
STATUTORY INSTRUMENTS

1995 No. 2705

The Jobseekers (Northern Ireland) Order 1995

Part II

The Jobseeker's Allowance

Entitlement

The jobseeker's allowance

3.—(1) An allowance, to be known as a jobseeker's allowance, shall be payable in accordance with the provision of this Order.

(2) Subject to the provisions of this Order, a claimant is entitled to a jobseeker's allowance if he—

- (a) is available for employment;
- (b) has entered into a jobseeker's agreement which remains in force;
- (c) is actively seeking employment;
- (d) satisfies either—
 - (i) the conditions set out in Article 4; or
 - (ii) the conditions set out in Article 5;
- (e) is not engaged in remunerative work;
- (f) is capable of work;
- (g) is not receiving relevant education;
- (h) is under pensionable age; and
- (i) is in Northern Ireland

(3) A jobseeker's allowance is payable in respect of a week.

(4) In this Order—

“a contribution-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 4; and

“an income-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 5.

The contribution-based conditions

4.—(1) The conditions referred to in Article 3(2)(d)(i) are that the claimant—

- (a) has actually paid Class 1 contributions in respect of one (“the base year”) of the last two complete years before the beginning of the relevant benefit year and satisfies the additional conditions set out in paragraph (2);

- (b) has, in respect of the last two complete years before the beginning of the relevant benefit year, either paid Class 1 contributions or been credited with earnings and satisfies the additional condition set out in paragraph (3);
 - (c) does not have earnings in excess of the prescribed amount; and
 - (d) is not entitled to income support.
- (2) The additional conditions mentioned in paragraph (1)(a) are that—
- (a) the contributions have been paid before the week for which the jobseeker’s allowance is claimed;
 - (b) the earnings factor derived from earnings upon which primary Class 1 contributions have been paid or treated as paid is not less than the base year’s lower earnings limit multiplied by 25.
- (3) The additional condition mentioned in paragraph (1)(b) is that the earnings factor derived from earnings upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited is not less, in each of the two complete years, than the lower earnings limit for the year multiplied by 50.
- (4) For the purposes of this Article—
- (a) “benefit year” means a period which is a benefit year for the purposes of Part II of the Benefits Act or such other period as may be prescribed for the purposes of this Article;
 - (b) “the relevant benefit year” is the benefit year which includes—
 - (i) the beginning of the jobseeking period which includes the week for which a jobseeker’s allowance is claimed, or
 - (ii) (if earlier) the beginning of any linked period; and
 - (c) other expressions which are used in this Article and the Benefits Act have the same meaning in this Article as they have in the Act.

The income-based conditions

- 5.—(1) The conditions referred to in Article 3(2)(9d)(ii) are that the claimant—
- (a) has an income which does not exceed the applicable amount (determined in accordance with regulations under Article 6) or has no income;
 - (b) is not entitled to income support;
 - (c) is not a member of a family one of whose members is entitled to income support;
 - (d) is not a member of a family one of whose members is entitled to an income-based jobseeker’s allowance;
 - (e) is not a member of a married or unmarried couple the other member of which is engaged in remunerative work; and
 - (f) is a person—
 - (i) who has reached the age of 18; or
 - (ii) in respect of whom a direction under Article 18 is in force; or
 - (iii) who has, in prescribed circumstances to be taken into account for a prescribed period, reached the age of 16 but not the age of 18.
- (2) Regulations may provide for one or both of the following conditions to be included in the income-based conditions, in the case of a person to whom paragraph (1)(f)(ii) or (iii) applies—
- (a) a condition that the claimant must register for employment;
 - (b) a condition that the claimant must register for training.

- (3) In paragraph (1)(f)(iii) “period” includes—
 - (a) a period fo a determinate length;
 - (b) a period defined by reference to the happening of a future event; and
 - (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.
- (4) Regulations under paragraph (2) may, in particular, make provision by reference to persons designated by the Department for the purpose of the regulations.

Amount payable by way of a jobseeker’s allowance

6.—(1) In the case of a contribution-based jobseeker’s allowance, the amount payable in respect of a claimant (“his personal rate”) shall be calculated by—

- (a) determining the age-related amount applicable to him; and
- (b) making prescribed deductions in respect of earnings and pensions payments.

