
STATUTORY INSTRUMENTS

1995 No. 3276

SOCIAL SECURITY

The Jobseeker's Allowance (Transitional Provisions) Regulations 1995

<i>Made</i>	- - - -	<i>18th December 1995</i>
<i>Laid before Parliament</i>		<i>20th December 1995</i>
<i>Coming into force</i>	- -	<i>7th October 1996</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 35(1), 36(2) to (5) and 40 of the Jobseekers Act 1995⁽¹⁾, and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of 6 months beginning with the coming into force of the enactments under which it is made⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Transitional Provisions) Regulations 1996 and shall come into force on 7th October 1996.

(2) In these Regulations—

“the Act” means the Jobseekers Act 1995;

“benefit week”—

- (a) where the benefit is income support, has the meaning it has in the Income Support Regulations by virtue of regulation 2(1) of those Regulations;
- (b) where the benefit is unemployment benefit, means a period of 7 days ending on the day corresponding to the particular day specified in a written notice last given him by the Secretary of State for the purpose of claiming unemployment benefit;
- (c) where the benefit is a jobseeker's allowance, means a period of 7 days ending on the day which corresponds with the particular day specified in a notice given or sent to the claimant in accordance with regulations made under section 8(1)(a) of the Act (attendance at such place and such time as the Secretary of State may specify) except that where the Secretary of State requires attendance otherwise than at regular two weekly intervals, “benefit week” means a period of 7 days ending on such day as the Secretary of State may specify in a notice in writing given or sent to the claimant;

(1) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meanings ascribed to the words “prescribed” and “regulations”.

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

“Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(3);

“day of unemployment” means a day which would, for the purposes of section 25A of the Benefits Act as in force on 6th October 1996(4), be treated as a day of unemployment;

“the Income Support Regulations” means the Income Support (General) Regulations 1987(5);

“jobseeking period” has the meaning specified in regulation 2;

“period of interruption of employment” in relation to unemployment benefit has the same meaning in these Regulations as it had in the Benefits Act by virtue of the section 25A of that Act as in force on 6th October 1996;

“the relevant day” means—

- (a) in relation to income support, 6th October 1996; and
- (b) in relation to unemployment benefit—
 - (i) except in a case to which head (ii) applies, 5th October 1996; or
 - (ii) where in any particular case 6th October 1996 is a day of unemployment, that day;

“training” means training for which a training allowance is payable;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise; and
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by or on behalf of the Secretary of State for Education and Employment, Scottish Enterprise or Highlands and Islands Enterprise,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973(6), or is training as a teacher;

“transitionally protected period” means the period specified in regulation 9;

the “Unemployment Benefit Regulations” means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(7).

- (3) In these Regulations, unless the context otherwise requires, a reference—
 - (a) to a numbered section is to the section of the Act bearing that number;
 - (b) to a numbered regulation is to the regulation in these Regulations bearing that number;
 - (c) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
 - (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) S.I.1987/1968.

(4) Section 25A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 11(1), Schedule 1, paragraph 5.

(5) S.I. 1987/1967.

(6) 1973 c. 50.

(7) S.I. 1983/1598; the relevant amending instrument is S.I. 1989/2122.

Jobseeking Period

2.—(1) For the purposes of these Regulations, but subject to the following provisions of this regulation, the “jobseeking period” means any period throughout which the claimant satisfies or is treated as satisfying the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1 (conditions of entitlement to a jobseeker’s allowance).

(2) Any period in which—

- (a) a claimant does not satisfy any of the requirements in section 1(2)(a) to (c); and
- (b) a jobseeker’s allowance is payable to him on the grounds that the adjudication officer is satisfied that unless a jobseeker’s allowance is paid to the claimant he or a member of his family will suffer hardship,

shall, for the purposes of paragraph (1), be treated as a period in which the claimant satisfies the conditions specified in paragraphs (a) to (c) of subsection (2) of section 1.

