

2010 No. 509

SOCIAL SECURITY

**The Jobseeker's Allowance (Sanctions for Failure to Attend)
Regulations 2010**

<i>Made</i> - - - -	<i>25th February 2010</i>
<i>Laid before Parliament</i>	<i>4th March 2010</i>
<i>Coming into force</i> - -	<i>6th April 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

—sections 8, 35(1), 36(2) and (4) of, and paragraph 15 of Schedule 1 to, the Jobseekers Act 1995(a),

—sections 9(1), 10(3) and (6), 79(1) and 84 of the Social Security Act 1998(b),

—sections 22(5), 123(1)(d) and (e), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(c),

—section 69(1), (2)(a) and (7) of the Child Support, Pensions and Social Security Act 2000(d).

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, consultation has taken place with the organisations which appear to the Secretary of State to be representative of the authorities concerned(e).

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- (a) 1995 c.18. Section 8(1) was amended by paragraphs 7(1) and (2) of Schedule 7, and paragraphs 29(1) and (3)(a) of Schedule 8, to the Welfare Reform and Pensions Act 1999 (c.30) (“the 1999 Act”). Section 8(1A) was inserted by paragraph 7(3) of Schedule 7 to the 1999 Act. Section 8(2) was amended by paragraph 7(4) of Schedule 7 to the 1999 Act and section 33(1) and (2) of the Welfare Reform Act 2009 (c.24) (“the 2009 Act”). Section 8(2A) was inserted by section 33(3) of the 2009 Act. Transitory modifications are made to section 8(2) and (3) by S.I. 2010/293. Section 35(1) is an interpretation provision and is cited because of the meaning given to “prescribed” and “regulations”. The definition of “prescribed” and section 36(4) were amended by paragraphs 62 and 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
- (b) 1998 c.14. Section 79(1) was amended by paragraphs 143 and 168(a) of Schedule 3 to S.I. 2008/2833. Section 84 is an interpretation provision and is cited because of the meaning given to “prescribed”.
- (c) 1992 c.4. Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 and paragraph 9(1) and (3)(b) of Schedule 3 to the Welfare Reform Act 2007 (c.5). Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c.14). Section 137(1) is an interpretation provision and is cited because of the meaning given to “prescribed”. Section 175(1) was amended by paragraphs 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 2000 c.14. Section 69(7) is cited because of the meaning given to “prescribed”.
- (e) See section 176(1) of the Social Security Administration Act 1992 (c.5).

This Instrument contains only regulations made by virtue of, or consequential upon, section 33 of the Welfare Reform Act 2009 and is made before the end of the period of 6 months beginning with the coming into force of that section(a).

Citation and commencement

1.—(1) These Regulations may be cited as the Jobseeker’s Allowance (Sanctions for Failure to Attend) Regulations 2010.

(2) They come into force on 6th April 2010.

Amendment of the Jobseeker’s Allowance Regulations 1996

2.—(1) The Jobseeker’s Allowance Regulations 1996(b) are amended as follows.

(2) In regulation 4 (interpretation of Parts 2, 4 and 5), in the definition of “employment officer”, after “10” insert “, except in regulations 25, 27 and 27A where it means a person who is an employment officer for the purposes of section 8”.

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

(a) in paragraph (1), for “Subject to regulation 27, entitlement” substitute “Entitlement”;

(b) for paragraph (1)(a), substitute—

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

(c) in paragraph (1)(b)(i)—

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

(ii) omit “(other than a notification requiring attendance under an employment programme or a training scheme)”;

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

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

(e) after paragraph (1)(b)(ii), add—

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

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

(g) after paragraph (1) insert—

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

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

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

(4) For regulation 27 (where entitlement is not to cease)(d) substitute—

(a) See section 173(5) of the Social Security Administration Act 1992.

(b) S.I. 1996/207.

(c) Relevant amending instruments are S.I. 1999/530, 2000/1978 and 2000/2194.

(d) Relevant amending instruments are S.I. 2000/1978 and 2000/2194.

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

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

Circumstances in which an allowance is not to be payable

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

- (2) The first condition is satisfied if a claimant (“C”)—
 - (a) fails to attend on the day specified in a relevant notification;
 - (b) makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of five working days beginning with the first working day after the day on which C failed to attend on the day specified; and
 - (c) fails to show good cause for that failure to attend.
- (3) The second condition is satisfied if—
 - (a) C attends on the day specified in a relevant notification, but fails to attend at the time specified in that notification;
 - (b) the Secretary of State has informed C in writing that a failure to attend, on the next occasion on which C is required to attend, at the time specified in a relevant notification, may result in C’s entitlement to a jobseeker’s allowance ceasing or the benefit not being payable for a period;
 - (c) C fails to attend at the time specified in a relevant notification on the next occasion;
 - (d) C makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of five working days beginning with the first working day after the day on which C failed to attend at the time specified; and
 - (e) C fails to show good cause for that failure to attend.