(2) The age-related amount applicable to a claimant, for the purposes of paragraph (1)(a), shall be determined in accordance with regulations.

(3) In the case of an income-based jobseeker’s allowance, the amount payable shall be—

- (a) if a claimant has no income, the applicable amount;
- (b) if a claimant has an income, the amount by which the applicable amount exceeds his income.

(4) Except in prescribed circumstances, a jobseeker’s allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

(5) The applicable amount shall be such amount or the aggregate of such amounts as may be determined in accordance with regulations.

(6) Where a claimant satisfies both the contribution-based conditions and the income-based conditions but has no income, the amount payable shall be—

- (a) the applicable amount, if that is greater than his personal rate; and
- (b) his personal rate, if it is not.

(7) Where the amount payable to a claimant to whom paragraph (6) apples is the applicable amount, the amount payable to him by way of a jobseeker’s allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the excess of the applicable amount over his personal rate.

(8) Where a claimant satisfies both the contribution-based conditions and the income-based conditions and has an income, the amount payable shall be—

- (a) the amount by which the applicable amount exceeds his income, if the amount of that excess is greater than his personal rate; and
- (b) his personal rate, if it is not.

(9) Where the amount payable to a claimant to whom paragraph (8) applies is the amount by which the applicable amount exceeds his income, the amount payable to him by way of a jobseeker’s allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the amount by which the difference between the applicable amount and his income exceeds his personal rate.

(10) The element of a jobseeker's allowance mentioned in paragraph (7)(a) and that mentioned in paragraph (9)(a) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to a contribution-based jobseeker's allowance.

(11) The element of a jobseeker's allowance mentioned in paragraph (7)(b) and that mentioned in paragraph (9)(b) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to an income-based jobseeker's allowance.

(12) Regulations under paragraph (5) may provide that, in prescribed cases, an applicable amount is to be nil.

Duration of a contribution-based jobseeker's allowance

7.—(1) The period for which a person is entitled to a contribution-based jobseeker's allowance shall not exceed, in the aggregate, 182 days in any period for which his entitlement is established by reference (under Article 4(1)(b)) to the same two years.

(2) The fact that a person's entitlement to a contribution-based jobseeker's allowance ("his previous entitlement") has ceased as a result of paragraph (1) does not prevent his being entitled to a further contribution-based jobseeker's allowance if—

- (a) he satisfies the contribution-based conditions; and
- (b) the two years by reference to which he satisfies those conditions include at least one year which is later than the second of the two years by reference to which his previous entitlement was established.

(3) Regulations may provide that a person who would be entitled to a contribution-based jobseeker's allowance but for the operation of prescribed provisions of, or made under, this Order shall be treated as if entitled to the allowance for the purposes of this Article.

Jobseeking

Availability for employment

8.—(1) For the purposes of this Order, a person is available for employment if he is willing and able to take up immediately any employed earner's employment.

(2) Paragraph (1) is subject to such provisions as may be made by regulations; and those regulations may, in particular, provide that a person—

- (a) may restrict his availability for employment in any week in such ways as may be prescribed; or
- (b) may restrict his availability for employment in any week in such circumstances as may be prescribed (for example, on grounds of conscience, religious conviction or physical or mental condition or because he is caring for another person) and in such ways as may be prescribed.

(3) The following are examples of restrictions for which provision may be made by the regulations—

- (a) restrictions on the nature of the employment for which a person is available;
- (b) restrictions on the periods for which he is available;
- (c) restrictions on the terms or conditions of employment for which he is available;
- (d) restrictions on the locality or localities within which he is available.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is or is not to be treated as available for employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is available for employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive, to be treated, for a permitted period, as available for employment.

(6) Where it has been determined (“the first determination”) that a person is to be treated, for the purposes of this Order, as available for employment in any week, the question whether he is available for employment in that week may be subsequently determined on a review of the first determination.

(7) In this Article “permitted period”, in relation to any person, means such period as may be determined in accordance with the regulations made under paragraph (4).

