

2012 No. 2568

SOCIAL SECURITY

The Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012

Made - - - - 10th October 2012

Coming into force - 22nd October 2012

In accordance with section 37(1)(ab) of the Jobseekers Act 1995(a) a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 8(b), 19(2)(e), (3), (4), (5) and (6), 19A(4), (5) and (9), 19B(1), (2), (3), (4), (6) and (7)(c), 35(d) and 36(2) and (4) of, and paragraph 14AA(e) of Schedule 1 to, the Jobseekers Act 1995.

This instrument contains only regulations made by virtue of, or consequential on, sections 45 and 46 of, and Schedule 7 to, the Welfare Reform Act 2012(f) and is made before the end of the period of 6 months beginning with the coming into force of those provisions(g).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 and shall come into force on 22nd October 2012.

(2) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“the JSA Regulations” means the Jobseeker's Allowance Regulations 1996(h).

[Regulation 2 amends or inserts various regulations of S.I. 1996/207.]

[Regulation 3 amends regulation 140, 140A, 141 and 142 of S.I. 1996/207.]

[Regulation 4 amends regulation 146A, 146B, 146C and 146D of S.I. 1996/207.]

(a) 1995 c. 8. Section (1)(ab) was inserted by section 46(2) of the Welfare Reform Act 2012 (c. 5) (“the 2012 Act”).

(b) Section 8 was amended by section 45 of, Schedule 7 paragraph 2 and Schedule 14 Part 3 to the 2012 Act.

(c) Sections 19, 19A and 19B were inserted by section 46(1) of the 2012 Act.

(d) Section 35 is an interpretation provision and is cited because of the meaning given to word “prescribed” and for the power to prescribe the meaning of the word “week”.

(e) Paragraph 14AA was inserted by section 46(3) of the 2012 Act.

(f) 2012 c. 5.

(g) See section 173(5) of the Social Security Administration Act 1992. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the enactment by virtue of which the regulations were made.

(h) S.I. 1996/207.

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[Regulation 5 amends various regulations of S.I. 1996/207.]

[Regulation 6 amends regulation 3, 6, 7 of S.I. 1999/991.]

[Regulation 7 amends regulation 7, 8, 9, 10, 17 and 18 of S.I. 2011/917.]

[Regulation 8 amends regulation 7 and 8 of S.I. 2011/688.]

[Regulation 9 amends regulation 8A of S.I. 1975/556.]

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

10th October 2012

Steve Webb
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Jobseeker's Allowance Regulations 1996 ("the 1996 Regulations"). They implement the powers in section 19, 19A and 19B of the Jobseekers Act 1995 ("the Act") as inserted by the Welfare Reform Act 2012, in relation to sanctions for failures to comply with requirements under the Act and the 1996 Regulations.

Regulation 2 inserts a revised sanctions regime into Part V of the 1996 Regulations to provide three different levels of sanctions for different types of failures.

Regulation 2(2) substitutes regulation 69. New regulation 69 sets out the sanctions periods for the higher level sanction which apply to failures specified in section 19(2) of the Act. These are failures to comply with requirements in relation to employment or under prescribed section 17A employment schemes (section 17A of the Act relates to "work for your benefit" schemes, schemes for assisting person to obtain employment etc.).

The periods are 13 weeks for a first failure, 26 weeks for a second failure within 52 weeks of the first failure and 156 weeks for any subsequent failure within 52 weeks of a previous failure that resulted in a 26 or 156 week sanction, or would have done but for regulation 69(4). The sanction period does not increase where the second or subsequent failure occurs within 2 weeks of the previous failure or, in the case of joint claimants, if the failure was not by the same claimant. The sanctions run concurrently.

Paragraph (3) provides that a sanction in relation to a failure listed in section 19(2)(a) (lost employment through misconduct, 19(2)(b) (left employment voluntarily) or 19(2)(d) (neglected to avail self of an opportunity of employment) which occurs before the claim is made, does not count for the purposes of determining the sanction period of a subsequent failure and paragraph (4) provides for reduced sanction periods for these "pre-claim" failures.

Paragraph (6) applies the sanction from the first day of the benefit week in which the failure occurred unless payment has already been made by the date of the determination to reduce the award, in which case the sanction applies from the first day of the benefit week after the one for which the claimant was last paid jobseeker's allowance ("JSA").