(3) The following periods shall not be, or be part of, a jobseeking period—

- (a) any period in respect of which no claim for a jobseeker’s allowance has been made or treated as made;
- (b) such period as falls before the day on which a claim for a jobseeker’s allowance is made or is treated as made or, where good cause is shown for a claim outside the prescribed time for claiming, before the earliest date in respect of which good cause is shown;
- (c) where a claim for a jobseeker’s allowance has been made or treated as made but no entitlement to benefit arises in respect of a period before the date of claim by virtue of section 1(2) of the Administration Act (limits for backdating entitlement), that period;
- (d) where—
 - (i) a claimant satisfies the conditions specified in paragraphs (a) to (c) and (e) to (i) of subsection (2) of section 1; and
 - (ii) entitlement to a jobseeker’s allowance ceases on the ground that the claimant failed to comply with requirements imposed by regulations made under section 8(1) (attendance, information and evidence),

the period beginning with the date in respect of which, in accordance with any such regulations, entitlement ceases and ending with the day before the date in respect of which the claimant again becomes entitled to a jobseeker’s allowance; or

- (e) any week in which a claimant is not entitled to a jobseeker’s allowance in accordance with section 14 (trade disputes).

Linking Periods

3.—(1) For the purposes of these Regulations, two or more jobseeking periods shall be treated as one jobseeking period where they are separated by a period comprising only—

- (a) any period of not more than 12 weeks;
- (b) a linked period;
- (c) any period of not more than 12 weeks falling between—
 - (i) any two linked periods; or
 - (ii) a jobseeking period and a linked period;
- (d) a period in respect of which the claimant is summoned to jury service.

(2) Linked periods for the purposes of these Regulations are any of the following periods—

- (a) to the extent specified in paragraph (3), any period throughout which the claimant is entitled to an invalid care allowance under section 70 of the Benefits Act;
- (b) any period throughout which the claimant is incapable of work, or is treated as incapable of work, in accordance with Part XIIA of the Benefits Act⁽⁸⁾;
- (c) any period throughout which the claimant was entitled to a maternity allowance under section 35 of the Benefits Act;
- (d) any period throughout which the claimant was engaged in training.

(3) A period of entitlement to invalid care allowance shall be a linked period only where it enables the claimant to satisfy contribution conditions for entitlement to a contribution-based jobseeker's allowance which he would otherwise be unable to satisfy.

Termination and Cancellation of Awards of Income Support

4.—(1) An award of income support current in the benefit week which includes the relevant day (“the current benefit week”) shall terminate immediately before the beginning of the benefit week which follows the current benefit week—

- (a) where—
 - (i) the person entitled was required to satisfy the provisions of section 124(1)(d)(i) of the Benefits Act (available for and actively seeking employment) as in force on the relevant day; and
 - (ii) but for any provision of the Act and these Regulations, the award would have continued beyond the current benefit week; or
- (b) where the person—
 - (i) is not required, in accordance with regulation 8 of and Schedule 1 to the Income Support Regulations to be available for employment; and
 - (ii) is not a person to whom regulation 8 of the Claims and Payments Regulations (attendance in person) applies; and
 - (iii) does in fact make himself available for and actively seek employment and declares himself to be so.

(2) An award of income support to a person commencing on a date after the current benefit week, shall be cancelled where the person's entitlement was dependent upon his satisfying the requirements of section 124(1)(d)(i) of the Benefits Act (available for and actively seeking employment).

Transition from Unemployment Benefit to a Jobseeker's Allowance

5.—(1) In a case where, in accordance with a notice issued to him under regulation 19 of and paragraph 1 of Schedule 5 to the Claims and Payments Regulations, a person claims unemployment benefit on or after 7th October 1996 but before 20th October 1996, any claim made for unemployment benefit which the claimant is required to make in accordance with that notice—

- (a) on a day falling on or after 7th October 1996 but before 13th October 1996 shall be treated also as a claim for a jobseeker's allowance for a period commencing on the day after the date of claim; or
- (b) on a day falling on or after 14th October 1996 but before 20th October 1996 shall be treated as a claim for unemployment benefit for the first benefit week falling within the period of that claim and as a claim for a jobseeker's allowance for the subsequent benefit week and for any benefit week thereafter.

