
STATUTORY INSTRUMENTS

1996 No. 207

The Jobseeker's Allowance Regulations 1996

**PART IX
HARDSHIP**

Meaning of "person in hardship"

140.—(1) In this Part of these Regulations, a "person in hardship" means for the purposes of regulation 141 a claimant, other than a claimant to whom paragraph (3) or (4) applies, who—

- (a) is a single woman—
 - (i) who is pregnant; and
 - (ii) in respect of whom the adjudication officer is satisfied that, unless a jobseeker's allowance is paid to her, she will suffer hardship; or
- (b) is a single person who is responsible for a young person, and the adjudication officer is satisfied that, unless a jobseeker's allowance is paid to the single person, the young person will suffer hardship; or
- (c) is a member of a married or unmarried couple, where—
 - (i) the woman is pregnant; and
 - (ii) the adjudication officer is satisfied that, unless a jobseeker's allowance is paid, the woman will suffer hardship; or
- (d) is a member of a polygamous marriage and—
 - (i) one member of the marriage is pregnant; and
 - (ii) the adjudication officer is satisfied that, unless a jobseeker's allowance is paid, that woman will suffer hardship; or
- (e) is a member of a married or unmarried couple or of a polygamous marriage where—
 - (i) one or both members of the couple, or one or more members of the polygamous marriage, are responsible for a child or young person; and
 - (ii) the adjudication officer is satisfied that, unless a jobseeker's allowance is paid, the child or young person will suffer hardship; or
- (f) has an award of a jobseeker's allowance which includes or would, if a claim for a jobseeker's allowance from him were to succeed have included, in his applicable amount a disability premium and—
 - (i) where the person has an award, a jobseeker's allowance is not payable either because it is suspended or because section 19 (circumstances in which a jobseeker's allowance is not payable) applies in his case; and
 - (ii) the adjudication officer is satisfied that, unless a jobseeker's allowance is paid, the person who would satisfy the conditions of entitlement to that premium would suffer hardship; or

- (g) suffers, or whose partner suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the adjudication officer is satisfied that—
- (i) the suffering has already lasted, or is likely to last, for not less than 26 weeks; and
 - (ii) unless a jobseeker's allowance is paid to the claimant the probability is that the health of the person suffering would, within 2 weeks of the adjudication officer making his decision, decline further than that of a normally healthy adult and that person would suffer hardship; or
- (h) does, or whose partner does, or in the case of a claimant who is married to more than one person under a law which permits polygamy, at least one of those persons do, devote a considerable portion of each week to caring for another person who—
- (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(3) of the Benefits Act; or
 - (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for, 26 weeks from the date of claiming, whichever is the earlier,
- and the adjudication officer is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a jobseeker's allowance is paid to the claimant; or
- (i) is a person or is the partner of a person to whom section 16 applies by virtue of a direction issued by the Secretary of State, except where the person to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
- (j) is a person—
- (i) to whom section 3(1)(f)(iii) (persons under the age of 18) applies, or is the partner of such a person; and
 - (ii) in respect of whom the adjudication officer is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship.
- (2) Except in a case to which paragraph (3) or (4) applies a “person in hardship” means for the purposes of regulation 142, a claimant where the adjudication officer is satisfied that he or his partner will suffer hardship unless a jobseeker's allowance is paid to him.
- (3) In paragraphs (1) and (2) a “person in hardship” does not include a claimant who is entitled, or whose partner is entitled, to income support or who falls within a category of persons prescribed for the purpose of section 124(1)(e) of the Benefits Act.
- (4) Paragraph (1)(h) shall not apply in a case where the person being cared for resides in a residential care home or nursing home.
- (5) Factors which, for the purposes of paragraphs (1) and (2), an adjudication officer is to take into account in determining whether a person will suffer hardship are—
- (a) the presence in the claimant's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1;
 - (b) the resources which, without a jobseeker's allowance, are likely to be available to the claimant's family, the amount by which these resources fall short of the amount applicable in his case in accordance with regulation 145 (applicable amount in hardship cases), the amount of any resources which may be available to members of the claimant's family from any person in the claimant's household who is not a member of his family, and the length of time for which those factors are likely to persist;

- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the claimant or to a member of the claimant's family, or will be available at considerably reduced levels and the length of time those factors are likely to persist.

Circumstances in which an income-based jobseeker's allowance is payable to a person in hardship

141.—(1) This regulation applies to persons in hardship within the meaning of regulation 140(1), and is subject to the provisions of regulations 143 and 144.

(2) Subject to paragraph (3) a person in hardship shall be treated as entitled to an income-based jobseeker's allowance for the period beginning with the date of claim or, if later, from the day he first becomes a person in hardship and ending on the day before the claim is determined where a reason for the delay in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement specified in section 1(2)(a) to (c).

