

**2001 No. 1395**

**SOCIAL SECURITY**

**The Social Security (Breach of Community Order)  
Regulations 2001**

*Made - - - - 5th April 2001*

*Coming into force 15th October 2001*

Whereas a draft of this instrument was laid before Parliament in accordance with section 65(4) of the Child Support, Pensions and Social Security Act 2000(a) and approved by resolution of each House of Parliament.

Now therefore, the Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 62(2) to (5) and (8), 63(2) to (4), 64(2), (6) and (8) and 65(1) and (2) of the Child Support, Pensions and Social Security Act 2000(b) and section 189(4) of the Social Security Administration Act 1992(c), and of all other powers enabling him in that behalf, which is made before the end of a period of 6 months beginning with the coming into force of sections 62 to 65 of the Child Support, Pensions and Social Security Act(d), by this Instrument, hereby makes the following Regulations:

PART I

GENERAL

**Citation, commencement and interpretation**

1.—(1) These Regulations shall be cited as the Social Security (Breach of Community Order) Regulations 2001 and shall come into force on 15th October 2001.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Child Support, Pensions and Social Security Act 2000;

“the Benefits Act” means the Social Security Contributions and Benefits Act 1992(e);

“the Jobseekers Act” means the Jobseekers Act 1995(f);

“the Income Support Regulations” means the Income Support (General) Regulations 1987(g);

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(a) 2000 c. 19.

(b) Section 62(8) is cited because of the meaning ascribed to “relevant benefit” in relation to payments under section 2 of the Employment and Training Act 1973 (c. 50). Section 65(1) is cited because of the meaning ascribed to the word “prescribed”.

(c) 1992 c. 5; section 189 is applied to regulations made under sections 62 to 64 of the Child Support, Pensions and Social Security Act 2000 by section 65(5) of that Act.

(d) Section 73 added sections 62 to 65 of that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee. See however section 173(5)(a) of the Social Security Administration Act 1992.

(e) 1992 c. 4.

(f) 1995 c. 18.

(g) S.I. 1987/1967.

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996**(a)**;

“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000**(b)**;

“offender” means the person in respect of whom a court has made a determination in accordance with section 62(1)(a) of the Act;

“prescribed period” means the period in respect of which the restrictions on payment of a relevant benefit apply in accordance with sections 62 and 63 of the Act and shall be interpreted in accordance with regulation 3.

(3) Expressions used in these Regulations which are defined either for the purposes of the Jobseekers Act or for the purposes of the Jobseeker’s Allowance Regulations shall, except where the context otherwise requires, have the same meaning as for the purposes of that Act or, as the case may be, those Regulations.

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

### **Description of a prescribed payment for the purposes of section 62(8) of the Act and the extent to which it is payable in accordance with section 62(5) of the Act**

**2.**—(1) A prescribed payment for the purposes of paragraph (d) of the definition of “relevant benefit” in section 62(8) of the Act is a payment of a training allowance made to an individual pursuant to arrangements under section 2 of the Employment and Training Act 1973**(c)** in respect of that individual’s participation in—

- (a) the programme known as Work-Based Learning for Adults;
- (b) one of the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations or the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
- (c) the Intensive Activity Period within the meaning of regulation 75(1)(a)(iv) of those Regulations**(d)**; or
- (d) the Intensive Activity Period for 50 plus as defined in regulation 1(3) of those Regulations**(e)**.

(2) In accordance with section 62(5) of the Act, where section 62(2) of the Act applies, the payment prescribed in paragraph (1) shall be payable for the prescribed period only to the extent of any part of that payment that is within the meaning of—

- (a) sub-paragraph (a), (b), (c) or (d) of paragraph 14 of Schedule 7 to the Jobseeker’s Allowance Regulations**(f)**; or
- (b) paragraph 60 of Schedule 7 to those Regulations**(g)**.

### **Prescribed period**

**3.**—(1) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(2) of the Act applying in respect of a jobseeker’s allowance, the prescribed period shall be—

- (a) where the offender was entitled to a jobseeker’s allowance on the examination day, the period of four weeks commencing on the operative day;
- (b) where the offender claims a jobseeker’s allowance after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the offender is entitled to a jobseeker’s allowance and ending on the last day of the benefit week which ends on, or immediately before, the final day.

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**(a)** S.I. 1996/207.

