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STATUTORY INSTRUMENTS

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**2006 No. 1402**

**SOCIAL SECURITY**

**The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006**

*Made* - - - - 25th May 2006  
*Coming into force* - - 30th May 2006

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a), 124(1)(e), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1) and sections 6(2) and (4), 7(4), 8, 35(1), 36(2) and (4) of, and paragraphs 8 and 8A(1) of Schedule 1 to, the Jobseekers Act 1995(2).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(3).

A draft of this instrument has been laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995 and approved by a resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 and shall come into force on 30th May 2006.

**Amendment of the Jobseeker's Allowance Regulations 1996**

2.—(1) The Jobseeker's Allowance Regulations 1996(4) are amended in accordance with this regulation.

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- (1) 1992 c. 4. Section 124(1)(e) was inserted by paragraph 30 of Schedule 2 to the Jobseekers Act 1995 (c. 18) and was amended by Schedule 3 to the State Pension Credit Act 2002 (c. 16). Section 137(1) is an interpretation provision and is cited because of the meaning there given to the word "prescribed". Section 175(1) and (4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (2) 1995 c. 18. Section 8 was amended by paragraph 7 of Schedule 7 and paragraph 29 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 35(1) is an interpretation provision and is cited because of the meaning there given to the words "prescribed" and "regulations". Sections 35(1) and 36(4) were amended by paragraphs 62 and 63 respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Paragraph 8A(1) of Schedule 1 was inserted by paragraph 16 of Schedule 7 to the Welfare Reform and Pensions Act 1999.
- (3) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of "relevant enactments" in respect of which regulations must normally be referred to the Committee.
- (4) S.I. 1996/207.

- (2) In regulation 5(1) (exceptions for certain people to requirement to be available immediately)<sup>(5)</sup>—
- (a) omit sub-paragraph (a); and
  - (b) in sub-paragraph (b), after “voluntary work” insert “or who has caring responsibilities”.
- (3) In regulation 14 (circumstances in which a person is to be treated as available)—
- (a) in paragraph (1)<sup>(6)</sup>—
    - (i) after “to whom regulation 15(a), (b)”, insert “, (bc)”; and
    - (ii) after “circumstances apply, subject to”, insert “paragraph (2B) and to”;
  - (b) after paragraph (1)(q)<sup>(7)</sup>, insert the following sub-paragraphs—
    - “(r) if he is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
    - (s) if, for a maximum of 96 hours before being released, he is in—
      - (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation)<sup>(8)</sup>, or
      - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland)<sup>(9)</sup> but is not a prisoner as defined by regulation 85(4) (special cases)<sup>(10)</sup>.”;
  - (c) after paragraph (2A)<sup>(11)</sup>, insert the following paragraph—
    - “(2B) A person shall not be treated as available for employment under paragraph (1) (r)—
      - (a) for more than eight weeks,
      - (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
      - (c) where he is a prisoner as defined by regulation 85(4) (special cases).”; and
  - (d) after paragraph (6), insert the following paragraph—
    - “(7) In this regulation, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992<sup>(12)</sup>.”.
- (4) In regulation 19 (circumstances in which a person is to be treated as actively seeking employment)—
- (a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (2A)”; and
  - (b) after paragraph (1)(u)<sup>(13)</sup>, insert the following sub-paragraphs—
    - “(v) in any week during which he is, for not less than three days, required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;
    - (w) if, for a maximum of 96 hours before being released, he is in—

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<sup>(5)</sup> Regulation 5(1) was substituted by S.I. 2002/3072.

<sup>(6)</sup> The relevant amending instrument is S.I. 1997/563.

<sup>(7)</sup> Sub-paragraph (q) was inserted by S.I. 2004/1869.

<sup>(8)</sup> 1984 c. 60. Section 118(2) was amended by paragraph 5(12) of Schedule 15 to the Terrorism Act 2000 (c. 11) and paragraph 9(9) of Schedule 7 to the Police Reform Act 2002 (c. 30).

<sup>(9)</sup> 1995 c. 46. Section 295 was amended by section 24(2) of the Criminal Justice (Scotland) Act 2003 (asp7).

<sup>(10)</sup> The definition of “prisoner” was amended by S.I. 1998/563 and 2005/2078.

<sup>(11)</sup> Paragraph (2A) was inserted by S.I. 1997/563.

<sup>(12)</sup> 1992 c. 53 as amended.

<sup>(13)</sup> Sub-paragraph (u) was inserted by S.I. 2004/1869.

- (i) police detention within the meaning in section 118(2) of the Police and Criminal Evidence Act 1984 (general interpretation), or
  - (ii) legal custody within the meaning in section 295 of the Criminal Procedure (Scotland) Act 1995 (legal custody in Scotland) but is not a prisoner as defined by regulation 85(4) (special cases).”;
- (c) after paragraph (2), insert the following paragraph—
- (v)—
- (a) for more than eight weeks,
  - (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
  - (c) where he is a prisoner as defined by regulation 85(4) (special cases).”; and
- (d) in paragraph (3), insert at the appropriate place—
- ““tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.”.
- (5) In regulation 30 (circumstances in which a claimant is to be regarded as having good cause for failing to comply with a notice under regulation 23)(**14**)—
- (a) in paragraph (a), omit “(a) or”; and
  - (b) in paragraph (c), after “(k) – (n)” insert “, (r) or (s)”.
- (6) In Schedule A1 (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b))(**15**), for paragraph 15 (members required to attend court) substitute the following paragraph—

**“15 Members required to attend a court or tribunal**

- (1) A member who is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.
- (2) In this paragraph, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.”.

**Amendment of the Income Support (General) Regulations 1987**

- 3.—(1)** The Income Support (General) Regulations 1987(**16**) are amended in accordance with this regulation.
- (2) In Schedule 1B (prescribed categories of person)(**17**), for paragraph 19 (persons required to attend court) substitute the following paragraph—

**“Persons required to attend court or tribunal**

- 19.—(1)** A person who is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.
- (2) In this paragraph, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.”.

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(14) Regulation 30 was amended by S.I. [2000/1978](#) and [2194](#) and [2002/3072](#).

(15) Schedule A1 was inserted by S.I. [2000/1978](#) and amended by S.I. [2001/518](#) and [652](#) and [2003/511](#).

(16) S.I. [1987/1967](#).

(17) Schedule 1B was inserted by S.I. [1996/206](#).

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

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

25th May 2006

*James Plaskitt*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Jobseeker's Allowance Regulation 1996 (S.I.1996/207) ("the Jobseeker's Allowance Regulations") and the Income Support (General) Regulations 1987 (S.I. 1987/1967) ("the Income Support Regulations").

Regulation 2 amends the Jobseeker's Allowance Regulations to change some of the jobseeker's allowance entitlement conditions (namely that the person is available for employment, is actively seeking work and attends at such place and time as is specified) which a person can be treated as having met in two circumstances. Firstly, where the person is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror (similar provision is also made in the case of a member of a joint claim couple). Secondly, where the person is detained in custody in specified circumstances.

Regulation 2(2) amends the circumstances in which a carer does not have to meet the requirement to be available for work immediately.

Regulation 2(3)(a)(i) updates a cross-reference for persons regarded as available for work.

Regulation 3 amends the Income Support Regulations to change the circumstances in which a person can be entitled to income support where they are required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.