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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 241**

**The Jobseeker's Allowance (Sanctions)  
(Amendment) Regulations (Northern Ireland) 2016**

**Amendment of Part V of the JSA Regulations**

2.—(1) Part V of the JSA Regulations (sanctions) is amended in accordance with paragraphs (2) to (9).

(2) For regulation 69(1) (prescribed period for purposes of Article 21(2)) substitute—

**“The period of a reduction under Article 21: higher level sanctions**

69.—(1) Subject to paragraphs (3) and (4), a reduction under Article 21 (higher level sanctions) is to have effect for—

- (a) 13 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2);
- (b) 26 weeks, where there has been only one previous sanctionable failure by the claimant that falls within paragraph (2);
- (c) 78 weeks, where there have been 2 or more previous sanctionable failures by the claimant that fall within paragraph (2)(a) and, if applicable, (b) and the most recent of those failures—
  - (i) falls within paragraph (2)(c), and
  - (ii) resulted in a reduction that has effect for 26 weeks under sub-paragraph (b) or 78 weeks under this sub-paragraph, or would have done but for paragraph (4).

(2) A previous sanctionable failure referred to in paragraph (1) falls within this paragraph if—

- (a) the failure resulted in a decision to reduce the claimant's award in accordance with Article 21;
- (b) in the case of a joint-claim couple, the failure was by the same claimant; and
- (c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.

(3) Where claimant's award has been reduced in relation to a sanctionable failure which is specified in Article 21(2)(a), (b) or (d) and which occurred before the date of claim for a jobseeker's allowance, any such failure must not be counted for the purpose of determining the period of a reduction for a subsequent sanctionable failure under Article 21.

(4) Where a sanctionable failure which is specified in Article 21(2)(a), (b) or (d) occurs on or before the date on which a claim for a jobseeker's allowance is made—

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(1) Regulation 69 was substituted by regulation 2(3) of S.R. 2000 No. 9 and amended by regulation 2(2) and (3) of S.R. 2000 No. 197, paragraph 25 of Schedule 2 to S.R. 2000 No. 350, regulation 4 of S.R. 2001 No. 151, regulation 2(3) of S.R. 2009 No. 141 and regulation 2 of S.R. 2009 No. 341

- (a) except where sub-paragraph (b) applies, the reduction relating to that failure is to have effect for the period set out in paragraph (1) that applies in the claimant's case (the "applicable sanction period") minus the period beginning with and including the day after the date of the sanctionable failure and ending with the day before the date of claim;
- (b) if—
  - (i) the failure was in relation to employment which was due to last for a limited period,
  - (ii) the limited period ends on or before the end of the applicable sanction period, and
  - (iii) the date of claim is on or before the last day of the limited period,

the reduction relating to that failure is to have effect for the period beginning with and including the day after the date of the sanctionable failure and ending with the last day of the limited period minus the period beginning with and including the day after the date of the sanctionable failure and ending with the day before the date of claim.

(5) In paragraph (4)(b), "limited period" means a specific term which is fixed, or which can be ascertained, before it begins, by reference to some relevant circumstance.

(6) The period of a reduction under Article 21 begins—

- (a) on and including the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or
- (b) in any other case, on and including the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

#### **The period of a reduction under Article 21A: Other sanctions**

**69A.**—(1) A reduction under Article 21A (other sanctions) is to have effect for—

- (a) 4 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2); or
  - (b) 13 weeks, where there has been—
    - (i) only one previous sanctionable failure by the claimant that falls within paragraph (2), or
    - (ii) more than one previous sanctionable failure and the most recent of those failures falls within paragraph (2).
- (2) A previous sanctionable failure falls within this paragraph if—
- (a) the failure resulted in a decision to reduce the claimant's award in accordance with Article 21A;
  - (b) in the case of a joint-claim couple, the failure was by the same claimant; and
  - (c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.
- (3) The period of a reduction under Article 21A begins—
- (a) on and including the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or
  - (b) in any other case, on and including the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

**The period of a reduction under Article 21B: Claimants ceasing to be available for employment etc.**

**69B.**—(1) Subject to paragraph (5), the amount of an award of a jobseeker’s allowance, other than a joint-claim jobseeker’s allowance, is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the claimant—

- (a) was previously entitled to a jobseeker’s allowance, or was a member of a couple entitled to a joint-claim jobseeker’s allowance; and
- (b) ceased to be so entitled by failing to comply with the condition in Article 3(2)(a) or (c) (availability for employment and actively seeking employment).

(2) Subject to paragraph (5), the amount of an award of a joint-claim jobseeker’s allowance is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the case falls within either paragraph (3) or (4).

(3) A case falls within this paragraph if—

- (a) one of the claimants was previously entitled to a jobseeker’s allowance, other than a joint-claim jobseeker’s allowance; and
- (b) ceased to be so entitled by failing to comply with the condition in Article 3(2)(a) or (c).

