefit depends on the determination of—

- (a) a question as to the amount of housing costs to be included in the claimant's applicable amount, and the adjudication officer is satisfied that not all the housing costs can be immediately ascertained, he shall proceed to determine the claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those which are immediately ascertainable;
- (b) a question as to whether the conditions specified in section 1(2) other than sub-paragraph (d)(i), or a question as to whether the conditions specified in section 2, other than those specified in sub-section (1)(c) or (d), are satisfied, and the adjudication officer is satisfied that the answer to one of those questions cannot be immediately ascertained, he shall proceed to determine the claim on the assumption that the answers to either question are those which are immediately ascertainable;
- (c) any of the questions mentioned in paragraph (2), and he is satisfied that the questions cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of that question will be adverse to the claimant.

(2) The questions referred to in paragraph (1)(c) are—

- (a) whether section 19 (circumstances in which a jobseeker's allowance is not payable) applies for any period;
- (b) whether in relation to any claimant the applicable amount includes an amount by way of a severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e) of, and paragraph 13 of Schedule 2 to, the Income Support Regulations (applicable amounts).

(3) A determination relating to a jobseeker's allowance made in accordance with the foregoing provisions of this regulation shall be reviewed where it is necessary to give effect to any determination on a question to which those provisions apply.

### **Claims for a Jobseeker's Allowance**

**19.**—(1) Claims made on or after 7th October 1996 for a jobseeker's allowance may be treated by the Secretary of State as a claim in addition to, or as a claim for unemployment benefit or income support or both for a period before 7th October 1996.

(2) A claim treated as made for unemployment benefit or income support in accordance with paragraph (1) shall be treated as made on the day the claim for a jobseeker's allowance was made.



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## Attendance

**20.** For the purposes of these Regulations, a direction to attend an unemployment benefit office or to attend an office for the purposes of furnishing information or evidence under regulation 8(1) or (2) of the Claims and Payments Regulations in respect of a claim for income support or unemployment benefit and a written notice to attend an interview as referred to in regulation 7(1)(i) of the Unemployment Benefit Regulations shall continue to apply and both the direction and the written notice shall be treated as a notice under regulation 23 of the Jobseeker's Allowance Regulations.

## Evidence and information

**21.—(1)** In the period commencing on 7th October 1996 and ending on 20th October 1996, the requirement to provide information or evidence on or by a particular date under regulation 7(1) or 32(1) of the Claims and Payments Regulations shall continue to apply and shall be treated as a requirement to provide a signed declaration under regulation 24(6) of the Jobseeker's Allowance Regulations on the day specified by the Secretary of State in accordance with regulation 24(10) of those Regulations.

(2) Where a claimant has complied with regulation 7(1) or 32(1) of the Claims and Payments Regulations during the period commencing on 30th September 1996 and ending on 13th October 1996 for the purpose of claiming income support or unemployment benefit, information provided under those provisions shall be treated as satisfying the requirements of regulation 24(6) of the Jobseeker's Allowance Regulations.

(3) During the period commencing on 30th September 1996 and ending on 27th October 1996 for the purposes of regulation 26 of the Jobseeker's Allowance Regulations, the reference to a claimant providing information or evidence which shows that he continues to be entitled to a jobseeker's allowance shall include a reference to the requirement to comply with regulation 7(1) or 32(1) of the Claims and Payments Regulations for the purpose of claiming income support or unemployment benefit, and the reference to the day after he last attended in compliance with a notice under regulation 23 of the Jobseeker's Allowance Regulations shall include a reference to the first day of his award of a jobseeker's allowance.

## Revocations

**22.** These Regulations revoke the Jobseeker's Allowance (Transitional Provisions) Regulations 1995 <sup>F35</sup>, the Jobseeker's Allowance (Transitional Provisions) (Amendment) Regulations 1996 <sup>F36</sup>, regulation 2 of the Social Security and Child Support (Jobseeker's Allowance) (Transitional Provisions) (Amendment) Regulations 1996 <sup>F37</sup>, regulation 2 of the Social Security (Jobseeker's Allowance and Payments on account) (Miscellaneous Amendments) Regulations 1996 <sup>F38</sup> and regulation 3 of the Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 <sup>F39</sup>.

**F35** [S.I. 1995/3276.](#)

**F36** [S.I. 1996/1515.](#)

**F37** [S.I. 1996/2378.](#)

**F38** [S.I. 1996/2519.](#)

**F39** [S.I. 1996/2538.](#)

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Signed by authority of the Secretary of State for Social Security.

Department of Social Security

*Roger Evans*  
Parliamentary Under-Secretary of State,

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations contained in this Instrument are made by virtue of provisions in the Jobseekers Act 1995 (c.18). This Instrument revokes the Jobseeker's Allowance (Transitional Provisions) Regulations 1995 (S.I. 1995/3276), the Jobseeker's Allowance (Transitional Provisions) (Amendment) Regulations 1996 (S.I. 1996/1515), regulation 2 of the Social Security and Child Support (Jobseeker's Allowance) (Transitional Provisions) (Amendment) Regulations 1996 (S.I. 1996/2378), regulation 2 of the Social Security (Jobseeker's Allowance and Payments on account) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2519) and regulation 3 of the Social Security and child support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538) and consolidates the provisions of those Regulations. The regulations in it are therefore exempt from the requirement in section 172(1) of the Social Security Administration Act 1992 (c.5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

These Regulations provide for continuity between unemployment benefit and income support for those who are required to be available for and actively seeking employment, and jobseeker's allowance.

Regulation 1 contains provisions relating to citation, commencement and the interpretation of expressions used in the Regulations.

Regulation 2 contains an extended definition of the term "jobseeking period" and regulation 3 identifies certain other periods (referred to as "linked period") which are taken into account in determining whether a jobseeking period is continuing.

The Regulations also contain provisions—

- 0 for awards of income support made to those required to be available for and actively seeking employment to be terminated and replaced by awards of a jobseeker's allowance (regulations 4 and 7);

- 0 for continuity between unemployment benefit and jobseeker's allowance (regulations 5, 6 and 7);

- 0 setting out the conditions a claimant needs to satisfy for an award of a jobseeker's allowance arising under these Regulations to continue (regulations 9 and 10);

- 0 for transitional protection to be given for a limited period to persons formerly entitled to unemployment benefit or income support (regulations 10, 11 and 12).

Regulations 13 to 17 provide for the same rules ("the old rules") which applied to the former unemployment benefit and to income support to apply to some claimants whose entitlement to a jobseeker's allowance arises in accordance with these Regulations. The old rules apply to the calculation of earnings, disqualification for benefit and students.

Regulation 18 allows an adjudication officer, in a situation where not all the answers to questions relating to a claim can be immediately ascertained, to determine the claim on the basis that the answers are immediately ascertainable.

Regulation 19 enables claims for a jobseeker's allowance to be treated also as claims for the former unemployment benefit or for income support or for both.

Regulations 20 and 21 deal with attendance and the provision of information, and regulation 22 with revocations.

These Regulations do not impose a charge on businesses.

**Status:**

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