

## STATUTORY INSTRUMENTS

# 1996 No. 207

## The Jobseeker's Allowance Regulations 1996

### [<sup>F1</sup>PART IXA

#### HARDSHIP FOR JOINT-CLAIM COUPLES

##### Textual Amendments

- F1** Pt. 9A inserted (19.3.2001) by [The Jobseeker's Allowance \(Joint Claims\) Regulations 2000 \(S.I. 2000/1978\)](#), regs. 1(1), 2(3)

##### Meaning of "couple in hardship"

**146A.**—(1) In this Part of these Regulations, a "couple in hardship" means for the purposes of regulation 146C, a joint-claim couple who are claiming a jobseeker's allowance jointly, other than a couple which includes a member to whom paragraph (3) or (4) applies, where—

- (a) [<sup>F2</sup>at least one member of the joint-claim couple is a woman who is pregnant] and the Secretary of State is satisfied that, unless a joint-claim jobseeker's allowance is paid, she will suffer hardship; or
- (b) one or both members of the couple are members of a polygamous marriage, one member of the marriage is pregnant and the Secretary of State is satisfied that, unless a joint-claim jobseeker's allowance is paid, she will suffer hardship; or
- (c) the award of a joint-claim jobseeker's allowance includes, or would, if a claim for a jobseeker's allowance from the couple were to succeed, have included in their applicable amount a disability premium and—
  - (i) where the couple have an award, a joint-claim jobseeker's allowance is not payable either because it is suspended or because section 20A (denial or reduction of joint-claim jobseeker's allowance) applies in the couple's case; and
  - (ii) the Secretary of State is satisfied that, unless a joint-claim jobseeker's allowance is paid, the member of the couple who would have caused the disability premium to be applicable to the couple would suffer hardship; or
- (d) either member of the couple suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Secretary of State is satisfied that—
  - (i) the suffering has already lasted or is likely to last, for not less than 26 weeks; and
  - (ii) unless a joint-claim jobseeker's allowance is paid, the probability is that the health of the person suffering would, within two weeks of the Secretary of State making his decision, decline further than that of a normally healthy adult and the member of the couple who suffers from that condition would suffer hardship; or

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- (e) either member of the couple, or where a member of that couple is married to more than one person under a law which permits polygamy, one member of that marriage, devotes 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(4) 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; or
  - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made, and the Secretary of State 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 joint-claim jobseeker's allowance is paid; or
- (f) section 16 applies to either member of the couple by virtue of a direction issued by the Secretary of State, except where the member of the joint-claim couple to whom the direction applies does not satisfy the requirements of section 1(2)(a) to (c); or
- (g) section 3A(1)(e)(ii) (member of joint-claim couple under the age of 18) applies to either member of the couple and the Secretary of State is satisfied that unless a joint-claim jobseeker's allowance is paid, the couple will suffer hardship;
- (h) one or both members of the couple is a person—
- (i) who, pursuant to the Children Act 1989, was being looked after by a local authority;
  - (ii) with whom the local authority had a duty, pursuant to that Act, to take reasonable steps to keep in touch; or
  - (iii) who, pursuant to that Act, qualified for advice or assistance from a local authority, but in respect of whom head (i), (ii) or, as the case may be, (iii) above had not applied for a period of three years or less as at the date on which the requirements of regulation 146F are complied with; and
  - (iv) as at the date on which the requirements of regulation 146F are complied with, that member is, or both of those members are, under the age of 21.

(2) Except in a case to which paragraph (3), (4)<sup>[F3]</sup>, (5) or (5A)] applies, a “couple in hardship” means for the purposes of regulation 146D, a joint-claim couple where the Secretary of State 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 couple will suffer hardship unless a joint-claim jobseeker's allowance is paid.

(3) In paragraph (1) and (2), a “couple in hardship” does not include a couple one of whose members is entitled to income support <sup>[F4]</sup>or an employment and support allowance] or who falls within a category of persons prescribed for the purposes of section 124(1)(e) of the Benefits Act.

(4) Paragraph (1)(e) shall not apply in a case where the person being cared for resides in a <sup>[F5]</sup>care home, an Abbeyfield Home or an independent hospital].

(5) In paragraph (2), a “couple in hardship” does not include a joint-claim couple where section 20A(2)(b) or (c) applies to either or both members by virtue of any act or omission relating to a New Deal option <sup>[F6]</sup>or to the Intensive Activity Period specified in regulation 75(1)(a)(iv)]<sup>[F7]</sup> or to the Flexible New Deal.]

[  
<sup>F8</sup>(5A) In paragraph (2), a “couple in hardship” does not include a joint-claim couple where section 20A(2)(a) applies to either or both members by virtue of any refusal or failure relating to a Back to Work Session.]