(8) Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.

(2) An award of unemployment benefit made—

- (a) in accordance with regulation 17(2)(b) of the Claims and Payments Regulations; or
- (b) on or after 7th October 1996 for a period commencing before 7th October 1996,

and which extends beyond the benefit week which includes the relevant day shall terminate at the end of that benefit week.

(3) In the case of a person to whom paragraph (1) or (2) applies, his entitlement to unemployment benefit in the benefit week which includes the relevant day shall be determined as if the provisions of the Benefits Act, the Administration Act and the Regulations made under those Acts relating to unemployment benefit had continued in force in his case until the end of that benefit week and as if the Act did not apply to him in that benefit week.

(4) A person who is treated as making a claim for a jobseeker's allowance under this regulation shall, if he satisfies the conditions of entitlement to unemployment benefit in force on 6th October 1996, but subject to the provisions of these Regulations, be treated as satisfying the requirements of sections 1 and 2 of the Act.

Jobseeker's Allowance to replace Income Support and Unemployment Benefit

6.—(1) Subject to the following provisions of this regulation, a person whose award of income support or unemployment benefit, or income support and unemployment benefit, is terminated in accordance with the preceding provisions of these Regulations shall be treated as having been awarded a jobseeker's allowance for a period commencing on the first day of the next benefit week to begin for that claimant on or after 7th October 1996 and continuing until such date as he fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance which applies in his case.

(2) A person whose award of income support is cancelled in accordance with regulation 4(2) shall be treated as having been awarded an income-based jobseeker's allowance as from the date the award of income support would have taken effect and continuing until such date as he fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement to a jobseeker's allowance which applies in his case.

(3) A person—

- (a) to whom unemployment benefit was payable in respect of the relevant day; and
- (b) to whom unemployment benefit was not payable in respect of either 6th or 7th April 1996; and
- (c) who had on the relevant day been entitled to unemployment benefit for 156 days or more (including the relevant day) in the period of interruption of employment which included the relevant day,

shall not be treated as entitled to a contribution-based jobseeker's allowance in accordance with paragraph (1).

Claims for Entitlement to a Jobseeker's Allowance

7.—(1) The following provisions of this regulation shall apply in the case of a person—

- (a) who is treated as having an award of a jobseeker's allowance in accordance with regulation 6; or
- (b) whose claim for unemployment benefit is treated in addition as a claim for a jobseeker's allowance in accordance with regulation 5.

(2) A person to whom regulation 6 applies shall be treated as having satisfied the condition mentioned in section 1(2)(b) (jobseeker's agreement) for so long as the award is in force or, if earlier,

until the day he actually enters into such an agreement in accordance with section 9(1) or until, in a case where a proposed jobseeker's agreement is referred to an adjudication officer for him to determine, until the day the adjudication officer gives a direction in accordance with section 9(7).

(3) In the case of a person to whom unemployment benefit was payable in respect of either 6th or 7th April 1996—

- (a) section 5(1) shall have effect as if the reference to 182 days, was a reference to 312 days; and
- (b) in any benefit week commencing on or after 7th October 1996, Sunday or such other day of the week which before that date was, in the claimant's case, substituted for Sunday in accordance with regulation 4 of the Unemployment Benefit Regulations as in force on 6th October 1996⁽⁹⁾ shall be disregarded solely for the purpose of determining whether in the aggregate a person has been entitled to a contribution-based jobseeker's allowance for 312 days.

(4) Any day of unemployment which fell within a period of interruption of employment current on the relevant day shall be treated as a day of entitlement to a contribution-based jobseeker's allowance for the purpose of determining whether the 182 days mentioned in section 5(1), or 312 days in a case to which paragraph (3) applies, has been exceeded.

