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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Jobseeker's Allowance Regulations 2013**

**PART 3**

**Sanctions**

**Interpretation**

**17.** For the purposes of this Part—

“ESA sanctionable failure” means a failure by a claimant which is sanctionable under section 11J of the Welfare Reform Act 2007;

“higher-level sanction” means a reduction of a jobseeker's allowance in accordance with section 6J of the Act;

“low-level sanction” means a reduction of a jobseeker's allowance in accordance with section 6K of the Act for a sanctionable failure by the claimant to comply with—

- (a) a work-focused interview requirement under section 6B(1) of the Act;
- (b) a work preparation requirement under section 6C(1) of the Act;
- (c) a work search requirement under section 6D(1)(b) of the Act (requirement to take action specified by the Secretary of State to obtain work); or
- (d) a requirement under section 6G of the Act (connected requirements);

“medium-level sanction” means a reduction of a jobseeker's allowance in accordance with section 6K of the Act for a sanctionable failure by the claimant to comply with—

- (a) a work search requirement under section 6D(1)(a) of the Act (requirement to take all reasonable action to obtain paid work); or
- (b) a work availability requirement under section 6E(1) of the Act (requirement to be available for work);

“pre-claim failure” means a sanctionable failure listed in section 6J(3) of the Act;

“reduction period” means the number of days for which a reduction in the amount of an award of a jobseeker's allowance is to have effect;

“sanctionable failure” means a failure by a claimant which is sanctionable under section 6J or 6K of the Act;

“total outstanding reduction period” means the total number of days for which no reduction has yet been applied for all of the claimant's higher-level sanctions, medium-level sanctions, low-level sanctions and reductions to which regulation 30 applies;

“UC sanctionable failure” means a failure by a claimant which is sanctionable under section 26 or 27 of the Welfare Reform Act 2012.

### General principles for calculating reduction periods

**18.**—(1) Subject to paragraphs (3) and (4), the reduction period is to be determined in relation to each sanctionable failure in accordance with regulations 19, 20 and 21.

(2) Reduction periods are to run consecutively.

(3) Where the reduction period calculated in relation to a sanctionable failure in accordance with regulation 19, 20 or 21 would result in the total outstanding reduction period exceeding 1095 days, the number of days in the reduction period in relation to that failure is to be adjusted so that 1095 days is not exceeded.

(4) In determining the reduction period in relation to a sanctionable failure, a previous sanctionable failure, UC sanctionable failure or ESA sanctionable failure is to be disregarded if it—

- (a) occurred in the 14 days immediately preceding the failure in question; and
- (b) gave rise to a reduction under these Regulations, the Universal Credit Regulations 2013 or the Employment and Support Allowance Regulations 2013.

### Higher-level sanction

**19.**—(1) Where the sanctionable failure is not a pre-claim failure, the reduction period for a higher-level sanction is—

- (a) 91 days, if sub-paragraphs (b) and (c) do not apply;
- (b) 182 days, if in the 365 days preceding the failure in question there was—
  - (i) another sanctionable failure giving rise to a higher-level sanction for which a 91 day reduction period applies; or
  - (ii) a UC sanctionable failure giving rise to a higher-level sanction under regulation 102(2) of the Universal Credit Regulations 2013<sup>(1)</sup> for which a 91 day reduction period applies; or
- (c) 1095 days, if in that period of 365 days there was—
  - (i) another sanctionable failure giving rise to a higher-level sanction for which a 182 day or 1095 day reduction period applies; or
  - (ii) a UC sanctionable failure giving rise to a higher-level sanction under regulation 102(2) of the Universal Credit Regulations 2013 for which a 182 day or 1095 day reduction period applies.

(2) But where—

- (a) the other sanctionable failure referred to in paragraph (1) was a pre-claim failure; or
- (b) the UC sanctionable failure referred to in paragraph (1) was a pre-claim failure under regulation 102(4) of the Universal Credit Regulations 2013,

it is to be disregarded in determining the reduction period in accordance with paragraph (1).