(8) Regulations under paragraph (4) may prescribe, in relation to permitted periods—

- (a) the day on which any such period is to be regarded as having begun in any case;
- (b) the shortest and longest periods which may be determined in any case;
- (c) factors which an adjudication officer may take into account in determining the period in any case.

(9) For the purposes of this Article “employed earner’s employment” has the same meaning as in the Benefits Act.

Actively seeking employment

9.—(1) For the purposes of this Order, a person is actively seeking employment in any week if he takes in that week such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment.

(2) Regulations may make provision—

- (a) with respect to steps which it is reasonable, for the purposes of paragraph (1), for a person to be expected to have to take in any week;
- (b) as to circumstances (for example, his skills, qualifications, abilities and physical or mental limitations) which, in particular, are to be taken into account in determining whether, in relation to any steps taken by a person, the requirements of paragraph (1) are satisfied in any week.

(3) Regulations may make provision for acts of a person which would otherwise be relevant for purposes of this Article to be disregarded in such circumstances (including circumstances constituted by, or connected with, his behaviour or appearance) as may be prescribed.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is to be treated as actively seeking employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is actively seeking employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive, to be treated, for the permitted period determined in his case for the purposes of Article 8(5), as actively seeking employment during that period.

(6) Regulations may provide for this Article, and any regulations made under it, to have effect in relation to a person who has reached the age of 16 but not the age of 18 as if “employment” included “training”.

(7) Where it has been determined (“the first determination”) that a person is to be treated, for the purposes of this Order, as actively seeking employment in any week, the question whether he is actively seeking employment in that week may subsequently be determined on a review of the first determination.

(8) For the purposes of this Article—

“employment” means employed earner’s employment or, in prescribed circumstances—

- (a) self-employed earner’s employment; or
- (b) employed earner’s employment and self-employed earner’s employment; and “employed earner’s employment” and

“self-employed earner’s employment” have the same meanings as in the Benefits Act.

Attendance, information and evidence

10.—(1) Regulations may make provision for requiring a claimant—

- (a) To attend at such place and at such time as the Department may specify; and
- (b) to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment.

(2) Regulations under paragraph (1) may, in particular—

- (a) prescribe circumstances in which entitlement to a jobseeker’s allowance is to cease in the case of a claimant who fails to comply with any regulations made under that paragraph;
- (b) provide for entitlement to cease at such time (after he last attended in compliance with requirements of the kind mentioned in paragraph (1)(a)) as may be determined in accordance with any such regulations;
- (c) provide for entitlement not to cease if the claimant shows, within a prescribed period of his failure to comply, that he had good cause for that failure; and
- (d) prescribe—
 - (i) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to comply with any such regulations; and
 - (ii) circumstances in which a person is, or is not, to be regarded as having, or not having, good cause for failing to comply with any such regulations.

The jobseeker’s agreement

11.—(1) An agreement which is entered into by a claimant and an employment officer and which complies with the prescribed requirements in force at the time when the agreement is made is referred to in this Order as “a jobseeker’s agreement”.

(2) A jobseeker’s agreement shall have effect only for the purposes of Article 3.

(3) A jobseeker’s agreement shall be in writing and be signed by both parties.

(4) A copy of the agreement shall be given to the claimant.

(5) An employment officer shall not enter into a jobseeker’s agreement with a claimant unless, in the officer’s opinion, the conditions mentioned in Article 3(2)(a) and (c) would be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the proposed agreement.

(6) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed jobseeker’s agreement to an adjudication officer for him to determine—

