
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 [^{F1}a couple] where—
 - [^{F2}(i) at least one member of the couple is a woman who 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 [^{F3}a 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 [^{F4}the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act^{F5}, armed forces independence payment] or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act];

(ii) has claimed either attendance allowance^{F6}, disability living allowance^{F7}, armed forces independence payment] or personal independence payment], 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; ^{F8}...

(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, ^{F9}...

^{F10}(iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act for a period commencing after the date on which that claim was made, [^{F11}or]

(v) has claimed armed forces independence payment and has an award 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 ^{M1}[^{F12}or the Social Services and Well-being (Wales) Act 2014], was being looked after by a local authority;

(ii) with whom the local authority had a duty, pursuant to [^{F13}either of those Acts], to take reasonable steps to keep in touch; or

(iii) who, pursuant to [^{F14}either of those Acts], 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; ^{F15}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 ^{F16}8^{F17}, 17A] or] 19 ^{F18}of the Jobseekers Act (attendance, information and evidence) or that it be reduced pursuant to section 19 or 19A or 19B of that Act (circumstances in which a jobseeker's allowance is reduced)] of the Jobseekers Act ^{F19}attendance, information and evidence;] (circumstances in which a jobseeker's allowance is not payable)^{F20}.]

^{F21}(c)

(4) Paragraph (1)(h) shall not apply in a case where the person being cared for resides in a ^{F22}care home, an Abbeyfield Home or an independent hospital].

(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 ^{M2} shall be disregarded.

^{F23}(7) In the preceding paragraphs of this regulation, references to a jobseeker's allowance are to an income-based jobseeker's allowance.]

Textual Amendments

- F1** Words in reg. 5(1)(c) 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. 34(2)(a)(i)** (with art. 3)
- F2** Reg. 5(1)(c)(i) 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. 34(2)(a)(ii)** (with art. 3)
- F3** Words in reg. 5(1)(e) 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. 34(2)(b)** (with art. 3)
- F4** Words in reg. 5(1)(h)(i) substituted (8.4.2013) by The Social Security (Loss of Benefit)(Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(b), **11(2)(a)**
- F5** Words in reg. 5(1)(h)(i) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 22(3)(a)**
- F6** Words in reg. 5(1)(h)(ii) substituted (8.4.2013) by The Social Security (Loss of Benefit)(Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(b), **11(2)(b)**
- F7** Words in reg. 5(1)(h)(ii) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 22(3)(b)**
- F8** Word in reg. 5(1)(h)(ii) omitted (8.4.2013) by virtue of The Social Security (Loss of Benefit) (Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(b), **11(2)(c)**
- F9** Word in reg. 5 omitted (8.4.2013) by virtue of The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 22(3)(c)**
- F10** Reg. 5(1)(h)(iv) and word inserted (8.4.2013) by The Social Security (Loss of Benefit)(Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(b), **11(2)(d)**
- F11** Reg. 5(1)(h)(v) and word inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 22(3)(d)**
- F12** Words in reg. 5(1)(k)(i) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **8(2)(a)**
- F13** Words in reg. 5(1)(k)(ii) substituted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **8(2)(b)**
- F14** Words in reg. 5(1)(k)(iii) substituted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **8(2)(b)**
- F15** Word in reg. 5(3)(a) inserted (E.W.S.) (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 7(3)(a)**
- F16** Words in reg. 5(3)(b) inserted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **2(4)(a)**
- F17** Word in reg. 5(3)(b) inserted (25.4.2011) by The Jobseekers Allowance (Mandatory Work Activity Scheme) Regulations 2011 (S.I. 2011/688), regs. 1, **17(3)**
- F18** Words in reg. 5(3)(b) substituted (E.W.S.) (1.4.2013) by The Social Security (Loss of Benefit) (Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(c), **11(3)**
- F19** Words in reg. 5(3)(b) inserted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **2(4)(b)**

- F20** Reg. 5(3)(b) substituted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 7(3)(b)**
- F21** Reg. 5(3)(c) omitted (E.W.S.) (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 7(3)(c)**
- F22** Words in reg. 5(4) substituted (E.W.S.) (24.10.2005) by Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), regs. 1, **15(2)**
- F23** Reg. 5(7) added (1.4.2013) by The Social Security (Loss of Benefit)(Amendment) Regulations 2013 (S.I. 2013/385), regs. 1(2)(c), **11(4)**

Modifications etc. (not altering text)

- C1** Reg. 5(3)(b) modified (22.11.2010) by The Jobseekers Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010 (S.I. 2010/1222), regs. 1(2), **19(3)**

Marginal Citations

- M1** 1989 c. 41.
M2 1973 c. 50.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Loss of Benefit) Regulations 2001, Section 5.