Prescribed period for the purposes of regulation 27A

- 27B.—(1) The period prescribed for the purposes of regulation 27A is—
- (a) one week on the first occasion on which a jobseeker’s allowance is determined not to be payable to the claimant by virtue of regulation 27A;
 - (b) two weeks on the second and each subsequent occasion during the same jobseeking period on which a jobseeker’s allowance is determined not to be payable to the claimant by virtue of regulation 27A.
- (2) The period begins—
- (a) where, in accordance with regulation 26A(1) of the Claims and Payments Regulations, a jobseeker’s allowance is paid otherwise than fortnightly in arrears, on the day following the end of the last week in respect of which that allowance was paid; and
 - (b) in any other case, on the first day of the week following the date on which a jobseeker’s allowance is determined not to be payable.”.

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

- (a) for “27” substitute “27A”;
- (b) for “notification under regulation 23 or 23A” substitute “relevant notification”.

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

- (a) for “27” substitute “27A”;
- (b) for “notification under regulation 23 or 23A” substitute “relevant notification”.

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

- (a) before “section 19”, insert “regulation 27A or”;
- (b) before “section 20A”, insert “regulation 27A or”.

(8) In regulation 55(1)(a) (short periods of sickness)(d), after “jobseeker’s allowance” insert “, or is a person whose jobseeker’s allowance is not payable by virtue of regulation 27A,”.

(9) In regulation 55A(1)(a) (periods of sickness and persons receiving treatment outside Great Britain)(e), after “joint-claim jobseeker’s allowance” insert “, or is a person whose jobseeker’s allowance is not payable by virtue of regulation 27A,”.

(10) In regulation 65(5) (active seeking)(f), after the first mention of “person”, insert “whose jobseeker’s allowance is not payable by virtue of regulation 27A, or”.

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

- (a) before “section 19”, insert “regulation 27A,”;
- (b) before the first mention of “sections”, insert “section 8 or”.

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

- (a) in paragraph (1), after the second mention of “young person” insert “satisfies a condition referred to in regulation 27A or”;
- (b) in paragraph (2), after the third mention of “young person” insert “satisfies a condition referred to in regulation 27A or”.

(13) In regulation 74B(1) (reduced allowance where one member of a joint-claim couple is subject to a sanction)(i), before “section 20A” insert “regulation 27A or”.

(14) In regulation 140(1)(f)(i) (meaning of “person in hardship”)(j), before “section 19” insert “regulation 27A or”.

(15) In regulation 141(6) (circumstances in which an income-based jobseeker’s allowance is payable to a person in hardship), before “section 19” insert “regulation 27A or”.

(16) In regulation 146A(1)(c)(i) (meaning of “couple in hardship”)(k), before “section 20A” insert “regulation 27A or”.

(17) In regulation 146C(6) (circumstances in which a joint-claim jobseeker’s allowance is payable where a joint-claim couple is a couple in hardship)(l), before “section 20A(5)(a)” insert “regulation 27A or”.

(18) In regulation 152(1)(c) (relevant week)(m), before “section 19” insert “regulation 27A or”.

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- (a) Relevant amending instruments are S.I. 2000/1978 and 2000/2194.
 - (b) Relevant amending instruments are S.I. 2000/1978, 2000/2194, 2002/3072, 2006/1402 and 2008/3051.
 - (c) Relevant amending instruments are S.I. 1996/1517, 2001/518, 2001/1711 and 2002/490.
 - (d) Relevant amending instruments are S.I. 1996/1517, 1999/2860, 2000/1978 and 2008/1554.
 - (e) Relevant amending instruments are S.I. 2004/1869 and 2008/1554.
 - (f) A relevant amending instrument is S.I. 2000/3336.
 - (g) A relevant amending instrument is S.I. 2000/1978.
 - (h) Relevant amending instruments are S.I. 1997/827, 1999/2860 and 2000/1978.
 - (i) A relevant amending instrument is S.I. 2000/1978.
 - (j) Relevant amending instruments are S.I. 1999/2860 and 2000/1978.
 - (k) A relevant amending instrument is S.I. 2000/1978.
 - (l) A relevant amending instrument is S.I. 2000/1978.
 - (m) A relevant amending instrument is S.I. 2000/1978.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(a) are amended as follows.

(2) In regulation 3(6) (revision of decisions)(b), before “section 19” insert “regulation 27A of the Jobseeker’s Allowance Regulations or”.

