
STATUTORY INSTRUMENTS

2001 No. 4022

The Social Security (Loss of Benefit) Regulations 2001

**PART III
HARDSHIP**

Meaning of “person in hardship”

5.—(1) In this Part of these Regulations, a “person in hardship” means, for the purposes of regulation 6, a person, other than a person 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, the woman 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, that woman 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 that person, 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 a person 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(1), 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 (iii) above, as the case may be, had not applied for a period of 3 years or less as at the date on which he complies with the requirements of regulation 9; and
 - (iv) who, 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, a person shall, for the purposes of regulation 7, 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), a person 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;

- (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); or
 - (c) during any week in the disqualification period in respect of which he is subject to a restriction imposed pursuant to section 62 or 63 of the Child Support, Pensions and Social Security Act 2000 (loss of benefit provisions).
- (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 person is a person in hardship are—
- (a) the presence in that person'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 10 (applicable amount in hardship 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 that person or a member of his 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 that person's family under paragraph (5)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act 1973(2) shall be disregarded.

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

6.—(1) This regulation applies to a person in hardship within the meaning of regulation 5(1) and is subject to the provisions of regulations 8 and 9.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 7(2) of the Act prevents payment of a jobseeker's allowance to the offender or section 9 of the Act prevents payment of a jobseeker's allowance to an offender's family member but the allowance shall be payable under this paragraph only if and so long as the claimant 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 a person who is a person in hardship

7.—(1) This regulation applies to a person in hardship within the meaning of regulation 5(2) and is subject to the provisions of regulations 8 and 9.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 7(2) of the Act prevents payment of a jobseeker's allowance to the offender or section 9 of the Act prevents payment of a jobseeker's allowance to an offender's family member but the allowance shall not be payable under this paragraph—

(2) 1973 c. 50.

- (a) where the offender is the claimant, in respect of the first 14 days of the disqualification period;
- (b) where the offender's family member is the claimant, in respect of the first 14 days of the relevant period,

and shall be payable thereafter only if and so long as the claimant satisfies the conditions for entitlement to an income-based jobseeker's allowance.

Conditions for payment of income-based jobseeker's allowance

8.—(1) An income-based jobseeker's allowance shall not be payable in accordance with regulation 6 or 7 except where the claimant 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 5(1) or, as the case may be, 5(2); and
- (b) signed the statement.

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

Provision of information

9. For the purpose of section 7(4)(b) of the Act, the offender, and for the purpose of section 9(4)(b) of the Act, the offender or any member of his family, 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

10.—(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 per cent. or, in a case where the claimant or any other member of his family is either pregnant or seriously ill, 20 per cent. of the following amount—

- (a) where the claimant 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 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 claimant 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.