

2011 No. 917

SOCIAL SECURITY

The Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011

Made - - - - - 28th March 2011
Laid before Parliament 31st March 2011
Coming into force - 20th May 2011

CONTENTS

PART 1

General

1. Citation and Commencement
2. Interpretation

PART 2

Selection for and participation in the Employment, Skills and Enterprise Scheme

3. Selection for participation in the Scheme
4. Requirement to participate and notification
5. Circumstances in which requirement to participate in the Scheme is suspended or ceases to apply

PART 3

Sanctions

6. Failure to participate in the Scheme
7. Good cause
8. Consequences of failure to participate in the Scheme

PART 4

Hardship

9. Hardship
10. Hardship for joint-claim couples

PART 5

Consequential Amendments

11. Definitions
12. Notional income
13. Notional capital
14. Income to be disregarded
15. Capital to be disregarded
16. Further amendments to the Jobseeker's Allowance Regulations
17. Consequential amendments relating to decisions and appeals

PART 6

Contracting out

18. Contracting out certain functions in relation to the Scheme

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d) and (e), 136(3) and (5)(a) and (b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 30 and 146(1) and (2) of the Housing Grants, Construction and Regeneration Act 1996(b), section 10, 79(1) and (4) and 84 of the Social Security Act 1998(c) and sections 12(1), (4)(a) and (b), 17A(1), (2), (5)(a), (d) and (e) and (6) to (9), 20, 20A, 20B(4) to (6), 20E(3)(a), 21, 35(1) and 36(2) and (4) of, and Schedule 1 to, the Jobseekers Act 1995(d).

These Regulations are made with the consent of the Treasury in respect of provisions relating to section 30 (means testing in case of application by owner-occupier or tenant) of the Housing Grants, Construction and Regeneration Act 1996(e).

In respect of provisions in these Regulations relating to housing benefit and council tax benefit, organisations appearing to the Secretary of State to be representative of the authorities concerned have agreed that consultations need not be undertaken(f).

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- (a) 1992 c. 4. Section 123(1) was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14), and by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21); section 137(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed"; section 175(1) and (4) were amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1996 c. 53 ("the 1996 Act"). Section 30 was amended by S.I. 2002/1860 and by section 81 of, and Schedule 8 to, the Civil Partnership Act 2004 (c. 33); the functions of the Secretary of State and the Treasury, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, art. 2, Schedule 1; section 146 was amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20) on a day to be appointed and the functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, art. 2, Schedule 1.
- (c) 1998 c. 14.
- (d) 1995 c. 18. Section 17A was inserted by section 1 of the Welfare Reform Act 2009 (c. 24); section 20B was inserted by section 59 and Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30); sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 35(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations".
- (e) See section 30(9) of the 1996 Act.
- (f) See section 176(2) of the Social Security and Administration Act 1992.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(a), the Secretary of State has obtained the agreement of the Social Security Advisory Committee that the proposals in respect of these Regulations should not be referred to it.

PART 1

General

Citation and Commencement

1. These Regulations may be cited as the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 and shall come into force on 20th May 2011.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“claimant” means a person who claims a jobseeker's allowance, except that in relation to a joint-claim couple claiming a joint-claim jobseeker's allowance, it means either or both of the members of the couple;

“the Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(b);

▶¹“full-time student” has the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations;◀

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(c);

“the Housing Renewal Grants Regulations” means the Housing Renewal Grants Regulations 1996(d);

“the Jobseeker's Allowance Regulations” means the Jobseeker's Allowance Regulations 1996(e);

▶¹“New Enterprise Allowance” means an employment initiative provided in pursuance of arrangements made by or on behalf of the Secretary of State under Section 2 of the Employment and Training Act 1973 designed to assist claimants into self-employed earner's employment;◀

“the Scheme” means the Employment, Skills and Enterprise Scheme;

▶¹“Self-employed earner's employment” has the same meaning as in the Benefits Act;◀

“working day” means any day except for a Saturday, Sunday, Christmas Day, Good Friday or bank holiday under the Banking and Financial Dealings Act 1971(f) in England and Wales or in Scotland;

“the Employment, Skills and Enterprise Scheme” means a scheme within section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Act known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants to obtain employment or self-employment, and which may include for any individual work-related activity (including work experience or job search).

