

2011 No. 688

SOCIAL SECURITY

**The Jobseeker's Allowance (Mandatory Work Activity
Scheme) Regulations 2011**

<i>Made</i> - - - -	<i>9th March 2011</i>
<i>Laid before Parliament</i>	<i>14th March 2011</i>
<i>Coming into force</i> -	<i>25th April 2011</i>

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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), sections 9 and 10 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).

(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), 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, SI 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, SI 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 it gives to the words "prescribed" and "regulations".

(e) See section 30(9) of the 1996 Act.

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(a).

In accordance with section 172(1) of the Social Security Administration Act 1992(b), the Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011 and shall come into force on 25th April 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(c);

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(d)

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

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

“the Mandatory Work Activity 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 provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment;

“the Scheme” means the Mandatory Work Activity Scheme; and

“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(g) in England, Wales or Scotland.

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

(a) See section 176(2) of the Social Security Administration Act 1992.

(b) 1992 c.5.

(c) S.I. 2006/215.

(d) S.I. 2006/213.

(e) S.I. 1996/2890.

(f) S.I. 1996/207.

(g) 1971 c. 80.

PART 2

Selection for and participation in the Mandatory Work Activity Scheme

Selection for participation in the Scheme

3.—(1) The Secretary of State may select a claimant who is aged at least 18 for participation in the Scheme.

(2) Only a claimant who is required to meet the jobseeking conditions(a) may be required to participate 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) that C’s participation will be for four weeks;
- (d) details of what C is required to do by way of participation in the Scheme;
- (e) 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;
- (f) information about the consequences of failing to participate in the Scheme.

(3) Any changes made to the requirements mentioned in paragraph (2)(d) 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 ceases to apply

5.—(1) 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.

(2) The requirement ceases to apply on the day specified in the notice.

PART 3

Sanctions

Failure to participate in the Scheme

6. A claimant (“C”) is to be regarded as having failed to participate in the Scheme in accordance with these Regulations where C fails to comply with any requirement notified under regulation 4.

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

[Regulations 7 and 8 are revoked by reg. 8 of S.I. 2012/2568.]

PART 4

Hardship

Hardship

9.—(1) This paragraph applies to a claimant (“C”) if, during the period in which C’s jobseeker’s allowance is not payable by virtue of regulation 8(2), C is a person in hardship within the meaning of regulation 140(1) or (2) (meaning of “person in hardship”) of the Jobseeker’s Allowance Regulations(**a**).

(2) Regulations 140 to 146 of the Jobseeker’s Allowance Regulations have effect in relation to a person to whom paragraph (1) applies.

(3) In regulation 141(6) (circumstances in which an income-based jobseeker’s allowance is payable to a person in hardship) of the Jobseeker’s Allowance Regulations(**b**) insert “regulations made under section 17A (“work for your benefit” schemes etc.),” after “even though”.

Hardship for joint-claim couples

10.—(1) This paragraph applies to a joint-claim couple if, during the period in which the sanctions referred to in regulation 8(3) apply, they are a couple in hardship within the meaning of regulation 146A(1) or (2) (meaning of “couple in hardship”) of the Jobseeker’s Allowance Regulations(**c**).

(2) Regulations 146A and 146C to 146H of the Jobseeker’s Allowance Regulations have effect in relation to a couple to whom paragraph (1) applies.

(3) 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) of the Jobseeker’s Allowance Regulations(**d**) insert “regulations made under section 17A (“work for your benefit” schemes etc.),” after “even though”.

[Regulations 11 to 19 make various consequential amendments to S.I.s 1996/207, 1999/991, 2001/1167, 2006/213, 2006/214, 2006/215, 2006/216 & 2010/1222.]

(a) Regulation 140 was amended by S.I. 1996/1516, 1997/2863, 1999/2860, 2000/239, 2000/1987, 2001/1029, 2003/445, 2005/2877, 2008/1554, 2008/3051 and 2009/480.

(b) Regulation 141 was amended by S.I. 1996/1517, 1996/2538 and 1999/2860 and modified by S.I. 2010/1222.

(c) Regulation 146A was inserted by S.I. 2000/1978 and was amended by S.I. 2001/1029, 2005/2877, 2005/2687, 2008/1554 and 2009/480.

(d) Regulation 146C was inserted by S.I. 2000/1978, amended by S.I. 2010/509 and modified by S.I. 2010/1222.

PART 6

Contracting Out

Contracting out certain functions in relation to the Scheme

20.—(1) Any functions 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(1)(a) (notice that requirement to participate ceases).

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

9th March 2011

Chris Grayling
Minister of State,
Department for Work and Pensions

We consent

9th March 2011

Michael Fabricant
Angela Watkinson
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the Mandatory Work Activity Scheme, under section 17A of the Jobseekers Act 1995 (“the Jobseekers Act”), which is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting jobseeker’s allowance claimants to improve their prospects of obtaining employment.

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 who is aged at least 18 can be selected. It also provides that a claimant who is not required to meet the jobseeking conditions is not required to participate in the Scheme.

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

Regulation 5 concerns the circumstances in which a claimant is not required (or no longer required) to participate in the Scheme. They are where a claimant’s award of jobseeker’s allowance terminates or where the Secretary of State gives the claimant notice in writing that participation is no longer required.

Part 3 deals with failure 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 person 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 person has shown good cause, taking into account his or her circumstances.

Regulation 8 provides that where a claimant fails without good cause to participate in the Scheme, the claimant’s jobseeker’s allowance will not be payable for 13 or 26 weeks.

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. It does so by applying 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 Mandatory Work Activity 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 Mandatory Work Activity Scheme, the claimant is treated consistently with a claimant who incurs a sanction under section 19 or 20A of the Jobseekers Act.

Regulation 18 deals with consequential changes in relation to decisions and appeals. The effect is to ensure that provision is made for sanctions imposed under these Regulations as well as those incurred under section 19 or 20A of that Act.

Regulation 19 revokes certain provisions of the Jobseeker's Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010. Those Regulations modify various regulations to make provision in relation to schemes under section 17A of the Jobseekers Act 1995. The modifications cease to have effect on 21st November 2013. In order to avoid duplication and to ensure that the provisions relating to schemes under section 17A of that Act are permanent, these Regulations amend the relevant provisions and regulation 19 revokes the unnecessary modifications.

Regulation 20 makes provision for contracting out the Mandatory Work Activity Scheme functions (with the exception of functions relating to good cause and the imposition of sanctions).

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