- (a) whether, if the claimant concerned were to comply with the proposed agreement, he would satisfy—
 - (i) the condition mentioned in Article 3(2)(a), or
 - (ii) the condition mentioned in Article 3(2)(c); and
- (b) whether it is reasonable to expect the claimant to have to comply with the proposed agreement.
- (7) An adjudication officer to whom a reference is made under paragraph (6)—
 - (a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;
 - (b) may give such directions, with respect to the terms on which the employment officer is to enter into a jobseeker’s agreement with the claimant, as the adjudication officer considers appropriate;
 - (c) may direct that, if such conditions as he considers appropriate are satisfied, the proposed jobseeker’s agreement is to be treated (if entered into) as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
- (8) Regulations may provide—
 - (a) for such matters as may be prescribed to be taken into account by an adjudication officer in giving a direction under paragraph (7)(c); and
 - (b) for such persons as may be prescribed to be notified of—
 - (i) any determination of an adjudication officer under this Article;
 - (ii) any direction given by an adjudication officer under this Article.
- (9) Any determination of an adjudication officer under this Article shall be binding.
- (10) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in Article 3(2)(b).
- (11) Regulations may provide that, in prescribed circumstances, a jobseeker’s agreement is to be treated as having effect on a date, to be determined in accordance with the regulations, before it would otherwise have effect.
- (12) Except in such circumstances as may be prescribed, a jobseeker’s agreement entered into by a claimant shall cease to have effect on the coming to an end of an award of a jobseeker’s allowance made to him.
- (13) In this Article and Article 12 “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department.

Variation of jobseeker’s agreement

- 12.—**(1) A jobseeker’s agreement may be varied, in the prescribed manner, by agreement between the claimant and any employment officer.
- (2) Any agreement to vary a jobseeker’s agreement shall be in writing and be signed by both parties.
 - (3) A copy of the agreement, as varied, shall be given to the claimant.
 - (4) An employment officer shall not agree to a variation of a jobseeker’s agreement, unless, in the officer’s opinion, the conditions mentioned in Article 3(2)(a) and (c) would continue to be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the agreement as proposed to be varied.

- (5) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed variation of a jobseeker's agreement to an adjudication officer for him to determine—
- (a) whether, if the claimant concerned were to comply with the agreement as proposed to be varied, he would satisfy—
 - (i) the condition mentioned in Article 3(2)(a), or
 - (ii) the condition mentioned in Article 3(2)(c); and
 - (b) whether it is reasonable to expect the claimant to have to comply with the agreement as proposed to be varied.
- (6) An adjudication officer to whom a reference is made under paragraph (5)—
- (a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;
 - (b) shall give such directions as he considers appropriate as to—
 - (i) whether the jobseeker's agreement should be varied, and
 - (ii) if so, the terms on which the claimant and the employment officer are to enter into an agreement to vary it;
 - (c) may bring the jobseeker's agreement to an end where the claimant fails, within a prescribed period, to comply with a direction given under sub-paragraph (b)(ii);
 - (d) may direct that, if—
 - (i) the jobseeker's agreement is varied, and
 - (ii) such conditions as varied is to be treated as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
- (7) Regulations may provide—
- (a) or such matters as may be prescribed to be taken into account by an adjudication officer in giving a direction under paragraph (6)(b) or (d); and
 - (b) for such persons as may be prescribed to be notified of—
 - (i) any determination of an adjudication officer under this Article;
 - (ii) any direction given by an adjudication officer under this Article.
- (8) Any determination of an adjudication officer under this Article shall be binding.

Jobseeker's agreement: reviews and appeals

13.—(1) Any determination of, or direction given by, an adjudication officer under Article 11 or 12 may be reviewed (by a different adjudication officer) on the application of the claimant or of an employment officer.

(2) Regulations may make provision with respect to the procedure to be followed on a review under this Article.

(3) The claimant may appeal to a social security appeal tribunal against any determination of, or direction given by, an adjudication officer on a review under this Article.

(4) A social security appeal tribunal determining an appeal under this Article may give a direction of a kind which an adjudication officer may give under Article 11(7)(b) or (c) or (as the case may be) Article 12(6)(b) or (d).

(5) Where a social security appeal tribunal gives a direction under paragraph (4) of a kind which may be given by an adjudication officer under Article 12(6)(b)(ii), an adjudication officer may bring the job seeker's agreement to an end if the claimant fails to comply with the direction within a prescribed period.

(6) An appropriate person may, on the ground that it was erroneous in point of law, appeal to a Commissioner against the decision of a social security appeal tribunal on an appeal under this Article.

(7) Any of the following is an appropriate person for the purposes of paragraph (6)—

- (a) the claimant;
- (b) an adjudication officer;
- (c) in prescribed circumstances, a trade union;
- (d) in prescribed circumstances, any other association which exists to promote the interests and welfare of its members.