(4) A case falls within this paragraph if—

- (a) the couple were previously entitled to a joint-claim jobseeker’s allowance but ceased to be so entitled by either or both of them failing to comply with the condition in Article 3(2)(a) or (c); or
- (b) either member of the couple was a member of another couple previously entitled to such an allowance and that couple ceased to be so entitled by that person failing to comply with the condition in Article 3(2)(a) or (c).

(5) This regulation does not apply where—

- (a) the claimant had been treated as available for work under regulation 14(2) (circumstances in which a person is to be treated as available), or as actively seeking employment under regulation 19(3) (circumstances in which a person is to be treated as actively seeking employment);
- (b) the claimant ceased to be so treated due to no longer falling within regulation 14 or 19;
- (c) as a result of (b), the claimant’s award was terminated for failing to comply with the conditions in Article 3(2)(a) or (c) (availability for employment and actively seeking employment); and
- (d) the Department considers that a reduction is not appropriate in the claimant’s circumstances.

(6) Subject to paragraph (7), a reduction under this regulation is to have effect for a period of—

- (a) 4 weeks, where there has been only one occasion on which the claimant’s previous entitlement ceased; or
- (b) 13 weeks, where there has been two or more occasions on which the claimant’s previous entitlement ceased and the date of the most recent occasion was within 52 weeks but not within 2 weeks of the last previous occasion.

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(2) Regulation 14 has been amended but not in ways relevant to these Regulations

(3) Regulation 19 has been amended but not in ways relevant to these Regulations

(7) The period specified in paragraph (6) is to be reduced by the period beginning with and including the first day of the benefit week following the benefit week in which the claimant was last paid an award of jobseeker's allowance and ending with the day before the date of claim or where regulation 3(g) of the Claims and Payments Regulations (claims not required for entitlement to benefit in certain cases) applies, the day before the suspension ends.

(8) The period of a reduction under this regulation begins on the date of claim or where regulation 3(g) of the Claims and Payments Regulations applies, the date on which the suspension ends.”.

(3) For regulation 70(4) (sanctions of discretionary length) substitute—

**“The amount of a reduction under Article 21 and 21A and regulation 69B**

**70.—**(1) Subject to paragraph (2), the amount of a reduction under Article 21 or 21A or regulation 69B is—

- (a) 100% of the allowance payable to the claimant; or
- (b) in the case of a joint-claim couple—
  - (i) 100% of the allowance payable to the couple, where the reduction relates to a sanctionable failure by each member of the couple, or
  - (ii) an amount calculated in accordance with paragraph (3), where the reduction relates to a sanctionable failure by only one member of the couple.

(2) In a case where the following circumstances apply—

- (a) a claimant's award is already reduced in accordance with Article 21 or 21A or regulation 69B; or
- (b) in the case of a joint-claim couple, an award of a joint-claim jobseeker's allowance is already reduced in accordance with Article 21 or 21A or regulation 69B as a result of a sanctionable failure by one or each member of the couple and the current sanctionable failure is by the same claimant,

no reduction is to be made for any days when those circumstances apply.

(3) The amount referred to in paragraph (1)(b)(ii) is such amount which, after its deduction from the full amount of the award of a joint-claim jobseeker's allowance, leaves the following amount—

- (a) in any case in which the member of the couple, who is not the member whose sanctionable failure led to the reduction, satisfies the conditions set out in Article 4 of the Order (contribution based conditions), a rate equal to the amount calculated in accordance with Article 6(1) (amount payable by way of a jobseeker's allowance);
- (b) in any case where the couple are a couple in hardship for the purposes of Part IXA(5), a rate equal to the amount calculated in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples);
- (c) in any other case, a rate calculated in accordance with Article 6(3A)(6) (amount payable by way of a joint-claim jobseeker's allowance) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 which would have been the applicable amount had the member of the couple who is not subject to sanctions been a single claimant.”.

(4) Regulation 70 was amended by Article 9(3)(d) of S.R. 1999 No. 428 (C. 32) and paragraph 26 of Schedule 2 to S.R. 2000 No. 350

(5) Part IXA was inserted by regulation 2(3) of S.R. 2000 No. 350

(6) Article 6(3A) was inserted by paragraph 6(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(4) After regulation 70 insert—

**“Cases in which no reduction is to be made under Article 21 or 21A**

**70A.**—(1) No reduction is to be made under Article 21 (higher-level sanctions) where—

- (a) the sanctionable failure is listed in Article 21(2)(a), (b) or (d);
- (b) the sanctionable failure occurs before a claim to a jobseeker’s allowance is made; and
- (c) the period of the reduction as calculated under sub-paragraph (a) or (b) of regulation 69(4) is the same as, or shorter than, the period between and including the date of the sanctionable failure and the date of claim.