(3) Where the sanctionable failure for which a reduction period is to be determined is a pre-claim failure, the reduction period is the lesser of—

- (a) the period which would be applicable to the claimant under paragraph (1) if it were not a pre-claim failure; or
- (b) where the sanctionable failure relates to paid work that was due to last for a limited period, the period beginning with the day after the date of the sanctionable failure and ending with the last day of the limited period,

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(1) S.I. 2013/XXX.

minus the number of days beginning with the day after the date of the sanctionable failure and ending with the day before the date of claim.

### **Medium-level sanctions**

- 20.** The reduction period for a medium-level sanction is—
- (a) 28 days, if paragraph (b) does not apply; or
  - (b) 91 days, if in the 365 days preceding the failure in question there was—
    - (i) another sanctionable failure giving rise to a medium-level sanction for which a 28 day or 91 day reduction period applies; or
    - (ii) a UC sanctionable failure giving rise to a medium-level sanction under regulation 103 of the Universal Credit Regulations 2013 for which a 28 day or 91 day reduction period applies.

### **Low-level sanctions**

**21.—**(1) The reduction period for a low-level sanction is the total of the number of days referred to in paragraphs (2) and (3).

- (2) The number of days beginning with the date of the sanctionable failure and ending with—
- (a) the day before the day on which the claimant meets a compliance condition specified by the Secretary of State;
  - (b) the day before the day on which the claimant is no longer required to take a particular action specified as a work preparation requirement by the Secretary of State under section 6C(1) of the Act; or
  - (c) the day on which the award of a jobseeker's allowance is terminated,
- whichever is soonest.
- (3) Whichever of the following number of days is applicable in the claimant's case—
- (a) seven days, if sub-paragraphs (b) and (c) do not apply;
  - (b) 14 days, if in the 365 days preceding the failure in question there was—
    - (i) another sanctionable failure giving rise to a low-level sanction for which a seven day reduction period applies;
    - (ii) a UC sanctionable failure giving rise to a low-level sanction under regulation 104 of the Universal Credit Regulations 2013 for which a seven day reduction period applies; or
    - (iii) an ESA sanctionable failure giving rise to a low-level sanction under regulation 52 of the Employment and Support Allowance Regulations 2013 for which a seven day reduction period applies; or
  - (c) 28 days, if in the 365 days preceding the failure in question there was—
    - (i) another sanctionable failure giving rise to a low-level sanction for which a 14 day or 28 day reduction period applies;
    - (ii) a UC sanctionable failure giving rise to a low-level sanction under regulation 104 of the Universal Credit Regulations 2013 for which a 14 day or 28 day reduction period applies; or
    - (iii) an ESA sanctionable failure giving rise to a low-level sanction under regulation 52 of the Employment and Support Allowance Regulations 2013 for which a 14 day or 28 day reduction period applies.

### **Start of the reduction**

- 22.** A reduction period determined in relation to a sanctionable failure takes effect from—
- (a) where the claimant has not been paid a jobseeker's allowance for the benefit week in which the sanctionable failure occurred, the first day of that benefit week;
  - (b) where the claimant has been paid a jobseeker's allowance for the benefit week referred to in paragraph (a), the first day of the first benefit week for which the claimant has not been paid a jobseeker's allowance; or
  - (c) where the amount of the award of the jobseeker's allowance for the benefit week referred to in paragraph (a) or (b) is already subject to a reduction because of a previous sanctionable failure, the first day of the first benefit week in respect of which the amount of the award is no longer subject to that reduction.

### **Reduction period to continue where award of jobseeker's allowance terminates**

- 23.—**(1) Where an award of a jobseeker's allowance terminates while there is an outstanding reduction period—
- (a) the period continues to run as if a daily reduction were being applied; and
  - (b) if the claimant becomes entitled to a new award of a jobseeker's allowance before the period expires, that new award is subject to a reduction for the remainder of the total outstanding reduction period.
- (2) Paragraph (3) applies where—
- (a) an award of a jobseeker's allowance terminates before the Secretary of State determines that the amount of the award is to be reduced in accordance with section 6J or 6K of the Act in relation to a sanctionable failure; and
  - (b) that determination is made after the claimant becomes entitled to a new award of a jobseeker's allowance.
- (3) Where this paragraph applies—
- (a) the reduction period in relation to the sanctionable failure referred to in paragraph (2) is to be treated as having taken effect on the day before the previous award terminated;
  - (b) that reduction period is treated as having continued to run as if a daily reduction were being applied; and
  - (c) if the new award referred to in paragraph (2)(b) begins before that reduction period expires, that new award is subject to a reduction for the remainder of the total outstanding reduction period.