(5) In the case of a person who on the relevant day—

- (a) was summoned for jury service and had been entitled to unemployment benefit immediately before the period in which he was required to serve as a juror began; or
- (b) was taking part in training and who had been, immediately before that training began, entitled to unemployment benefit or income support; and
- (c) would, but for being summoned for jury service or taking part in training, have been available for and actively seeking employment,

he shall be treated for the purpose of these Regulations as if—

- (i) on the relevant day he had an award of unemployment benefit if he had such an award immediately before the jury service or, as the case may be, the training began; or
- (ii) on the relevant day, he had an award of income support if he had such an award before the training began; and
- (iii) the award he was treated as having was terminated in accordance with paragraph (1) or, as the case may be, paragraph (2) of regulation 4.

(6) Where a person to whom paragraph (5) applies would have been in receipt of unemployment benefit in respect of either 6th or 7th April 1996 but for being summoned for jury service or taking part in training, regulation 6 shall apply in his case as if he had in fact been in receipt of unemployment benefit for one of those days.

(7) In the case of a person who on the relevant day—

- (a) was summoned for jury service; and
- (b) was entitled to income support; and
- (c) would but for being summoned for jury service have been available for and actively seeking employment,

his award of income support shall end at the end of the benefit week which includes the last day in respect of which he was summoned for jury service and regulation 6 shall apply in his case as if paragraph (1) referred to that benefit week and not the benefit week which commenced on or after 7th October 1996.

(9) Regulation 4 was amended by S.I. 1995/829.

Further provisions applying to a continuing entitlement to a Jobseeker's Allowance

8.—(1) A person's continuing entitlement to jobseeker's allowance shall be subject to the following provisions of this regulation where an award of a jobseeker's allowance—

- (a) is made on a claim treated as made for that benefit in accordance with regulation 5; or
 - (b) has effect in accordance with regulation 6.
- (2) A claimant is required to satisfy—
- (a) the conditions of entitlement set out in section 1(2)(a) to (c) of the Act on a weekly basis; and
 - (b) the other conditions for entitlement to a contribution-based jobseeker's allowance for each day of the week except Sunday or, where in a particular case another day was substituted for Sunday under regulation 4 of the Unemployment Benefit Regulations(10) as in force on 6th October 1996, except that day of the week.
- (3) Paragraph (4) applies—
- (a) as from the first day in the benefit week which in a particular case immediately follows the benefit week which includes 6th April 1997 except in the case of a person whose transitionally protected period ended before that date; or
 - (b) as from the first day in an award of a jobseeker's allowance where the claimant satisfied the requirements of section 2 and where—
 - (i) that day forms part of a jobseeking period separated by more than 8 weeks but less than 12 weeks from the last day of the transitionally protected period, or where there is no such day, the relevant day if unemployment benefit was payable in respect of that day;
 - (ii) that day forms part of a jobseeking period which is separated by not more than 12 weeks from a period of interruption of employment; or
 - (iii) the tax years which in accordance with section 2, are to be satisfied for entitlement to a contribution-based jobseeker's allowance to arise are the same tax years as those by reference to which entitlement to unemployment benefit arose on a claim made by the claimant in respect of a day before 7th October 1996.
- (4) Where this paragraph applies the number of days which are to be aggregated for the purposes of section 5(1) shall be determined in accordance with the formula—

$$(A + B) \times \frac{7}{6}$$

where—

- A = the number of days entitlement to unemployment benefit in any period of interruption of employment to which paragraph (3) refers;
- B = the number of days entitlement to a contribution-based jobseeker's allowance falling within the transitionally protected period.

(5) Any fraction produced by applying the formula set out in paragraph (4) shall be disregarded.

Transitionally Protected Period

9.—(1) The transitionally protected period commences in the case of any particular claimant on the first day in the benefit week which commences in his case on or after 7th October 1996 and applies to a claimant—

(10) Regulation 4 was amended by S.I. 1995/829.

- (a) who was awarded a jobseeker's allowance on a claim treated as made under regulation 5(1); or
- (b) whose award of unemployment benefit terminated in accordance with regulation 5(2).

(2) The transitionally protected period ends in the case of any particular claimant on the last day in the benefit week which includes 6th April 1997 or, if earlier, on the termination of any period of entitlement to a contribution-based jobseeker's allowance which does not link, in accordance with this regulation, with any subsequent period of entitlement to a contribution-based jobseeker's allowance.