¹Defns. of “full-time student”, “New Enterprise Allowance” and “self-employed earner's employment” inserted into reg. 2(1) by reg. 3(2)(a)-(c) of S.I. 2011/1707 as from 5.8.11.

(a) 1992 c. 5.

(b) S.I. 2006/215.

(c) S.I. 2006/213.

(d) S.I. 1996/2890.

(e) S.I. 1996/207.

(f) 1971 c. 80.

(2) For the purpose of these Regulations where a written notice is given by sending it by post it is taken to have been received on the second working day after posting.

PART 2

Selection for and participation in the Employment, Skills and Enterprise Scheme

Selection for participation in the Scheme

3. The Secretary of State may select a claimant for participation in the Scheme.

Requirement to participate and notification

4.—(1) Subject to regulation 5, a claimant (“C”) selected under regulation 3 is required to participate in the Scheme where the Secretary of State gives C a notice in writing complying with paragraph (2).

(2) The notice must specify—

- (a) that C is required to participate in the Scheme;
- (b) the day on which C’s participation will start;
- (c) details of what C is required to do by way of participation in the Scheme;
- (d) that the requirement to participate in the Scheme will continue until C is given notice by the Secretary of State that C’s participation is no longer required, or C’s award of jobseeker’s allowance terminates, whichever is earlier;
- (e) information about the consequences of failing to participate in the Scheme.

(3) Any changes made to the requirements mentioned in paragraph (2)(c) after the date on which C’s participation starts must be notified to C in writing.

Circumstances in which requirement to participate in the Scheme is suspended or ceases to apply

5.—(1) Where a claimant (“C”) is—

- (a) subject to a requirement to participate in the Scheme, and
- (b) while C is subject to such a requirement, the Jobseeker’s Allowance Regulations apply so that C is not required to meet the jobseeking conditions^(a)

C’s requirement to participate in the Scheme is suspended for the period during which C is not required to meet the jobseeking conditions.

(2) A requirement to participate in the Scheme ceases to apply to a claimant (“C”) if—

- (a) the Secretary of State gives C notice in writing that C is no longer required to participate in the Scheme, or
- (b) C’s award of jobseeker’s allowance terminates,

whichever is earlier.

(3) Where paragraph (2)(a) applies, the requirement ceases to apply on the day specified in the notice.

►¹Requirement to meet the jobseeking conditions

5A.—(1) A claimant who is participating in the scheme is not required to meet the condition set out in section 1(2)(c) of the Act (conditions for entitlement to a jobseeker’s allowance: actively seeking employment) if the claimant is also participating in New Enterprise Allowance.

(a) See section 17A(10) of the Act for the meaning of the “jobseeking conditions”.

¹Reg. 5A inserted by reg. 3(3) of S.I. 2011/1707 as from 5.8.11.

(2) A claimant who is participating in the scheme is not required to meet the conditions set out in section 1(2)(a) and (c) of the Act (conditions for entitlement to a jobseeker's allowance: available for and actively seeking employment) if the claimant is a full-time student◀

▶¹(3) A claimant who is participating in the Scheme is not required to meet the conditions set out in section 1(2)(a) and (c) of the Act if the claimant has been discharged from detention in a prison, remand centre or youth custody institution, for one week commencing with the date of that discharge.◀

¹Reg. 5A(3) inserted by reg. 3 of S.I. 2012/397 as from 1.3.12.

PART 3

Sanctions

Failure to participate in the Scheme

6. A claimant who fails to comply with any requirement notified under regulation 4 is to be regarded as having failed to participate in the Scheme.

[Regulations 7, 8, 9, 10 and 17 revoked by reg. 7 of S.I. 2012/2568.]

[Regulations 11 to 15 make various consequential amendments to S.I.s 1996/207, 2006/215 & 2006/213.]

[Regulation 16 amends regulation 25(1A) & inserts regulation 53(m) into S.I. 1996/207.]