### **Suspension of a reduction where a fraud sanction applies**

- 24.—**(1) A reduction in the amount of an award of a jobseeker's allowance in accordance with section 6J or 6K of the Act is to be suspended for any period during which section 6B or 7 of the Social Security Fraud Act 2001(2) applies to the award.

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(2) [2001 c.11](#). Section 6B was inserted by section 24 of the Welfare Reform Act 2009. Sections 6B was amended by paragraph 10 of Schedule 2 and Schedule 7 to the Welfare Reform Act 2009 and sections 113, 118, 119 and 121 of, and paragraph 58 of Schedule 2, paragraph 16 of Schedule 3 and Schedule 14 to, the Welfare Reform Act 2012. Section 7 was amended by paragraph 45 of Schedule 2 to the State Pension Credit Act [2002 \(c.16\)](#), section 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007, paragraph 11 of Schedule 2, paragraph 2 of Schedule 4 and Schedule 7 to the Welfare Reform Act 2009, sections 118 and 119 of, and paragraph 59 of Schedule 2, paragraph 17 of Schedule 3 and Schedule 14 to, the Welfare Reform Act 2012, paragraph 45 of Schedule 2 to the Criminal Justice and Licensing (Scotland) Act [2010 \(asp 13\)](#) and [S.I. 2011/2298](#).

(2) The reduction ceases to have effect on the day on which that period begins and has effect again on the day after that period ends.

### **Termination of a reduction**

**25.**—(1) A reduction in the amount of an award of a jobseeker's allowance in accordance with section 6J or 6K of the Act is to be terminated where, since the date of the most recent sanctionable failure which gave rise to such a reduction, the claimant has been in paid work—

- (a) for a period of at least 26 weeks; or
- (b) for more than one period where the total of those periods amounts to at least 26 weeks.

(2) The termination of the reduction has effect—

- (a) where the date on which paragraph (1) is satisfied falls within a period of entitlement to a jobseeker's allowance, from the beginning of the benefit week in which that date falls; or
- (b) where that date falls outside a period of entitlement to a jobseeker's allowance, from the beginning of the first benefit week in relation to any subsequent award of a jobseeker's allowance.

(3) The claimant is in paid work for the purposes of paragraph (1) where their weekly earnings are at least equal to their expected number of hours per week calculated under regulation 9 multiplied by the national minimum wage which would apply for a person of the claimant's age under the National Minimum Wage Regulations 1999(3).

### **Amount of reduction for each benefit week**

**26.** Where it has been determined that an award of a jobseeker's allowance is to be reduced in accordance with section 6J or 6K of the Act, the amount of the reduction for each benefit week in respect of which a reduction has effect is to be calculated as follows.

Step 1

Take the number of days—

- (a) in the benefit week; or
- (b) if lower, in the total outstanding reduction period,

and deduct any days in that benefit week or total outstanding reduction period for which the reduction is suspended in accordance with regulation 24.

Step 2

Multiply the number of days produced by step 1 by the daily reduction rate.

Step 3

Deduct the amount produced by step 2 from the amount of the award of jobseeker's allowance for the benefit week.

### **Daily reduction rate**

**27.**—(1) The daily reduction rate for the purposes of regulation 26 is the amount applicable to the claimant under regulation 49 multiplied by 52 and divided by 365.

(2) The amount of the rate in paragraph (1) is to be rounded down to the nearest 10 pence.

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(3) [S.I. 1999/584](#) as amended by S.I.s [2000/1989](#), [2001/1108](#), [2002/1999](#), [2003/1923](#), [2004/1161](#) and [1930](#), [2005/2019](#), [2007/2318](#), [2008/1879](#) and [1894](#), [2009/1902](#), [2010/671](#), [1901](#) and [3001](#), [2011/2345](#) and [2347](#) and [2012/700](#), [956](#), [979](#) and [2397](#) and [SR 2008/412](#).