(3) For the purposes of determining whether in any particular case the transitionally protected period has ended, periods of entitlement to a contribution-based jobseeker's allowance—

- (a) separated by not more than 8 weeks shall link;
- (b) separated by more than 8 weeks shall not link,

and in determining whether any particular periods of entitlement link, any period which is for the purposes of regulation 3(2) a linked period shall be disregarded.

(4) Where a person—

- (a) is entitled to a jobseeker's allowance and that entitlement falls within the transitionally protected period; and
- (b) satisfies the requirements of section 2 but not those of section 3,

an amount equal to any dependency increase payable with his unemployment benefit in respect of the benefit week which includes the relevant day, shall be payable as an addition to the person's contribution-based jobseeker's allowance but only for so long as he continues to satisfy the conditions of entitlement to the dependency increase which applied on that day.

(5) Where a person had not attained the age of 55 on the relevant day then for any week falling within the transitionally protected period in which he has still not attained that age section 30 of the Benefits Act shall apply in his case as if it had not been repealed, and the deductions prescribed under section 4(1)(b) in so far as they relate to occupational pensions shall not be made.

(6) In the case of a person who, on the relevant day—

- (a) was entitled to unemployment benefit by virtue of section 25(2)(b) or (c) of the Benefits Act; and
- (b) has attained pensionable age,

his continuing entitlement to a contribution-based jobseeker's allowance shall be determined in the transitionally protected period as if those provisions of the Benefits Act continued to apply in his case and the requirement of section 1(2)(h) did not apply, but subject to section 5(1) and regulation 8 (further provisions applying to a continuing entitlement to a jobseeker's allowance).

(7) In the transitionally protected period, where the weekly amount payable in accordance with section 4(1)(a) is less than the amount of unemployment benefit payable in the claimant's case for the benefit week which includes the relevant day in accordance with paragraph 1 of Schedule 4 to the Benefits Act, the age related amount applicable in that case shall be an amount equal to the amount formerly payable by way of unemployment benefit under that provision.

(8) In paragraph (7) the reference to the amount of unemployment benefit includes a reference to the amount of unemployment benefit which would have been payable had not the claimant been summoned as a juror or been undergoing training.

(9) Where a person is entitled to an income-based jobseeker's allowance, an amount equal to any dependency increase payable to him in accordance with section 82 of the Benefits Act in respect of an adult dependant who does not reside with him shall be—

- (a) included in the applicable amount of the person; and

(b) disregarded in determining the amount of the person's income, but only for so long as he continues to satisfy the conditions of entitlement to the dependency increase which applied on that day, or until the end of the benefit week which for him includes 7th April 1997, whichever is the earlier.

Jurors entitled to Income Support on the relevant day

10.—(1) This regulation applies to a person who in the benefit week which includes the relevant day was a juror and—

- (a) was entitled to income support without satisfying the requirement that he be available for employment in that week by virtue of regulation 8(1) of and paragraph 17 of Schedule 1 to the Income Support Regulations;
 - (b) immediately before commencing his duties as a juror was entitled to income support where the applicable amount was reduced in accordance with regulation 21A or 22 of the Income Support Regulations⁽¹¹⁾; and
 - (c) before the benefit week which includes 6th April 1997, he ceases to be a juror.
- (2) When the person to whom paragraph (1) applies ceases to be a juror—
- (a) his award of income support shall terminate at the end of the benefit week in which he ceases to be a juror; and
 - (b) he shall be treated as having been awarded an income-based jobseeker's allowance for a period commencing on the first day of the benefit week which follows the benefit week in which his award of income support is terminated.

(3) Where an amount prescribed in accordance with section 4(5) which is applicable in the case of a person treated as having been awarded an income-based jobseeker's allowance under paragraph (2) (b) is less than the amount which was applicable for the purpose of his award of income support under Schedule 2 or, as the case may be, Schedule 7 to the Income Support Regulations, reduced in accordance with regulation 21A or 22 of those Regulations, in the last benefit week to which his applicable amount was subject to such a reduction, then the higher amount which was applicable in the award of income support shall also be applicable for the purposes of determining the amount of income-based jobseeker's allowance payable in his case.