(6) Factors which, for the purposes of paragraphs (1) and (2), the Secretary of State is to take into account in determining whether a joint-claim couple will suffer hardship are—

- (a) the presence in the joint-claim couple of a person who satisfies the requirements for a disability premium specified in paragraphs 20H and 20I of Schedule 1;
- (b) the resources which, without a joint-claim jobseeker's allowance, are likely to be available to the joint-claim couple, the amount by which these resources fall short of the amount applicable in their case in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples), the amount of any resources which may be available to the joint-claim couple for any person in the couple's household who is not a member of the 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 joint-claim couple, or will be available at considerably reduced levels, the hardship that will result and the length of time those factors are likely to persist.

#### Textual Amendments

- F2** Words in [reg. 146A\(1\)\(a\)](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 26(9)** (with art. 3)
- F3** Words in [reg. 146A\(2\)](#) substituted (6.4.2009 for specified purposes, 5.10.2009 in so far as not already in force) by [The Social Security \(Flexible New Deal\) Regulations 2009 \(S.I. 2009/480\)](#), regs. 1(2)(3), **2(10)(a)**
- F4** Words in [reg. 146A\(3\)](#) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **3(18)**
- F5** Words in [reg. 146A\(4\)](#) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 2 para. 8**
- F6** Words in [reg. 146A\(5\)](#) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **9(2)**
- F7** Words in [reg. 146A\(5\)](#) inserted (5.10.2009) by [The Social Security \(Flexible New Deal\) Regulations 2009 \(S.I. 2009/480\)](#), regs. 1(3), **2(10)(b)**
- F8** [Reg. 146A\(5A\)](#) inserted (6.4.2009 for specified purposes, 5.10.2009 in so far as not already in force) by [The Social Security \(Flexible New Deal\) Regulations 2009 \(S.I. 2009/480\)](#), regs. 1(2)(3), **2(10)(c)**

#### Period when a joint-claim couple is not in hardship

**146B.**—(1) A joint-claim couple which is not a couple in hardship by virtue of regulation 146A(5) shall not be a couple in hardship throughout the period beginning on the day on which a New Deal decision has effect by virtue of regulation 69 or, as the case may be, by virtue of regulation 7(8) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in relation to either or both members of that couple and ending—

- (a) on the last day on which a member is required to participate in a New Deal option [<sup>F9</sup>or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)] [<sup>F10</sup>or in the Flexible New Deal]; or
- (b) on the day which is 14 days after the day on which the New Deal decision had effect,

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whichever is the later.

(2) Where a joint-claim couple who are not a couple in hardship by virtue of regulation 146A(5) was a couple in hardship for the purposes of regulation 146D immediately before the commencement of the period referred to in paragraph (1), that couple shall, subject to paragraph (3), again become a couple in hardship for the purposes of regulation 146D on the day following the expiration of that period.

(3) A joint-claim couple to whom paragraph (2) applies shall not again become a couple in hardship for the purposes of regulation 146D if—

- (a) the day following the day the period referred to in paragraph (1) expires is a day within a period in respect of which a subsequent New Deal decision applies by virtue of paragraph (1); or
- (b) on the day following the expiration of the period referred to in paragraph (1), they are not a couple in hardship for the purposes of regulation 146D.

(4) In this regulation, “New Deal decision” means a decision that section 20A(2)(b) or (c) applies to a member of a joint-claim couple by virtue of an act or omission relating to one of the New Deal options<sup>F11</sup> or to the Intensive Activity Period specified in regulation 75(1)(a)(iv)<sup>F12</sup> or to the Flexible New Deal.]

#### Textual Amendments

- F9** Words in reg. 146B(1)(a) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(1)**
- F10** Words in reg. 146B(1)(a) inserted (5.10.2009) by [The Social Security \(Flexible New Deal\) Regulations 2009 \(S.I. 2009/480\)](#), regs. 1(3), **2(11)(a)**
- F11** Words in reg. 146B(4) added (9.4.2001) by [The Social Security Amendment \(New Deal\) Regulations 2001 \(S.I. 2001/1029\)](#), regs. 1(1), **10(2)**
- F12** Words in reg. 146B(4) added (5.10.2009) by [The Social Security \(Flexible New Deal\) Regulations 2009 \(S.I. 2009/480\)](#), regs. 1(3), **2(11)(b)**

#### Circumstances in which a joint-claim jobseeker's allowance is payable where a joint-claim couple is a couple in hardship

**146C.**—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 146A(1) and is subject to the provisions of regulations 146E and 146F.

(2) Subject to paragraph (3), a couple in hardship referred to in paragraph (1), other than a couple in hardship where either or both members are persons to whom regulation 46(1) (waiting days) applies, shall be treated as entitled to a joint-claim jobseeker's allowance for the period—

- (a) beginning with the fourth day of the jobseeking period or, if later, from the day the couple first becomes a couple in hardship; and
- (b) ending on the day before the claim is determined,

where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A couple in hardship to whom paragraph (2) applies may be treated as entitled to a joint-claim jobseeker's allowance for a period after the date referred to in that paragraph which is applicable in their case but before the date of the statement referred to in regulation 146E(1) is furnished where the Secretary of State is satisfied that that couple suffered hardship because of a lack of resources during that period.