**(b)** 2000 c. 43.

**(c)** 1973 c. 50.

**(d)** The definition was inserted by S.I. 2001/1029.

**(e)** The definition was inserted by S.I. 2001/1029.

**(f)** The relevant amending instruments are S.I. 1997/2863 and 2001/1029.

**(g)** Paragraph 60 was inserted by S.I. 1998/1174 and amended by S.I. 2001/1029.

(2) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(2) of the Act applying in respect of a payment prescribed in regulation 2, the prescribed period shall be the period of four weeks commencing on the operative day.

(3) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(3) of the Act (income support), the prescribed period shall be—

- (a) where the offender was entitled to income support on the examination day, the period of four weeks commencing on the operative day;
- (b) where the offender claims income support after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the offender is entitled to income support and ending on the last day of the benefit week which ends on, or immediately before, the final day.

(4) Subject to paragraphs (5) and (6), in relation to a restriction under section 63(1) of the Act (joint-claim jobseeker's allowance), the prescribed period shall be—

- (a) where a joint-claim couple of which at least one member is an offender is entitled to a joint-claim jobseeker's allowance on the examination day, the period of four weeks commencing on the operative day;
- (b) where an offender is a member of a joint-claim couple which claims a joint-claim jobseeker's allowance after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the joint-claim couple is entitled to a joint-claim jobseeker's allowance and ending on the last day of the benefit week which ends on, or immediately before, the final day.

(5) Where the offender is aged 17 on the examination day but attains the age of 18 before the last day of the period prescribed in paragraphs (1) to (4), the prescribed period shall be the period commencing on the first day of the benefit week commencing immediately after the day on which the offender attains the age of 18 and ending on the last day of the period prescribed in paragraphs (1) to (4).

(6) Where the offender is aged 59 on the examination day but attains the age of 60 before the final day, the prescribed period shall be the period commencing on the first day of the period prescribed in paragraphs (1) to (4) and ending on the last day of the benefit week ending immediately before the day on which the offender attains the age of 60.

(7) In this regulation—

“benefit week”—

- (a) in relation to income support, shall have the same meaning as in regulation 2(1) of the Income Support Regulations**(a)**;
- (b) in relation to a jobseeker's allowance, shall have the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations**(b)**;
- (c) in relation to a payment referred to in regulation 2, means—
  - (i) where the offender is also entitled to income support on the examination day, the relevant benefit week under (a) above;
  - (ii) where the offender is also entitled to a jobseeker's allowance on the examination day, the relevant benefit week under (b) above;
  - (iii) where the offender is in receipt of such a payment on the examination day but is not entitled to, or in receipt of, income support or jobseeker's allowance on that day, the period of seven days ending on the day which corresponds with the day of the week which is the last day of the period in respect of which that payment is made;

“the examination day” means the day on which the Secretary of State, pursuant to a notification made to him that a determination has been made as mentioned in section 62(1) (a) of the Act, examines his records to ascertain whether the offender is, on that day, entitled to a relevant benefit or whether he is a member of a joint-claim couple who are, on that day, entitled to a joint-claim jobseeker's allowance;

“the final day” means the day before the day which is four weeks after the examination day;

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**(a)** The definition was amended by S.I. 1988/1445.

**(b)** The definition was amended by S.I. 1996/1517 and 2538.

“the operative day” means the first day of the first benefit week following the date of the Secretary of State’s decision—

- (a) in relation to a relevant benefit, that that benefit shall not be payable or that it shall be reduced pursuant to section 62 of the Act;
- (b) in relation to a joint-claim jobseeker’s allowance, that that allowance shall not be payable or that it shall be reduced pursuant to section 63 of the Act.

## PART II

### REDUCED AMOUNTS

#### **Reduction of income support**

4.—(1) Subject to paragraphs (3) and (4), any payment of income support which falls to be made to an offender in respect of any week in the prescribed period shall be reduced—

- (a) where the offender or any other member of his family is pregnant or seriously ill, by a sum equal to 20%;
- (b) in any other case, by a sum equal to 40%,

of the relevant amount applicable on the first day of the prescribed period under paragraph 1(1) of Schedule 2 to the Income Support Regulations in respect of a single claimant for income support.

(2) For the purposes of paragraph (1)(a), whether or not a person is a member of the offender’s family shall be determined in accordance with section 137(1) of the Benefits Act and Part III of the Income Support Regulations.

(3) Payment shall not be reduced under paragraph (1) below 10 pence per week.

(4) 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.

(5) Where the rate of income support payable to an offender changes, the rules set out above for a reduction in the benefit payable shall be applied to the new rates and any adjustment to the reduction shall take effect from the beginning of the first benefit week to commence for the offender following the change.