(4) An award having effect in accordance with this regulation shall continue until such date as the claimant fails to satisfy, or in respect of which he ceases to be treated as satisfying, any condition of entitlement which applies in his case, or if earlier, until the end of the benefit week which includes 6th April 1997.

Earnings during the Transitionally Protected Period

11.—(1) During the transitionally protected period, a person's entitlement to a contribution-based jobseeker's allowance shall be subject to the conditions set out in this regulation.

(2) A person's entitlement to a contribution-based jobseeker's allowance in any week is subject to the condition that, on each day in that week he continues to satisfy the requirements of regulations 7(1)(g)(i) and (iii) and (o) of the Unemployment Benefit Regulations as in force on 6th October 1996, except on a day on which regulation 9 of those Regulations would have applied to him, notwithstanding that those provisions have ceased to have effect but as if the references to regulation 10, 11 and 12 were omitted and as if regulation 7(5B)⁽¹²⁾ continued to apply.

⁽¹¹⁾ Regulation 21A was inserted by S.I. 1990/2324; the relevant amending instrument is 1993/315. Regulation 22 is amended by S.I. 1987/1969, 1988/663, 1989/43, 534, 1034, 1324, 1990/547, 1991/236, 1995/482.

⁽¹²⁾ Regulation 7(5B) was inserted by S.I. 1995/2192.

(3) Regulation 7(1)(g)(i) and (iii) and (o) of the Unemployment Benefit Regulations shall apply as if the reference to “unemployment benefit” was a reference to a contribution-based jobseeker’s allowance, and as if for references to “day of unemployment” there were substituted references to a day on which a person satisfies the conditions of entitlement to a jobseeker’s allowance specified in section 1(2)(a) to (d)(i) and (e) to (i).

(4) Where a person has one or more days in any week on which he fails to satisfy the conditions of paragraph (2)—

- (a) he may nonetheless qualify for a contribution-based jobseeker’s allowance on the other days in that week except Sunday or the day which in his case was substituted for Sunday in accordance with regulation 4 of the Unemployment Benefit Regulations⁽¹³⁾ as in force on 6th October 1996; and
- (b) except where sub-paragraph (c) applies, the amount of the contribution-based jobseeker’s allowance payable to him in that week shall be reduced by an amount equal to one-sixth of the weekly amount for each day in that week on which he fails to satisfy those requirements; or
- (c) no contribution-based jobseeker’s allowance shall be payable to him in that week where, had regulation 7(1)(o) of the Unemployment Benefit Regulations (weekly earnings in excess of lower earnings limit) as in force on 6th October 1996 applied in his case, no unemployment benefit would have been payable for that week.

Earnings generally

12.—(1) In the transitionally protected period, the amount of a person’s earnings shall, for the purpose of determining a person’s entitlement to an amount of a contribution-based jobseeker’s allowance, be calculated or estimated in accordance with section 3 of the Benefits Act and regulations 2 to 4 of the Social Security Benefit (Computation of Earnings) Regulations 1978⁽¹⁴⁾.

(2) In any case where—

- (a) the amount of a person’s earnings are determined in accordance with provisions which applied before 7th October 1996 (“the old rules”); and
- (b) the person’s earnings subsequently fall to be determined in accordance with the provisions of the Act and the regulations made thereunder (“the new rules”),

any earnings determined in accordance with the old rules shall be disregarded for the purposes of the new rules.

Part-time Students

13.—(1) This regulation applies to a person (referred to in this regulation as a “participant”) to whom regulation 5 or 6 applies and who on 31st July 1996 was entitled to income support or unemployment benefit.

(2) In the case of a participant who on 31st July 1996 was treated as available for employment in accordance with regulation 9(1)(c) of the Income Support Regulations, he shall continue to be treated as available for employment for the purposes of a jobseeker’s allowance, notwithstanding any regulation to the contrary, for so long as he continues to satisfy—

- (a) the requirements of regulation 9(1)(c) of the Income Support Regulations as in force on 31st July 1996; and
- (b) the provisions of paragraph (4).