### Failures for which no reduction is applied

**28.**—(1) No reduction is to be made in accordance with section 6J of the Act for a sanctionable failure where—

- (a) the sanctionable failure is listed in section 6J(2)(b) or (c) of the Act (failure to apply for a vacancy for paid work or failure to take up an offer of paid work) and the vacancy has arisen because of a strike arising from a trade dispute;
- (b) the sanctionable failure is listed in section 6J(2)(d) of the Act (ceases paid work or loses pay) and the following circumstances apply—
  - (i) the claimant's work search and work availability requirements are subject to limitations under sections 6D(4) and 6E(3) of the Act in respect of work available for a certain number of hours;
  - (ii) the claimant takes up paid work that is for a greater number of hours; and
  - (iii) the claimant voluntarily ceases that paid work, or loses pay, within a trial period;
- (c) the sanctionable failure is listed in section 6J(3) of the Act (failures that occur before a claim is made) and the period of the reduction that would otherwise apply under regulation 19 is the same as or shorter than the number of days beginning with the day after the date of the sanctionable failure and ending with the day before the date of that claim;
- (d) the sanctionable failure is that the claimant voluntarily ceases paid work, or loses pay, because of a strike arising from a trade dispute;
- (e) the sanctionable failure is that the claimant voluntarily ceases paid work as a member of the regular forces or the reserve forces (within the meanings in section 374 of the Armed Forces Act 2006<sup>(4)</sup>), or loses pay in that capacity; or
- (f) the sanctionable failure is that the claimant voluntarily ceases paid work in one of the following circumstances—
  - (i) the claimant has been dismissed because of redundancy after volunteering or agreeing to be dismissed;
  - (ii) the claimant has ceased work on an agreed date without being dismissed in pursuance of an agreement relating to voluntary redundancy; or
  - (iii) the claimant has been laid-off or kept on short-time to the extent specified in section 148 of the Employment Rights Act 1996, and has complied with the requirements of that section.

(2) In this regulation—

“redundancy” has the same meaning as in section 139(1) of the Employment Rights Act 1996;

“strike” has the same meaning as in section 246 of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(5)</sup>;

“trade dispute” has the same meaning as in section 244 of that Act.

### Sanctionable failures under section 6J of the Act: work placements

**29.**—(1) Mandatory Work Activity is prescribed as a work placement for the purpose of section 6J(2)(a) of the Act (sanctionable failure not to comply with a work preparation requirement to undertake a work placement).

(2) “Mandatory Work Activity” is a scheme which provides work or work preparation.

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(4) 2006 c.52. Section 374 was amended by paragraph 37 of Schedule 22 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10).

(5) 1992 c.52. The definition of “strike” was amended by paragraph 6 of Schedule 3 to the Employment Relations Act 1999 (c.26).

### **Sanctions where universal credit ends and the person is entitled to a jobseeker's allowance**

**30.**—(1) This regulation applies where—

- (a) a person ceases to be entitled to universal credit;
- (b) there is a reduction relating to the person's award of universal credit under section 26 or 27 of the Welfare Reform Act 2012; and
- (c) the person is entitled to a jobseeker's allowance.

(2) Any reduction relating to the award of the universal credit is to be applied to the award of the jobseeker's allowance.

(3) The period for which the reduction relating to the award of the jobseeker's allowance is to have effect is the number of days which apply to the person under regulation 102, 103, 104 or 105 of the Universal Credit Regulations 2013 minus any such days which—

- (a) have already resulted in a reduction in the amount of universal credit; or
- (b) fall after the date the award of universal credit was terminated and before the date on which the award of a jobseeker's allowance starts.

(4) The daily reduction rate for the reduction relating to the award of the jobseeker's allowance is the amount of the claimant's jobseeker's allowance multiplied by 52 and divided by 365.

(5) The claimant's award of a jobseeker's allowance is to be reduced by the daily reduction amount referred to in paragraph (4) for each day of the period referred to in paragraph (3).