(8) Subsections (7) to (10) of section 21 of the Administration Act (appeals to Commissioners) shall apply in relation to appeals under this Article as they apply in relation to appeals under that section.

(9) In this Article “Commissioner” has the same meaning as in the Administration Act.

Income and Capital

Income and capital: general

14.—(1) In relation to a claim for a jobseeker’s allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.

(2) A person’s income in respect of a week shall be calculated in accordance with prescribed rules.

(3) The rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(4) Circumstances may be prescribed in which—

- (a) a person is treated as possessing capital or income which he does not possess;
- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital;
- (d) capital is to be treated as income;

Income and capital: income-based jobseeker’s allowance

15.—(1) No person shall be entitled to an income-based jobseeker’s allowance if his capital, or a prescribed part of it, exceeds the prescribed amount.

(2) Where a person claiming an income-based jobseeker’s allowance is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of the claimant.

(3) Regulations may provide that capital not exceeding the amount prescribed under paragraph (1), but exceeding a prescribed lower amount, shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

Trade disputes

Trade disputes

16.—(1) Where—

- (a) there is a stoppage of work which causes a person not to be employed on any day, and

(b) the stoppage is due to a trade dispute at his place of work, that person, is not entitled to a jobseeker's allowance for the week which includes that day unless he proves that he is not directly interested in the dispute.

(2) A person who withdraws his labour on any day in furtherance of a trade dispute, but to whom paragraph (1) does not apply, is not entitled to a jobseeker's allowance for the week which includes that day.

(3) If a person who is prevented by paragraph (1) from being entitled to a jobseeker's allowance proves that during the stoppage—

- (a) he became bona fide employed elsewhere;
- (b) his employment was terminated by reason of redundancy within the meaning of section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965⁽¹⁾, or
- (c) he bona fide resumed employment with his employer but subsequently left for a reason other than the trade dispute, paragraph (1) shall be taken to have ceased to apply to him on the occurrence of the event referred to in sub-paragraph (a) or (b) or (as the case may be) the first event referred to in sub-paragraph (c).

(4) In this Article "place of work", in relation to any person, means the premises or place at which he was employed.

(5) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall, for the purposes of paragraph (4), be deemed to be separate premises or (as the case may be) a separate place.

Effect on other claimants

17.—(1) Except in prescribed circumstances, paragraph (2) applies in relation to a claimant for an income-based jobseeker's allowance where a member of his family ("A") is, or would be, prevented by Article 16 from being entitled to a jobseeker's allowance.

(2) For the purposes of calculating the claimant's entitlement to an income-based jobseeker's allowance—

- (a) any portion of the applicable amount which is included in respect of A shall be disregarded for the period for which this paragraph applies to the claimant;
- (b) where the claimant and A are a married or unmarried couple, any portion of the applicable amount which is included in respect of them shall be reduced to one half for the period for which this paragraph applies to the claimant;
- (c) except so far as regulations provide otherwise, there shall be treated as the claimant's income—
 - (i) any amount which becomes, or would on an application duly made become, available to A in relation to that period by way of repayment of income tax deducted from A's emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)⁽²⁾; and
 - (ii) any other payment which the claimant or any member of his family receives or is entitled to obtain because A is without employment for that period; and
- (d) any payment by way of a jobseeker's allowance for that period or any part of it which apart from this sub-paragraph would be made to the claimant—

(1) 1965 c. 19.

(2) 1988 c. 1.