⁽¹³⁾ Regulation 4 was amended by S.I. 1995/829.

⁽¹⁴⁾ S.I. 1978/1698; the relevant amending instruments are S.I. 1979/359, 1989/606, 1989/1642, 2123, 1990/2208, 1992/300 and 1995/829.

- (3) A participant who on 31st July 1996—
- (a) although attending a course of study within the meaning of regulation 7(3)(c)(15) of the Unemployment Benefit Regulations was not a student for the purposes of regulation 7(1)(m) of those Regulations(16); or
 - (b) although attending a course of study was not a student for the purposes of regulation 10 of the Income Support Regulations(17),

shall be treated for the purposes of any regulations relating to a jobseeker's allowance as if he was a part-time student within the meaning of those regulations for so long as he continues—

- (i) to attend the course of study referred to in sub-paragraph (a) or (b), and,
 - (ii) to satisfy the provisions of paragraph (4).
- (4) The provisions of this paragraph are that—
- (a) the participant continues to follow the course of study or, as the case may be, the course of education, training or instruction, which he was following on 31st July 1996; and
 - (b) his award of a jobseeker's allowance which arose in accordance with regulation 7 or on a claim treated as made under regulation 6 has not terminated and for the purpose of determining whether the award has terminated any period which is a linked period under regulation 3 shall be disregarded and two awards separated by a linking period shall be treated as a single award.

Claimants subject to disqualification or reduction in benefit

14.—(1) In the case of a person who on the relevant day was disqualified for receiving unemployment benefit in accordance with section 28 of the Benefits Act for a period which would not, but for the replacement of unemployment benefit with a jobseeker's allowance, have expired on that day, the award of a contribution-based jobseeker's allowance which arises under regulation 6 (jobseeker's allowance to replace income support and unemployment benefit) shall not be payable for the balance of that period.

(2) In the case of a person who on the relevant day was entitled to income support at a rate reduced in accordance with regulation 21A or 22 of the Income Support Regulations(18), any award of an income-based jobseeker's allowance which has effect in accordance with regulation 6 shall be payable at the rate appropriate under section 4(3) of the Act, reduced by a sum equal to the amount by which the income support had been reduced and only the balance (if any) shall be payable.

- (3) The reduction mentioned in paragraph (2) shall end—
- (a) in a case where the claimant was disqualified for receiving unemployment benefit and paragraph (1) applies, on the day after the day the balance of the period mentioned in that paragraph ends;
 - (b) where a claim for unemployment benefit by the claimant, or a question which arose in connection with his award of unemployment benefit, had not been determined on the relevant day, on the day that claim or question is determined;
 - (c) except in a case which has already ended in accordance with sub-paragraph (a) or (b), on whichever day is the earlier of—
 - (i) the date the award of an income-based jobseeker's allowance terminates; or
 - (ii) the benefit week which included 6th April 1997.

(15) Regulation 7(3) was substituted by S.I. 1990/1549.

(16) Regulation 7(1)(m) was substituted by S.I. 1990/1549.

(17) The relevant amending instruments are S.I. 1990/1549 and 1657.

(18) Regulation 21A was inserted by S.I. 1990/2324; the relevant amending instrument is S.I. 1993/315. Regulation 22 is amended by S.I. 1987/1969, 1988/663, 1989/43, 534, 1034, 1324, 1990/547, 1991/236, 1995/482.

(4) For the purpose of determining in accordance with paragraph (3)(c)(i) whether an award has terminated, periods of entitlement to an income-based jobseeker's allowance—

- (a) separated by not more than 8 weeks shall link;
- (b) separated by more than 8 weeks shall not link,

and in determining whether any particular periods of entitlement link, any period which is for the purposes of regulation 3(2) a linked period shall be disregarded.

Treatment of Contribution-based Jobseeker's Allowance as Earnings

15.—(1) In the transitionally protected period, a payment of a contribution-based jobseeker's allowance which falls to be taken into account in determining the earnings of any person shall be treated as if it was payable on a daily basis for six days per week.