#### **Reduction of joint-claim jobseeker’s allowance**

5.—(1) In respect of any part of the prescribed period for which section 63(2) of the Act does not apply but subject to paragraph (2), the reduced rate of joint-claim jobseeker’s allowance payable to the member of that couple who is not the offender for the prescribed period shall be—

- (a) in any case in which the member of the couple who is not the offender satisfies the conditions set out in section 2 of the Jobseekers Act (contribution-based conditions), a rate equal to the amount calculated in accordance with section 4(1) of that Act;
- (b) in any case where the couple are a couple in hardship for the purposes of regulation 12, a rate equal to the amount calculated in accordance with regulation 17;
- (c) in any other case, a rate calculated in accordance with section 4(3A) of the Jobseekers Act<sup>(a)</sup> save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 to the Jobseeker’s Allowance Regulations which would have been the applicable amount had the member of the couple who is not the offender been a single claimant.

(2) Paragraph (1) shall only apply to the extent that the member of the joint-claim couple who is not the offender is not also subject to sanctions for the purposes of section 20A of the Jobseekers Act.

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<sup>(a)</sup> Section 4(3A) was inserted by section 59 of, and paragraph 5(3) of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30).

PART III  
HARDSHIP

**Meaning of “person in hardship”**

6.—(1) In this Part of these Regulations, a “person in hardship” means, for the purposes of regulation 7, an offender, other than an offender to whom paragraph (3) or (4) applies where—

- (a) she is a single woman who is pregnant and in respect of whom the Secretary of State is satisfied that, unless a jobseeker’s allowance is paid, she will suffer hardship;
- (b) he is a single person who is responsible for a young person, and the Secretary of State is satisfied that, unless a jobseeker’s allowance is paid, the young person will suffer hardship;
- (c) he is a member of a married or unmarried couple where—
  - (i) the woman is pregnant; and
  - (ii) the Secretary of State is satisfied that, unless a jobseeker’s allowance is paid, she will suffer hardship;
- (d) he is a member of a polygamous marriage and—
  - (i) one member of the marriage is pregnant; and
  - (ii) the Secretary of State is satisfied that, unless a jobseeker’s allowance is paid, she will suffer hardship;
- (e) he 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 Secretary of State is satisfied that, unless a jobseeker’s allowance is paid, the child or young person will suffer hardship;
- (f) he 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 the Secretary of State 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;
- (g) he suffers, or his partner 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 jobseeker’s allowance is paid to the offender, the probability is that the health of the person suffering would, within 2 weeks of the Secretary of State making his decision, decline further than that of a normally healthy adult and that person would suffer hardship;
- (h) he does, or his partner does, or in the case of an offender who is married to more than one person under a law which permits polygamy, at least one of those persons does, 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(4) of the Benefits Act;
  - (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 (5), 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 offender;

- (i) he is a person or is the partner of a person to whom section 16 of the Jobseekers Act 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) of that Act;
- (j) he is a person—
  - (i) to whom section 3(1)(f)(iii) of the Jobseekers Act (persons under the age of 18) applies, or is the partner of such a person; and
  - (ii) in respect of whom the Secretary of State is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship; or
- (k) he is a person—
  - (i) who, pursuant to the Children Act 1989(a), 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 and 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 he complies with the requirements of regulation 9; and
  - (iv) as at the date on which he complies with the requirements of regulation 9, is under the age of 21.

(2) Except in a case to which paragraph (3) or (4) applies, an offender shall, for the purposes of regulation 8, be deemed to be a person in hardship where, after taking account of the factors set out in paragraph (5) in so far as they are appropriate to the particular circumstances of the case, the Secretary of State 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), the offender shall not be deemed to be a person in hardship—
  - (a) where he is entitled, or his partner is entitled, to income support or where he or his partner fall within a category of persons prescribed for the purpose of section 124(1)(e) of the Benefits Act; or
  - (b) during any period in respect of which it has been determined that a jobseeker's allowance is not payable to him pursuant to section 19 of the Jobseekers Act (circumstances in which a jobseeker's allowance is not payable).

(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), the Secretary of State is to take into account in determining whether the offender is a person in hardship are—

- (a) the presence in the offender's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1 to the Jobseeker's Allowance Regulations or for a disabled child premium specified in paragraph 16 of that Schedule to those Regulations;
- (b) the resources which, without a jobseeker's allowance, are likely to be available to the offender's family, the amount by which these resources fall short of the amount applicable in his case in accordance with regulation 11 (applicable amount in hardship

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(a) 1989 c. 41.

cases), the amount of any resources which may be available to members of the offender's family from any person in the offender'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 offender's family, or will be available at considerably reduced levels and the length of time those factors are likely to persist.