PART 6

Contracting out

Contracting out certain functions in relation to the Scheme

18.—(1) Any function of the Secretary of State specified in paragraph (2) may be exercised by, or by employees of, such person (if any) as may be authorised by the Secretary of State.

(2) The functions are any function under—

- (a) regulation 4 (requirement to participate and notification);
- (b) regulation 5(2)(a) (notice that requirement to participate ceases);

[Regulation 18(2)(c) revoked by reg. 7(b) of S.I. 2012/2568.]

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

28th March 2011

C Grayling
Minister of State,
Department for Work and Pensions

SI 2011/917

JOBSEEKER'S ALLOWANCE (**EMPLOYMENT, SKILLS AND ENTERPRISE
SCHEME**) REGULATIONS 2011

We consent

28th March 2011

James Duddridge
Michael Fabricant
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the Employment, Skills and Enterprise Scheme, under section 17A of the Jobseekers Act 1995 (“the Jobseekers Act”), which is designed to assist claimants to obtain employment, including self-employment, and which may include for any individual work work-related activity (such as work experience or job search).

Part 1 contains general provisions, including provisions concerning interpretation.

Part 2 concerns the circumstances in which jobseeker's allowance claimants are required to participate in the Scheme. Regulation 3 provides that any claimant can be selected.

Regulation 4 requires a person so selected to participate in the Scheme upon being notified by the Secretary of State from the date specified in the notice. It also prescribes the contents of the notice.

Regulation 5 sets out the circumstances in which a requirement to participate in the Scheme is suspended and circumstances in which a claimant is not required (or no longer required) to participate in the Scheme. These are where a participant's award of jobseeker's allowance terminates or where the Secretary of State gives the participant notice in writing that his or her participation is no longer required.

Part 3 deals with failures to participate in the Scheme and good cause for failure to participate.

Regulation 6 provides that a claimant who fails to comply with any of the requirements notified under regulation 4 is to be regarded as having failed to participate in the Scheme.

Regulation 7 provides that a claimant who fails to participate in the Scheme must show good cause for that failure within 5 working days. It is then for the Secretary of State to determine whether that claimant has shown good cause, taking into account the claimant's circumstances.

Regulation 8 provides that if a claimant fails without good cause to participate in the Scheme, the claimant's jobseeker's allowance will not be payable or will be reduced for 2, 4 or 26 weeks subject in the last case to a reduction back to 4 weeks where the claimant re-complies. It also makes provision for bringing the sanction period to an end in the case of claimants who are no longer required to participate in the Scheme.

Part 4 allows for an income-based jobseeker's allowance to be payable even though a sanction applies to the claimant because of a failure without good cause to participate in the Scheme, if the person is a vulnerable person. It does so by amending the hardship provisions in Parts 9 and 9A of the Jobseeker's Allowance Regulations 1996.

Part 5 makes various consequential amendments to other Regulations in relation to a person's participation in the Scheme.

Regulation 11 inserts a definition of the Scheme in the Jobseeker's Allowance Regulations 1996, the Housing Renewal Grants Regulations 1996, the Council Tax Benefit Regulations 2006 and the Housing Benefit Regulations 2006. Regulations 12 and 13 ensure that persons will not be treated as having notional income or notional capital by virtue of their participation in the Scheme, and regulations 14 and 15 provide that travel and other expenses paid to participants are disregarded as income and capital for the purposes of certain income-related benefits.

Regulations 16 and 17 make consequential amendments to other Regulations to ensure that, where a sanction is imposed on a claimant for failure without good cause to participate in the Scheme and in relation to decisions and appeals, the claimant is treated consistently with a claimant who incurs a sanction under section 19 or 20A of

the Jobseekers Act. Regulation 16 also makes provision for claimants on the Scheme to be treated as if they are not engaged in remunerative work.

Regulation 18 makes provision for contracting out functions of the Secretary of State under the Regulations (with the exception of functions relating to the consideration of good cause and the imposition of sanctions).

A full impact assessment has not been produced for this instrument as it has no impact on the private sectors and civil society organisations.