(2) Paragraph (1) shall apply only in a case where the contribution-based jobseeker's allowance is payable to a person who was entitled to unemployment benefit in the benefit week which included the relevant day.

(3) The days of the week in respect of which the payment is treated as made shall be the same days as those in respect of which unemployment benefit was paid in the benefit week which included the relevant day.

(4) The amount payable in respect of each of the 6 days shall be calculated—

- (a) except where sub-paragraph (b) applies, by dividing the total benefit payable for the week by 6; or
- (b) where payment is made for a part-week by dividing the total benefit payable by the number of days in the part-week and assigning no amount to the remaining days.

Questions not immediately ascertainable

16.—(1) Where on consideration of a claim or question relating to a jobseeker's allowance it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, that benefit depends on the determination of—

- (a) a question as to the amount of housing costs to be included in the claimant's applicable amount, and the adjudication officer is satisfied that not all the housing costs can be immediately ascertained, he shall proceed to determine the claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those which are immediately ascertainable;
- (b) any of the questions mentioned in paragraph (2), and he is satisfied that the questions cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of that question will be adverse to the claimant.

(2) The questions referred to in paragraph (1)(b) are—

- (a) whether the conditions specified in section 2, other than those specified in section 2(1)(c) or (d), are satisfied in his case;
- (b) whether a person is, or is to be treated as, available for or actively seeking employment;
- (c) whether section 19 (circumstances in which a jobseeker's allowance is not payable) applies for any period;
- (d) whether a person is receiving relevant education.

(3) A determination relating to a jobseeker's allowance made in accordance with the forgoing provisions of this regulation shall be reviewed where it is necessary to give effect to any determination on a question to which those provisions apply.

Claims for a Jobseeker's Allowance

17.—(1) Claims made on or after 7th October 1996 for a jobseeker's allowance may be treated by the Secretary of State as a claim in addition to, or as a claim for unemployment benefit or income support or both for a period before 7th October 1996.

(2) A claim treated as made for unemployment benefit or income support in accordance with paragraph (1) shall be treated as made on the day the claim for a jobseeker's allowance was made.

Signed by authority of the Secretary of State for Social Security.

18th December 1995

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made pursuant to section 40 of the Jobseekers Act 1995 (c. 18) provide for continuity between, on the one hand, unemployment benefit and income support for those who are required to be available for and actively seeking employment and, on the other, a jobseeker's allowance. They are made before the end of the period of 6 months beginning with the coming into force of the enactments under which they are made. Accordingly they are exempted by section 173(3) (a) of the Social Security Administration Act 1992 (c. 5) from reference to the Social Security Advisory Committee and have not been so referred.

Regulation 1 contains provisions relating to citation, commencement and the interpretation of expressions used in the Regulations.

Regulation 2 contains an extended definition of the term "jobseeking period" and regulation 3 identifies certain other periods (referred to as "linked periods") which are taken into account in determining whether a jobseeking period is continuing.

The Regulations also contain provisions—

- for awards of income support made to those required to be available for and actively seeking employment to be terminated and replaced by awards of a jobseeker's allowance (regulations 4, 6 and 7);
- for continuity between unemployment benefit and a jobseeker's allowance (regulations 5, 6 and 7);
- setting out the conditions a claimant needs to satisfy for an award of a jobseeker's allowance arising under these Regulations to continue (regulations 8 and 9);
- for transitional protection to be given for a limited period to persons formerly entitled to unemployment benefit or income support (regulations 9 and 10).

Regulations 11 to 16 provide for the same rules ("the old rules") which applied to the former unemployment benefit and to income support to apply to some claimants whose entitlement to a jobseeker's allowance arises in accordance with these Regulations. The old rules apply to the calculation of earnings, disqualification for benefit and students.

Regulation 17 enables claims for a jobseeker's allowance to be treated also as claims for the former unemployment benefit or for income support or for both.

These Regulations do not impose a charge on businesses.