- (i) shall not be made, if the weekly rate of payment (“the rate”) would be equal to or less than the prescribed sum; and
 - (ii) shall be at a weekly rate equal to the difference between the rate and the prescribed sum, if the rate would be more than the prescribed sum.
- (3) Where a reduction under paragraph (2)(b) would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.
- (4) Where A returns to work with the same employer after a period during which paragraph (2) applied to the claimant (whether or not his return is before the end of any stoppage of work in relation to which he is, or would be, prevented from being entitled to a jobseeker’s allowance), paragraph (2) shall cease to apply to the claimant at the commencement of the day on which A returns to work.
- (5) In relation to any period of less than a week, paragraph (2) shall have effect subject to such modifications as may be prescribed.
- (6) Paragraphs (7) to (9) apply where an order made under section 132 of the Administration Act (annual up-rating of benefits) has the effect of increasing the sum prescribed in regulations made under Article 6(5) as the personal allowance for a single person aged not less than 25 (“the personal allowance”).
- (7) For the sum prescribed in regulations made under paragraph (2)(d) there shall be substituted, from the time when the order comes into operation, a sum arrived at by increasing the prescribed sum by the percentage by which the personal allowance has been increase by the order.
- (8) If the sum arrived at under paragraph (7) is not a multiple of 50p—
- (a) any remainder of 25p or less shall be disregarded;
 - (b) any remainder of more than 25p shall be rounded up to the nearest 50p.
- (9) The order shall state the sum substituted for the sum prescribed in regulations made under paragraph (2)(d).
- (10) Nothing in paragraph (7) prevents the making of further regulations under paragraph (2)(d) varying the prescribed sum.

Persons under 18

Severe hardship

- 18.**—(1) If it appears to the Department—
- (a) that a person—
 - (i) has reached the age of 16 but not the age of 18,
 - (ii) is not entitled to a jobseeker’s allowance or to income support, and
 - (iii) is registered for training but is not being provided with any training, and
 - (b) that severe hardship will result to him unless a jobseeker’s allowance is paid to him, the Department may direct that this Article is to apply to him.
- (2) A direction may be given so as to have effect for a specified period.
- (3) The Department may revoke a direction if—
- (a) it appears to the Department that there has been a change of circumstances as a result of which failure to receive a jobseeker’s allowance need no longer result in severe hardship to the person concerned;
 - (b) it appears to the Department that the person concerned—
 - (i) failed to pursue an opportunity of obtaining training, or

- (ii) rejected an offer of training,
and has not shown good reason for doing so; or
 - (c) the Department is satisfied that it was given in ignorance of some material fact or was based on a mistake as to some material fact and considers that, but for the ignorance or mistake, the Department would not have given the direction.
- (4) In this Article—
- “period” includes—
- (a) a period of a determinate length;
 - (b) a period defined by reference to the happening of a future event; and
 - (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

Reduced payments

19.—(1) Regulations may provide for the amount of an income-based jobseeker’s allowance payable to any young person to whom this Article applies to be reduced—

- (a) in such circumstances,
- (b) by such a percentage, and
- (c) for such a period,

as may be prescribed.

- (2) This Article applies to any young person in respect of whom—
 - (a) a direction is in force under Article 18; and
 - (b) either of the conditions mentioned in paragraph (3) is satisfied.
- (3) The conditions are that—
 - (a) the young person was previously entitled to an income-based jobseeker’s allowance and that entitlement ceased by virtue of the revocation of a direction under Article 18;
 - (b) he has failed to complete a course of training and no certificate has been issued to him under paragraph (4) with respect to that failure.
- (4) Where a young person who has failed to complete a course of training—
 - (a) claims that there was good cause for the failure, and
 - (b) applies to the Department for a certificate under this paragraph,

the Department shall, if it is satisfied that there was good cause for the failure, issue a certificate to that effect and give a copy of it to the young person.

(5) In this Article “young person” means a person who has reached the age of 16 but not the age of 18.

Recovery of overpayments

20. In the Administration Act, insert after section 69—

“Jobseeker’s allowance

Recovery of jobseeker’s allowance: severe hardship cases.

69A.—(1) Where—

- (a) a severe hardship direction is revoked; and
 - (b) it is determined by an adjudication officer that—
 - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and
 - (ii) in consequence of the failure of misrepresentation, payment of a jobseeker’s allowance has been made during the relevant period to the person to whom the direction related, an adjudication officer may determine that the Department is entitled to recover the amount of the payment.
- (2) In this section—
- “severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and
- “the relevant period” means—
- (a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
 - (b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.
- (3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
- (4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—
- (a) who made the misrepresentation or failed to make the disclosure; and
 - (b) whether or not a payment of jobseeker’s allowance has been made in consequence of the misrepresentation or failure.
- (5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker’s allowance would not have been paid but for the misrepresentation or failure to disclose.
- (6) A certificate under this section shall be conclusive as to any matter certified.
- (7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker’s allowance recoverable under subsection (1) above as they apply to a jobseeker’s allowance recoverable under section 69(1) above.
- (8) The other provisions of section 69 above do not apply to a jobseeker’s allowance recoverable under subsection (1) above.”.