(6) In determining the resources available to the offender's family under paragraph (5)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act 1973(a) shall be disregarded.

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

7.—(1) This regulation applies to a person in hardship within the meaning of regulation 6(1) and is subject to the provisions of regulations 9 and 10.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 62(2) of the Act 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 for entitlement to an income-based jobseeker's allowance.

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

8.—(1) This regulation applies to a person in hardship within the meaning of regulation 6(2) and is subject to the provisions of regulations 9 and 10.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 62(2) of the Act 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 prescribed period; and
- (b) shall be payable thereafter only if and for so long as he satisfies the conditions for entitlement to an income-based jobseeker's allowance.

**Conditions for payment of income-based jobseeker's allowance**

9.—(1) An income-based jobseeker's allowance shall not be payable in accordance with regulation 7 or 8 except where the offender 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 6(1), or, as the case may be 6(2); and
- (b) signed the statement.

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

**Provision of information**

10. For the purposes of section 62(4)(b) of the Act, the offender 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**

11.—(1) The weekly applicable amount of a person to whom an income-based jobseeker's allowance is payable in accordance with this Part shall be reduced by a sum equivalent to 40% or, in a case where the offender or any other member of his family is either pregnant or seriously ill, 20% of the following amount—

- (a) where the offender 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

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(a) 1973 c. 50.

other member, is a person under 18 who is not eligible for an income-based jobseeker's allowance under section 3(1)(f)(iii) of the Jobseekers Act or is not subject to a direction under section 16 of that Act, the amount specified in paragraph 1(1)(d) of Schedule 1 to the Jobseeker's Allowance Regulations;

- (b) where the offender 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 (a) applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations.

(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.

#### PART IV

#### HARDSHIP FOR JOINT-CLAIM COUPLES

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

12.—(1) In this Part of these Regulations, a "couple in hardship" means, for the purposes of regulation 13, a joint-claim couple, other than a couple to whom paragraph (3) or (4) applies, who are claiming a joint-claim jobseeker's allowance jointly where at least one member of that couple is an offender and where—

- (a) the woman member of the joint-claim couple is pregnant and the Secretary of State is satisfied that, unless a joint-claim jobseeker's allowance is paid, she will suffer hardship;
- (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;
- (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 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;
- (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;
- (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;
  - (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 (5) 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 of the Jobseekers Act 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) of that Act;
- (g) section 3A(1)(e)(ii) of the Jobseekers Act **(a)** (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; or
- (h) one or both members of the couple is a person—
  - (i) who, pursuant to the Children Act 1989 **(b)**, 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 16 are complied with; and
  - (iv) as at the date on which the requirements of regulation 16 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) or (4) applies, a joint-claim couple shall, for the purposes of regulation 14, be deemed to be a couple in hardship where the Secretary of State is satisfied, after taking account of the factors set out in paragraph (5) 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 joint-claim couple shall not be deemed to be a couple in hardship—

- (a) where one member of the couple is entitled to income support or falls within a category of persons prescribed for the purposes of section 124(1)(e) of the Benefits Act; or
- (b) during a period in respect of which it has been determined that both members of the couple are subject to sanctions for the purposes of section 20A of the Jobseekers Act (denial or reduction of joint-claim jobseeker's allowance).

(4) Paragraph (1)(e) shall not apply in a case where the person being cared for resides in a residential care or nursing home.

(5) 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 to the Jobseeker's Allowance Regulations;
- (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 17 (applicable amount in

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**(a)** Section 3A was inserted by section 59 of, and paragraph 4(2) of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30).

**(b)** 1989 c. 41.

hardship cases for joint-claim couples), the amount of any resources which may be available to the joint-claim couple from 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.

(6) In determining the resources available to the offender's family under paragraph (5)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act 1973 shall be disregarded.

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

**13.**—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 12(1) and is subject to the provisions of regulations 15 and 16.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 63(2) of the Act prevents payment of a joint-claim jobseeker's allowance to the couple or section 63(3) of the Act 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 to the Jobseeker's Allowance Regulations (categories of members not required to satisfy conditions in section 1(2B)(b) of the Jobseekers Act).

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

**14.**—(1) This regulation applies to a couple in hardship falling within regulation 12(2) and is subject to the provisions of regulations 15 and 16.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 63(2) of the Act prevents payment of a joint-claim jobseeker's allowance to them or section 63(3) of the Act 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 prescribed period; and
- (b) shall be payable thereafter only if and for so long as 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 to the Jobseeker's Allowance Regulations (categories of members not required to satisfy conditions in section 1(2B)(b) of the Jobseekers Act).