New regulation 69A sets out the sanction which applies to failures specified in section 19A(2) of the Act. These are failures to comply with requirements relating to employment programmes or training schemes, jobseeker's directions, the jobseeker's conditions or section 17A employment schemes not prescribed under section 19. Under regulation 69A, the sanction for such failures will be applied for 4 weeks for a first failure and 13 weeks for any second or subsequent failure within 52 weeks of the most recent failure. Paragraph (3) of regulation 69A deals with the start of the sanction period and is substantially the same as regulation 69(6).

New regulation 69B specifies the sanction period for the purpose of section 19B of the Act. Section 19B addresses the situation where the claimant was disentitled for failing to meet the job seeking conditions of actively seeking or being available for work. In such cases the sanction will usually be applied to a subsequent award of JSA. Regulation 69B specifies how the sanction period is to be calculated and makes special provision where, in relation to the previous award, the claimant would have been treated as entitled to jobseeker's allowance without meeting the jobseeking conditions but for their "treated as" status coming to an end.

Regulation 2(3) substitutes a new regulation 70 which specifies the amount of a reduction under section 19, 19A or 19B. New regulation 70(2) provides for the reduction not to be applied for any period during which a reduction under those sections already applies. Specific provision is made for joint-claim couples where the amount of the reduction differs depending on whether both or only one member of the joint-claim couple was responsible for the failure in question.

Regulation 2(4) inserts a new regulation 70A dealing with cases where no reduction is to be made. Regulation 70A(1) applies to pre-claim failures under section 19(2)(a), (b) or (d) where the period of the reduction under regulation 69 is the same as, or shorter than, the period between the failure and the date of claim. Regulation 70A(2) preserves the current position whereby failures to provide information or evidence are not sanctioned but may lead to disqualification where they relate to failure to provide a declaration required under regulation 24; and failures to attend are only sanctioned where the provisions in new regulation 70A(3) or (4) apply whilst in other cases they continue to lead to disqualification under regulation 25.

Regulation 2(4) also inserts a new regulation 70B which prescribes Mandatory Work Activity as a scheme attracting the higher level sanction specified in regulation 69.

Regulation 2(4) also inserts a new regulation 70C which deals with the application of a sanction to a new award where a previous award was terminated before a sanction period applicable to that award had ended. This does not apply where the claimant has been in employment for 6 months since the failure.

Regulation 2(5) to (9) make consequential amendments, in particular to:

Ensure that other regulations that refer to the current sanctions provisions correctly cross-refer to the new provisions.

Revoke the detailed regulations dealing with matters to be taken into account in determining whether the claimant had good cause for an act or omission (in accordance with paragraph 14AA of Schedule 1 to the Act (as inserted by section 46(3) of the 2012 Act) and amend references to refer to good reason rather than good cause. (Section 46(3) also changed good or just cause to "a good reason").

Regulation 3 makes amendments to Part IX of the 1996 Regulations (hardship) as a consequence of the new sanctions regulations described above. The changes are to ensure that the relevant cross-references are included. Regulation 4 makes similar amendments to Part IXA of the 1996 Regulations (hardship for joint-claim couples).

Regulation 5 makes further consequential amendments to the 1996 Regulations, in particular so as to—

Insert the correct cross-references to the new sanctions provisions;

Amend references to good cause so as to refer to good reason:

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Amend regulations 23 and 23A (attendance at specified place) to bring those regulations into line with the amended section 8 of the Act. Section 8 was amended by section 45 of the 2012 Act to enable claimants to be interviewed without having to attend in person at the Jobcentre.

Regulation 6 makes amendments to the Social Security and Child Support (Decisions and Appeals Regulations) 1999. It amends regulation 3 of those Regulations, which specifies when a decision may be revised, regulation 6, which specifies when a decision may be superseded, and regulation 7, which specifies the time when a supersession takes effect. These amendments are made as a consequence of the new JSA sanctions provisions described above.

Regulation 7 amends the Jobseeker's Allowance (Employment, Skills and Enterprise)

Regulations 2011 so as to remove the sanctions provisions in those Regulations, which are no longer needed because of the new JSA sanctions regulations.

Regulation 8 makes similar amendments to the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011.

Regulation 9 amends the Social Security (Credits) Regulations 1975 so that a credit for unemployment will not be available where a jobseeker's allowance is reduced in accordance with the new JSA sanctions regulations.

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