(2) No reduction is to be made under Article 21A (other sanctions) where the sanctionable failure is specified in Article 21A(2)(a) (failure to comply with regulations under Article 10(1) or (1A)) and—

- (a) is a failure to comply with regulation 24 (provision of information and evidence); or
- (b) unless paragraph (3) or (4) applies, is a failure to comply with regulation 23 (attendance) or 23A(7) (attendance by members of a joint-claim couple).

(3) This paragraph applies where the claimant—

- (a) fails to participate on the day specified in a relevant notification;
- (b) makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of 5 working days beginning with and including the first working day after the day on which the claimant failed to participate on the day specified; and
- (c) fails to show a good reason for that failure to participate.

(4) This paragraph applies where—

- (a) the claimant fails to participate in an interview at the time specified in a relevant notification, but makes contact with an employment officer in the manner set out in the notification on the day specified in the notification;
- (b) the Department has informed the claimant in writing that a failure to participate in an interview at the time specified in a relevant notification, on the next occasion on which a claimant is required to participate in an interview, at the time specified in a relevant notification, may result in the claimant’s entitlement to a jobseeker’s allowance or a joint-claim jobseeker’s allowance ceasing or the award being subject to a reduction;
- (c) the claimant fails to participate in an interview at the time specified in a relevant notification on the next occasion;
- (d) the claimant makes contact with an employment officer in the manner set out in a relevant notification before the end of the period of 5 working days after the day on which the claimant failed to participate in an interview at the time specified; and
- (e) the claimant fails to show a good reason for that failure to participate in an interview at the time specified.

(5) In this regulation “relevant notification” has the meaning given in regulation 25 (entitlement ceasing on a failure to comply).

**Application of a reduction to a new award**

**70B.**—(1) Subject to paragraph (4), this regulation applies where—

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(7) Regulation 23A was inserted by paragraph 2 of Schedule 2 to [S.R. 2000 No. 350](#)

- (a) the amount of an award is reduced in accordance with Article 21 or 21A or regulation 69B;
- (b) that award (“the previous award”) is terminated;
- (c) the reduction period had either not yet begun or not ended when the previous award was terminated;
- (d) a new award is made to the claimant who had been entitled to the previous award; and
- (e) in the case of an award of a joint-claim jobseeker’s allowance, the reduction to the previous award was made in relation to a sanctionable failure by the claimant who is entitled to the new award.

(2) Where this regulation applies, the reduction period that would have applied to the previous award but for the award having terminated applies to the new award from the first day of the benefit week in which the claim for the new award is made for the outstanding period.

(3) In this regulation—

“outstanding period” means the period determined under regulation 69, 69A or 69B in relation to the previous award minus—

- (a) the benefit week in respect of which the previous award was reduced; and
- (b) the period beginning with the first day of the benefit week after the benefit week in which the previous award was terminated and ending with the first day of the benefit week in which entitlement to the new award begins;

“reduction period” means the period determined under regulation 69, 69A or 69B in relation to the previous award.

(4) This regulation does not apply where the Department is satisfied that, since the date of the most recent sanctionable failure, the claimant has been in employment for a period of, or more than one period where the total of those periods amounts to, at least 26 weeks.”.

(5) For regulation 72(8) (good cause for the purposes of Article 21(5)(a) and (6)(c) and (d) of the Order) substitute—

**“Good reason for the purpose of Article 21(2)(c) and (d) and 21A(2)(c) of the Order**

72. A person is not to be regarded as having a good reason for any act or omission for the purposes of Article 21(2)(c) and (d) and Article 21A(2)(c) if, and to the extent that, the reason for that act or omission relates to the time it took, or would normally take, for the person to travel from his home to the place of the employment, or a place mentioned in the jobseeker’s direction, and back to his home where that time was or is normally less than one hour and 30 minutes either way, by a route and means appropriate to his circumstances and to the employment, or to the carrying out of the jobseeker’s direction, unless, in view of the health of the person or any caring responsibilities of his, that time was or is unreasonable.”.

(6) Omit regulations 73(9) (good cause for the purposes of Article 21(5)(b) of the Order) and 73A(10) (just cause for the purposes of Articles 21(6)(b) and 22A(2)(e)).