(3) A person in hardship to whom paragraph (2) applies may be treated as entitled to an income-based jobseeker's allowance for a period after the date of claim referred to in that paragraph but before the date the statement mentioned in regulation 143(1) is furnished where the adjudication officer is satisfied that the claimant suffered hardship because of a lack of resources during that period.

(4) A person in hardship, except where the person has been treated as not available for employment in accordance with regulations under section 6(4) of the Act shall, subject to the conditions specified in regulation 143 (conditions for hardship payments), be entitled to an income-based jobseeker's allowance without satisfying the requirements of section 1(2)(a) to (c) of the Act provided he satisfies the other conditions of entitlement to that benefit.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with regulation 37 of the Claims and Payments Regulations on the ground that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income based jobseeker's allowance.

(6) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 19 (circumstances in which a jobseeker's allowance is not payable) prevents payment of a jobseeker's allowance to him but the allowance shall be payable only if and for so long as he satisfies the conditions of entitlement to an income-based jobseeker's allowance.

Further circumstances in which an income-based jobseeker's allowance is payable to a person in hardship

142.—(1) This regulation applies to a person in hardship who falls within paragraph (2) but not paragraph (1) of regulation 140 and is subject to the provisions of regulations 143 and 144.

(2) A person in hardship shall be treated as entitled to an income-based jobseeker's allowance for a period commencing on whichever is the later of—

- (a) the 15th day following the date of claim; or
- (b) where the Secretary of State has certified that the claim is the first claim in a jobseeking period, the 18th day following the date of claim; or
- (c) the day the claimant complies with the requirements of regulation 143,

and ending on the day before the claim is determined where a reason for the delay in determining the claim is that a question arises as to whether the claimant satisfies any of the conditions of entitlement specified in section 1(2)(a) to (c).

(3) An income-based jobseeker's allowance shall be payable subject to paragraph (4) to a person in hardship even though payment to him of a jobseeker's allowance has been suspended in accordance with regulations made by virtue of section 5(1)(n) of the Administration Act (suspension of benefit) on the ground that a doubt has arisen as to whether he satisfies the requirements of section 1(2)(a) to (c) but the allowance shall be payable only if and for so long as the claimant satisfies the other conditions of entitlement to an income-based jobseeker's allowance.

(4) An income-based jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.

(5) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 19 (circumstances in which a jobseeker's allowance is not payable) prevents payment of a jobseeker's allowance to him, but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which section 19 applies; and
- (b) shall be payable thereafter only where the conditions of entitlement to an income-based jobseeker's allowance are satisfied.

Conditions for hardship payments

143.—(1) A jobseeker's allowance shall not be payable in accordance with regulation 141 or, as the case may be, 142, except where the claimant has—

- (a) furnished on a form approved for the purpose by the Secretary of State or in such other form as he may in any particular case approve a statement of the circumstances he relies upon to establish entitlement under regulation 141 or as the case may be regulation 142; and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by the claimant to such office as the Secretary of State may specify.

Provision of information

144. For the purposes of paragraph 10(3) of Schedule 1 to the Act, a claimant shall provide to the Secretary of State information as to the circumstances of the person alleged to be in hardship.

Applicable amount in hardship cases

145.—(1) The weekly applicable amount of a person to whom an income-based jobseeker's allowance is payable in accordance with this Part of these Regulations shall, except in a case to which paragraph (2) applies, be reduced by a sum equal to 40% of the following amount—

- (a) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in paragraph 1(1)(a), (b) or (c), as the case may be, of Schedule 1 (applicable amounts);
- (b) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for an income-based jobseeker's allowance under section 3(1)(f)(iii) or is not subject to a direction under section 16, the amount specified in paragraph 1(1)(d) of Schedule 1;
- (c) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or polygamous marriage to whom

sub-paragraph (b) does not apply) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1.

(2) In a case where the claimant or any other member of his family is either pregnant or is seriously ill, his weekly applicable amount shall be reduced by a sum equal to 20% of the amount applicable in his case by way of a personal allowance determined in accordance with paragraph 1 of Schedule 1.

(3) A reduction under paragraph (1) or (2) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

Payments made on account of suspended benefit

146.—(1) This regulation applies to a person to whom—

- (a) payments of a jobseeker's allowance have been suspended in accordance with regulations made under section 5(1)(n) of the Administration Act;
- (b) an income-based jobseeker's allowance is paid under regulation 141 or 142.

(2) In the case of a person to whom—

- (a) this regulation applies; and
- (b) payments in respect of the benefit suspended fall to be made,

any benefit paid or payable by virtue of regulation 141(5) or 142(3) shall be treated as having been paid on account of the suspended benefit and only the balance of the suspended benefit (if any) shall be payable.