**Conditions for payment of a joint-claim jobseeker's allowance**

**15.**—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 13 or 14 except where either member of the 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 12(1) or, as the case may be 12(2); and
- (b) signed the statement.

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

**Provision of information**

**16.** For the purposes of section 63(4)(b) of the Act, a member of the couple shall provide to the Secretary of State information as to the circumstances of the alleged hardship of the couple.

### **Applicable amount of joint-claim couple in hardship cases**

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

- (a) where one member of the joint-claim couple or of 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) of the Jobseekers Act applies or is not subject to a direction under section 16 of that Act, the amount specified in paragraph 1(1)(d) of Schedule 1 to the Jobseeker's Allowance Regulations;
- (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 to the Jobseeker's Allowance Regulations.

(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.

## **PART V**

### **INFORMATION**

#### **Notification at the time of the laying of the information**

**18.** As soon as practicable after an information has been laid in England and Wales which could result in a determination the making of which would result in the imposition by or under one or both of sections 62 and 63 of the Act of any restrictions, the chief officer of the local probation board or other person acting on his behalf shall notify the Secretary of State in writing of—

- (a) the full name, address and date of birth of the person to whom the information relates;
- (b) the Probation Service Offender Reference Number relating to that person;
- (c) the date on which a court imposed the requirement to comply with the requirements of the relevant community order in respect of which the information was laid; and
- (d) the court at which it will be determined whether or not there has been a failure, without reasonable excuse, to comply with the requirements of a relevant community order.

#### **Notification at the time of making the determination**

**19.** As soon as practicable after a court has determined that there has been a failure, without reasonable excuse, to comply with the requirements of a relevant community order, the chief officer of the local probation board or other person acting on his behalf shall notify the Secretary of State in writing of—

- (a) the full name, address and date of birth of the person to whom the determination relates;
- (b) the Probation Service Offender Reference Number relating to that person; and
- (c) the date on which, and the place at which, the court determined that there had been a failure, without reasonable excuse, to comply with the requirements of a relevant community order.

#### **Notification where determination is set aside**

**20.** As soon as practicable after a court has quashed or set aside a determination by that or any other court that there has been a failure, without reasonable excuse, to comply with the requirements of a relevant community order, the chief officer of the local probation board or other person acting on his behalf shall notify the Secretary of State in writing of—

- (a) the full name, address and date of birth of the person to whom the determination relates;
- (b) the date on which, and the place at which, a court had determined that there had been a failure, without reasonable excuse, to comply with the requirements of a relevant community order;

- (c) the Probation Service Offender Reference Number relating to that person; and
- (d) the date on which, and the place at which, that or any other court quashed or set aside the determination that there had been a failure, without reasonable excuse, to comply with the requirements of a relevant community order.

### **Use or supply of information for other purposes**

**21.** Information relating to community orders or social security which is either held by the Secretary of State as at the date on which these Regulations come into force or which subsequently comes into existence, may be used or supplied by the Secretary of State, in so far as it relates to sections 62 to 65 of the Act, for the purposes of research, monitoring or evaluation or for the purpose of maintaining statistics.

Signed by authority of the Secretary of State for Social Security.

5th April 2001

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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## **EXPLANATORY NOTE**

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

These Regulations are made by virtue of, or in consequence of, sections 62 to 65 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the Act”) and relate to restrictions in payment of certain benefits where a person has been found by a court to have breached a community service order.

The Regulations are made before the end of the period of six months beginning with the coming into force of the relevant provisions in the Act and are therefore exempt from the requirement in section 172(1) of the Social Security Administration Act 1992 (c. 5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

Part I contains provisions relating to citation, commencement and interpretation. It also prescribes what payment under section 2 of the Employment and Training Act 1973 (c. 50) is to be a relevant benefit for the purposes of these provisions. Regulation 3 prescribes the period of the loss or reduction of benefit by reference to whether the offender was entitled to benefit on the day on which the Secretary of State examines his records pursuant to a notification that a Court has made a relevant determination in respect of him or whether he claims such a benefit within four weeks of that day.

Part II prescribes what are to be the reduced amounts of income support or joint-claim jobseeker’s allowance when the restrictions apply.

Part III makes provision for jobseeker’s allowance to be paid where the offender is a person in hardship and Part IV makes provision for a joint-claim jobseeker’s allowance to be paid where a joint-claim couple are a couple in hardship.

Part V makes provision in relation to exchanges of information which are necessary to enable the system to operate and for evaluation and monitoring purposes.

These Regulations do not impose a charge on business.

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