(7) In regulation 74 (person of prescribed description for the purpose of Article 22(3) of the Order)—

(8) Regulation 72 was amended by regulation 5(4) of S.R. 1997 No. 130, regulation 6 of S.R. 1998 No. 198, paragraph 27 of Schedule 2 to S.R. 2000 No. 350, regulation 2(3) of S.R. 2004 No. 166, regulation 11(9) of S.R. 2008 No. 478, regulation 2(12) of S.R. 2010 No. 144 and regulation 2 of S.R. 2012 No. 181

(9) Regulation 73 was amended by regulation 5 of S.R. 1996 No. 356, regulation 7 of S.R. 1997 No. 541, regulation 7 of S.R. 1998 No. 198, paragraph 28 of Schedule 2 to S.R. 2000 No. 350, regulation 2(4) of S.R. 2009 No. 141 and regulation 2(5) of S.R. 2012 No. 14

(10) Regulation 73A was inserted by regulation 11(10) of S.R. 2008 No. 478

- (a) in paragraph (1)(**11**)—
  - (i) omit “and Article 22B(3)”, and
  - (ii) for “Article 21(6)(b) or (d) or 22A(2)(e) or (g) of the Order (circumstances in which a jobseeker’s allowance is not payable)” substitute “Article 21(2)(b) or (d) of the Order (higher-level sanctions)”; and
- (b) in paragraph (4)(**12**) omit “and Article 22B(3)”.
- (8) Omit regulations 74A(**13**) (person in receipt of a training allowance) and 74B(**14**) (reduced allowance where one member of a joint-claim couple is subject to a sanction).
- (9) In regulation 75 (**15**) (interpretation)—
  - (a) in paragraph (1)—
    - (i) for “Article 21 of the Order (circumstances in which a jobseeker’s allowance is not payable), Article 22A of the Order (denial or reduction of joint-claim jobseeker’s allowance)” substitute “Article 21A of the Order (other sanctions)”,
    - (ii) for sub-paragraph (a) substitute—
      - “(a) “an employment programme” means a programme or scheme which is designed to assist a claimant to prepare for or move into work;”, and
    - (iii) for sub-paragraph (b) substitute—
      - “(b) “a training scheme” means a scheme or course which is designed to assist a claimant to gain the skills, knowledge or experience that will make it more likely, in the opinion of the Department for Employment and Learning, that the claimant will obtain work or be able to do so.”(**16**);
  - (b) omit paragraph (2);
  - (c) for paragraph (3)(**17**) substitute—
    - “(3) In Article 21A of the Order and in this Part, “week” means any period of 7 consecutive days.”;
  - (d) for paragraph (4)(**18**) substitute—
    - “(4) In Article 21 and in this Part, “employment” means employed earner’s employment other than such employment in which a person is employed whilst participating in an employment programme falling within paragraph (1)(a) and “employed earner” shall be construed accordingly; and for the purposes of paragraph (4) of regulation 70B includes self-employment where the claimant’s income as calculated under Part VIII exceeds his applicable amount as calculated under Articles 6(1), 14 and 15 of the Order.”; and
  - (e) for paragraph (5) substitute—
    - “(5) In this Part—

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(**11**) Paragraph (1) was amended by paragraph 29(a) of Schedule 2 to [S.R. 2000 No. 350](#)  
(**12**) Paragraph (4) was amended by paragraph 29(b) of Schedule 2 to [S.R. 2000 No. 350](#)  
(**13**) Regulation 74A was inserted by regulation 6 of [S.R. 1996 No. 356](#) and amended by paragraph 30 of Schedule 2 to [S.R. 2000 No. 350](#)  
(**14**) Regulation 74B was inserted by paragraph 31 of Schedule 2 to [S.R. 2000 No. 350](#) and amended by regulation 2(12) of [S.R. 2012 No. 44](#)  
(**15**) Regulation 75 was substituted by regulation 8 of [S.R. 1997 No. 541](#)  
(**16**) Paragraph (1) was amended by regulation 8 of [S.R. 1998 No. 198](#), regulation 2(4) of [S.R. 2000 No. 197](#), paragraph 32(a) and (b) of Schedule 2 to [S.R. 2000 No. 350](#), regulation 5(a) of [S.R. 2001 No. 151](#), regulation 2(4) of [S.R. 2002 No. 275](#), regulation 2 of [S.R. 2007 No. 262](#), regulation 3(3) of [S.R. 2008 No. 498](#), regulation 2(5) of [S.R. 2009 No. 141](#) and regulation 2(6) of [S.R. 2012 No. 14](#)  
(**17**) Paragraph (3) was amended by paragraph 32(d) of Schedule 2 to [S.R. 2000 No. 350](#)  
(**18**) Paragraph (4) was amended by paragraph 32(e) of Schedule 2 to [S.R. 2000 No. 350](#) and regulation 4(8) of [S.R. 2008 No. 112](#)

“current sanctionable failure” means a failure which is sanctionable under Article 21 (higher-level sanctions), Article 21A (other sanctions) or Article 21B of the Order (claimants ceasing to be available for employment etc) in relation to which the Department has not yet determined whether the amount of an award is to be reduced in accordance with Article 21 or 21A or regulation 69B;

“sanctionable failure” means a failure which is sanctionable under Article 21 (higher-level sanctions), Article 21A (other sanctions) or Article 21B of the Order (claimants ceasing to be available for employment etc).”.