Denial of jobseeker’s allowance

Circumstances in which a jobseeker’s allowance is not payable

21.—(1) Even though the conditions for entitlement to a jobseeker’s allowance are satisfied with respect to a person, the allowance shall not be payable in any of the circumstances mentioned in paragraph (5) or (6).

(2) If the circumstances are any of those mentioned in paragraph (5), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be prescribed.

(3) If the circumstances are any of those mentioned in paragraph (6), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be determined by the adjudication officer.

(4) Regulations may prescribe—

- (a) circumstances which an adjudication officer is to take into account, and
- (b) circumstances which he is not to take into account, in determining a period under paragraph (3).

(5) The circumstances referred to in paragraphs (1) and (2) are that the claimant—

- (a) has, without good cause, refused or failed to carry out any jobseeker's direction which was reasonable, having regard to his circumstances,
- (b) has, without good cause—
 - (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
 - (ii) after a place on such a scheme or programme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him;
 - (iii) given up a place on such a scheme or programme; or
 - (iv) failed to attend such a scheme or programme on which he has been given a place; or
- (c) has lost his place on such a scheme or programme through misconduct.

(6) The circumstances referred to in paragraphs (1) and (3) are that the claimant—

- (a) has lost his employment as an employed earner through misconduct;
- (b) has voluntarily left such employment without just cause;
- (c) has, without good cause, after a situation in any employment has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or
- (d) has, without good cause, neglected to avail himself of a reasonable opportunity of employment.

(7) In such circumstances as may be prescribed, including in particular where he has been dismissed by his employer by reason of redundancy within the meaning of section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(3) after volunteering or agreeing to be so dismissed, a person who might otherwise be regarded as having left his employment voluntarily is to be treated as not having left voluntarily.

(8) Regulations may—

- (a) prescribe matters which are, or are not, to be taken into account in determining whether a person—
 - (i) has, or does not have, good cause for any act or omission; or
 - (ii) has, or does not have, just cause for any act or omission; or
- (b) prescribe circumstances in which a person—
 - (i) is, or is not, to be regarded as having, or not having, good cause for any act or omission; or
 - (ii) is, or is not, to be regarded as having, or not having, just cause for any act or omission.

(9) Subject to any regulations under paragraph (8), in determining whether a person has, or does not have, good cause or (as the case may be) just cause for any act or omission, any matter relating to the level of remuneration in the employment in question shall be disregarded.

(10) In this Article—

- (a) “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department;
- (b) “jobseeker’s direction” means a direction in writing given by an employment officer with a view to achieving one or both of the following—
 - (i) assisting the claimant to find employment;
 - (ii) improving the claimant’s prospects of being employed; and
- (c) “training scheme” and “employment programme” have such meaning as may be prescribed.

Exemptions from Article 21

22.—(1) Nothing in Article 21, or in regulations under that Article, shall be taken to prevent payment of a jobseeker’s allowance merely because the claimant refuses to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute.

(2) Article 21 does not apply, in the circumstances mentioned in paragraph (5) of that Article, if—

- (a) a direction is in force under Article 18 with respect to the claimant; and
- (b) he has acted in such a way as to risk—
 - (i) having that direction revoked under paragraph (3)(b) of Article 18; or
 - (ii) having the amount of his jobseeker’s allowance reduced by virtue of Article 19, because he has failed to complete a course of training.

(3) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner’s employment without falling within Article 21(6)(b) or (d) should he leave that employment voluntarily and without just cause at any time during a trial period.

(4) In such circumstances as may be prescribed, an income-based jobseeker’s allowance shall be payable to a claimant even though Article 21 prevents payment of a jobseeker’s allowance to him.

(5) A jobseeker’s allowance shall be payable by virtue of paragraph (4) only if the claimant has complied with such requirements as to the provision of information as may be prescribed for the purposes of this paragraph.