(4) A couple in hardship, except where either or both members have been treated as not available for employment in accordance with regulations under section 6(4) shall, subject to the conditions specified in regulation 146E (conditions for hardship payments), be entitled to a joint-claim jobseeker's allowance without both members satisfying the requirements of section 1(2)(a) to (c) provided the joint-claim couple satisfy the other conditions of entitlement to that benefit.

(5) A joint-claim jobseeker's allowance shall be payable to a joint-claim couple who are a couple in hardship even though payment to the couple of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998 on the ground that a doubt has arisen as to whether either joint-claimant satisfies the requirements of section 1(2)(a) to (c), but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

(6) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 20A(5)(a) (denial of joint-claim jobseeker's allowance) prevents payment of a joint-claim jobseeker's allowance to the couple or section 20A(5)(b) (reduction of joint-claim jobseeker's allowance) reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

#### **Further circumstances in which a joint-claim jobseeker's allowance is payable to a couple in hardship**

**146D.**—(1) This regulation applies to a couple in hardship falling within paragraph (2) but not paragraph (1) of regulation 146A and is subject to the provisions of regulations 146E and 146F.

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

- (a) the 15th day following the date of claim disregarding any waiting days; or
- (b) the day on which regulation 146E is complied with,

and ending on the day before the claim is determined where the sole reason for the claim being determined on that day and not earlier is that a question arises as to whether either or both members of that couple satisfy the conditions of entitlement in section 1(2)(a) to (c) provided the joint-claim couple satisfy the conditions set out in section 1(2B)(c).

(3) A joint-claim jobseeker's allowance shall be payable, subject to paragraph (4), to a couple in hardship even though payment to them of a joint-claim jobseeker's allowance has been suspended in accordance with regulations made under section 21 of the Social Security Act 1998 (suspension of benefit) on the ground that a doubt has arisen as to whether either or both members of that couple satisfy the requirements of section 1(2)(a) to (c) of the Act but the allowance shall be payable only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or

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- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).
- (4) A joint-claim jobseeker's allowance shall not be payable in respect of the first 14 days of the period of suspension.
- (5) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 20A(5)(a) (denial of joint-claim jobseeker's allowance) prevents payment of a joint-claim jobseeker's allowance to them or section 20A(5)(b) (reduction of joint-claim jobseeker's allowance) reduces the amount of a joint-claim jobseeker's allowance payable to them but the allowance—
  - (a) shall not be payable under this paragraph in respect of the first 14 days of the period to which section 20A applies; and
  - (b) shall be payable thereafter only where the conditions of entitlement to a joint-claim jobseeker's allowance are satisfied or where one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 (categories of members not required to satisfy conditions in section 1(2B)(b)).

#### **Conditions for hardship payments to a joint-claim couple**

**146E.**—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 146C or, as the case may be, 146D, except where either member of the joint-claim couple 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 146C or, as the case may be, regulation 146D; and
  - (b) signed the statement.
- (2) The completed and signed form shall be delivered by either member to such office as the Secretary of State may specify.

#### **Provision of information**

**146F.** For the purposes of section 20B(5) and paragraph 10(3) of Schedule 1 to the Act, a member of a joint-claim couple shall provide to the Secretary of State information as to the circumstances of the alleged hardship of that couple.

#### **Applicable amount in hardship cases for joint-claim couples**

**146G.**—(1) The weekly applicable amount of the joint-claim couple to whom a joint-claim jobseeker's allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to 40% or, in a case where a member of a joint-claim couple is either pregnant or seriously ill or where a member of the joint-claim couple is a member of a polygamous marriage and one of the members of that marriage is pregnant or seriously ill, 20% of the following amount—

- (a) where one member of the joint-claim couple or the polygamous marriage 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 to whom section 3A(1)(e)(ii) applies or is not subject to a direction under section 16, the amount specified in paragraph 1(1)(d) of Schedule 1;
- (b) where one member of the joint-claim couple or of the polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (a) applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1.

(2) A reduction under paragraph (1) 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.

**Modifications etc. (not altering text)**

**C1** Reg. 146G(1) sum confirmed (with effect in accordance with art. 1(2)(j)(ii) (3)(a) 6 of the amending S.I.) by The Social Security Benefits Up-rating Order 2009 (S.I. 2009/497), arts. 1(2)(j)(ii), 24(8), Sch. 16

**Payments made on account of suspended benefit**

**146H.**—(1) This regulation applies to a joint-claim couple to whom—

- (a) payments of a joint-claim jobseeker's allowance have been suspended in accordance with regulations made under section 21 of the Social Security Act 1998;
- (b) a joint-claim jobseeker's allowance is paid under regulation 146C or 146D.

(2) In the case of a joint-claim couple 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 146C(5) or 146D(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.]

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