(3) In regulation 6(2)(f) (supersession of decisions)(c), before “section 19(1)” insert “regulation 27A of the Jobseeker’s Allowance Regulations or”.

(4) In regulation 7(8) (date from which a decision superseded under section 10 takes effect)(d), before sub-paragraph (a) insert—

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

Consequential amendments relating to sanctions

4.—(1) Paragraph (2) applies to the following provisions—

- (a) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit Regulations 2006(e);
- (b) regulation 2(3)(a) and (b) (interpretation) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(f);
- (c) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit Regulations 2006(g);
- (d) regulation 2(4)(a) and (b) (interpretation) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(h).

(2) In each of the provisions to which this paragraph applies, before “section 19 or 20A” insert the words “regulation 27A of the Jobseeker’s Allowance Regulations or”.

(3) In regulation 3(j) (circumstances in which discretionary housing payments may be made) of the Discretionary Financial Assistance Regulations 2001(i), before “section 19 or 20A” insert “regulation 27A of the Jobseeker’s Allowance Regulations 1996 or”.

(4) In regulation 8A(5) (credits for unemployment) of the Social Security (Credits) Regulations 1975(j)—

- (a) in sub-paragraph (c), before “section 19” insert “regulation 27A of the Jobseeker’s Allowance Regulations 1996 or”;
- (b) in sub-paragraph (cc) before “section 20A” insert “regulation 27A of the Jobseeker’s Allowance Regulations 1996 or”.

Signed by authority of the Secretary of State for Work and Pensions.

Helen Goodman
Parliamentary Under-Secretary of State
Department for Work and Pensions

25th February 2010

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- (a) S.I. 1999/991.
 - (b) A relevant amending instrument is S.I. 2000/1982.
 - (c) Relevant amending instruments are S.I. 1999/2677 and 2000/1982.
 - (d) Relevant amending instruments are S.I. 1999/2677 and 2000/1982.
 - (e) S.I. 2006/213.
 - (f) S.I. 2006/214.
 - (g) S.I. 2006/215.
 - (h) S.I. 2006/216.
 - (i) S.I. 2001/1167.
 - (j) S.I. 1975/556. Relevant amending instruments are S.I. 1996/2367 and 2001/518.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 33 of the Welfare Reform Act 2009 amended section 8 of the Jobseekers Act 1995 to allow for a new sanction to be applied in certain circumstances when a jobseeker's allowance ("JSA") claimant fails to attend an appointment. The sanction is that, although entitlement to JSA will continue, the benefit will not be payable for a period of at least one week and not more than two weeks.

Regulation 2(4) inserts new regulations 27A and 27B into the Jobseeker's Allowance Regulations 1996 ("the 1996 Regulations") to provide for this new sanction. New regulation 27A provides for the new sanction to be applied where a claimant: (i) fails to attend an interview on the day specified, makes contact with Jobcentre Plus within five working days but fails to show good cause for the failure to attend; or (ii) attends an interview on the day specified but fails to attend at the time specified and (having been warned in writing of the consequences of a subsequent failure to attend on time) then fails on a subsequent occasion to attend at the time specified, makes contact with Jobcentre Plus within five working days of the failure to attend at the time specified but fails to show good cause for that failure. New regulation 27B sets out the period for which JSA is not to be payable and prescribes when this period will begin.

Regulation 2(3) and (4) make consequential amendments to regulations 25 and 27 of the 1996 Regulations. As a result of these amendments, in future entitlement to JSA will end only where a claimant: (i) fails to attend an interview on the day specified and fails to make contact with Jobcentre Plus within five working days; (ii) attends an interview on the day specified but fails to attend at the time specified and (having been warned in writing of the consequences of a subsequent failure to attend on time), then fails on a subsequent occasion to attend at the time specified, and fails to make contact with Jobcentre Plus within five working days of that failure; or (iii) fails to provide a signed declaration as required under regulation 24 and fails to make contact with Jobcentre Plus and show good cause for that failure within five working days.

Regulation 2(2) and (5) to (18) and regulations 3 and 4 make consequential amendments to other provisions of the 1996 Regulations, the Social Security and Child Support (Decisions and Appeals) Regulations 1999, the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006 (and their non-working age equivalents), the Discretionary Financial Assistance Regulations 2001 and the Social Security (Credits) Regulations 1975.

This Instrument contains only regulations made by virtue of, or consequential upon, section 33 of the Welfare Reform Act 2009, and is made before the expiry of the period of 6 months beginning with the coming into force of that section. These Regulations are therefore exempt in accordance with section 173(5) of the Social Security Administration Act 1992 from the requirement in section 172(1) of that Act to refer proposals to make Regulations to the Social Security Advisory Committee, and are made without reference to that Committee.

A full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

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STATUTORY INSTRUMENTS

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£5.50