(6) Regulations under paragraph (4) may, in particular, provide for a jobseeker’s allowance payable by virtue of that paragraph to be—

- (a) payable at a prescribed rate;
- (b) payable for a prescribed period (which may differ from the period fixed under Article 21(2) or (3)).

(7) In paragraph (3), “trial period” has such meaning as may be prescribed.

(8) Regulations may make provision for determining, for the purposes of this Article, the day on which a person’s employment is to be regarded as commencing.

*Miscellaneous***Supplementary provisions**

23. Further provisions in relation to a jobseeker's allowance are set out in Schedule 1.

Members of the forces

24.—(1) Regulations may modify any provision of this Order, in such manner as the Secretary of State thinks proper, in its application to persons who are or have been members of Her Majesty's forces.

(2) The regulations may, in particular, provide for Article 21(6)(b) not to apply in relation to a person who is discharged from Her Majesty's forces at his own request.

(3) For the purposes of this Article, Her Majesty's forces shall be taken to consist of such establishments and organisations in which persons serve under the control of the Defence Council as may be prescribed by regulations made by the Secretary of State.

(4) The power to make regulations under this Article is exercisable by statutory instrument.

Recovery of sums in respect of maintenance

25.—(1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-based jobseeker's allowance has been made to that person's spouse.

(2) In this Article "recovery order" means an order requiring the person against whom it is made to make payments to the Department or to such other person or persons as the court may determine.

(3) Regulations under this Article may make provision for the transfer by the Department of the right to receive payments under, and to exercise rights in relation to, a recovery order.

(4) Regulations made under this Article may, in particular, include provision—

(a) as to the matters to which the court is, or is not, to have regard in determining any application under the regulations; and

(b) as to the enforcement of recovery orders.

(5) In this Article, "the court" means a court of summary jurisdiction.

Effect of alteration of rates

26. In the Administration Act, insert after section 139—

"Effect of alteration of rates of a jobseeker's allowance.

139A.—(1) This section applies where—

(a) an award of a jobseeker's allowance is in force in favour of any person ("the recipient"); and

(b) an alteration—

(i) in any component of the allowance, or

(ii) in the recipient's benefit income, affects the amount of the jobseeker's allowance to which he is entitled.

(2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker's allowance to which the recipient is entitled is increased or reduced.

(3) As from the commencing date, the amount of the jobseeker's allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.

(4) In any case where—

- (a) here is an alteration of a kind mentioned in subsection (1)(b); and
- (b) before the commencing date (but after that date is fixed) an award of a jobseeker's allowance is made in favour of a person,

the award may provide for the jobseeker's allowance to be paid as from the commencing date, in which case the amount of the jobseeker's allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.

(5) In this section—

“alteration” means—

- (a) in relation to any component of a jobseeker's allowance, its alteration by or under any enactment; and
- (b) in relation to a person's benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 above, to the extent that any such alteration affects the amount of the recipient's benefit income;

“applicable sums” has the same meaning as in section 139 above;

“benefit income”, in relation to a recipient, means so much of his income as consists of—

- (a) benefit under the Contributions and Benefits Act; or
- (b) a war disablement pension or war widow's pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into operation in relation to the recipient;

“component”, in relation to a jobseeker's allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker's allowance.”

Age increases

27. In the Administration Act, insert after section 140—

“Implementation of increases in income-based jobseeker's allowance due to attainment of particular ages.

140A.—(1) This section applies where—

- (a) an award of an income-based jobseeker's allowance is in force in favour of a person (“the recipient”); and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an income-based jobseeker's allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of an adjudication officer; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence on the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to—

- (a) a benefit under the Contributions and Benefits Act; or
- (b) a jobseekers's allowance.

(4) Subsection (3)(b) above does not apply to the question—

- (a) whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case; and
- (b) whether, in consequence, the amount of his income-based jobseeker's allowance falls to be varied.

(5) In this section "component", in relation to a recipient and his jobseeker's allowances, means any of the amounts determined in accordance with regulations made under Article 6(5) of the Jobseekers (Northern Ireland) Order 1995."