STATUTORY INSTRUMENTS

2015 No. 339

SOCIAL SECURITY

The Jobseeker's Allowance (Extended Period of Sickness) Amendment Regulations 2015

Made - - - -	*23rd February 2015*
Laid before Parliament	*25th February 2015*
Coming into force - -	*30th March 2015*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 171D and 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(**1**), sections 6(4), 7(4), 6F(1), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(**2**), sections 9(1), 10(6), 79(1) and 84 of the Social Security Act 1998(**3**), section 24(1) and (2) of, and paragraph 1 of Schedule 2 to, the Welfare Reform Act 2007(**4**) and paragraph 1(1) of Schedule 6 to the Welfare Reform Act 2012(**5**).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it (**6**).

Citation and commencement

1. These Regulations may be cited as the Jobseeker's Allowance (Extended Period of Sickness) Amendment Regulations 2015 and come into force on 30th March 2015.

(**1**) 1992 c.4. Section 171D was inserted by section 6(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18) ("the 1994 Act"). Section 175(4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 175(5) was amended by paragraph 36 of Schedule 1 to the 1994 Act.

(**2**) 1995 c.18. Section 6F was inserted by section 49(3) of the Welfare Reform Act 2012 (c.5) ("the 2012 Act"). Section 35(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations". Those definitions were amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**3**) 1998 c.14. Section 84 is an interpretation provision and is cited because of the meaning given to the word "prescribe".

(**4**) 2007 c.5 ("the 2007 Act"). Section 24(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed". Paragraph 2 of Schedule 1 to the Jobseekers Act 1995 provides that questions about whether a person has limited capability for work are to be determined for the purpose of that Act in accordance with Part 1 of the 2007 Act or Part 1 of the 2012 Act as appropriate.

(**5**) 2012 c.5.

(**6**) *See* sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

Amendment of the Jobseeker's Allowance Regulations 1996

2.—(1) The Jobseeker's Allowance Regulations 1996(**7**) are amended as follows.

(2) In regulation 14(1) (circumstances in which a person is to be treated as available)—

(a) in sub-paragraph (l)(**8**), after "regulation 55," insert "55ZA or 55A,";

(b) omit sub-paragraph (ll)(**9**).

(3) In regulation 19 (circumstances in which a person is to be treated as actively seeking employment), after paragraph (1)(l)(**10**), insert—

"(lzl) in any week during which he is treated as capable of work or as not having limited capability for work under regulation 55ZA unless it would be reasonable for him to take steps in that week to seek employment and he has not taken such steps;".

(4) In regulation 55 (short periods of sickness)—

(a) in paragraph (1)(**11**)—

(i) in sub-paragraph (c), for "but for his disease or disablement, would satisfy" substitute "during the period of his disease or disablement, satisfies";

(ii) after "employment and support allowance," insert "universal credit,";

(b) in paragraph (3), for "The preceding provisions of this regulation shall" substitute "Paragraph (1) does";

(c) in paragraph (4)(**12**), for "The preceding provisions of this regulation do" substitute "Paragraph (1) does";

(d) in paragraph (5)(**13**), for The preceding provisions of this regulation shall" substitute "Paragraph (1) does";

(e) after paragraph (5), insert—

"(6) Paragraph (1) does not apply to any person—

(a) during any period where the person is treated as capable of work or as not having limited capability for work under regulation 55ZA (extended period of sickness); or

(b) where the first day in respect of which that person would, apart from this sub-paragraph, have been treated as capable of work or as not having limited capability for work under this regulation falls immediately after the last day on which the person is so treated under regulation 55ZA.".

(5) After regulation 55 insert—

"**Extended period of sickness**

55ZA.—(1) This regulation applies to a person who—

(a) has been awarded a jobseeker's allowance;

(b) proves to the satisfaction of the Secretary of State that he is unable to work on account of some specific disease or disablement;

(c) either—

(**7**) S.I.1996/207.
(**8**) Regulation 14(1)(l) was amended by S.I.2008/1554.
(**9**) Regulation 14(1)(ll) was inserted by S.I.2004/1869 and amended by S.I. 2008/1554.
(**10**) There are amendments to regulation 19(1) which are not relevant to these Regulations.
(**11**) Regulation 55(1) was amended by S.I.1996/1517, 1999/2860, 2008/1554 and 2012/2568.
(**12**) Regulation 55(4) is substituted by S.I.2013/2536.
(**13**) Regulation 55(5) was added by S.I.2004/1869.

(i) declares that he has been unable to work, or expect to be unable to work, on account of that disease or disablement for more than 2 weeks but he does not expect to be unable to work on account of that disease or disablement for more than 13 weeks; or

(ii) is not a person to whom regulation 55(1) (short periods of sickness) applies by virtue of paragraph (3) of that regulation;

(d) during the period of his disease or disablement, satisfies the requirements for entitlement to a jobseeker's allowance other than those specified in section 1(2)(a), (c) and (f) (availability for and actively seeking employment and capable of work or not having limited capability for work); and

(e) has not stated in writing that for the period of his disease or disablement he proposes to claim or has claimed an employment and support allowance or universal credit.

(2) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(i) applies is—

(a) evidence of incapacity for work or limited capability for work in accordance with the Social Security (Medical Evidence) Regulations 1976(**14**) (which prescribe the form of a doctor's statement or other evidence required in each case); and

(b) any such additional information as the Secretary of State may request.

(3) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(ii) applies is a declaration made by the person in writing, in a form approved for the purposes by the Secretary of State, that the person has been unfit for work from a date or for a period specified in the declaration.

(4) Subject to the following paragraphs, a person to whom this regulation applies is to be treated as capable of work or as not having limited capability for work for the continuous period beginning on the first day on which he is unable to work on account of the disease or disablement ("the first day") and ending on—

(a) the last such day; or

(b) if that period would otherwise exceed 13 weeks, the day which is 13 weeks after the first day.

(5) This regulation does not apply to a person on more than one occasion in any one period of 12 months starting on the first day applying for the purpose of paragraph (4).

(6) Paragraphs (4) and (5) of regulation 55 apply for the purposes of this regulation as they apply for the purposes of paragraph (1) of regulation 55.".

Amendment of the Jobseeker's Allowance Regulations 2013

3.—(1) The Jobseeker's Allowance Regulations 2013(**15**) are amended as follows.

(2) After regulation 16 (circumstances in which requirements must not be imposed) insert—

"**Further circumstances in which requirements must not be imposed**

16A.—(1) This regulation applies in the case of a claimant who is treated as capable of work or as not having limited capability for work under regulation 46A (extended period of sickness).

(**14**) S.I.1976/615.
(**15**) S.I.2013/378.

(2) Where the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement—

(a) the Secretary of State must not impose a work search requirement on the claimant; and

(b) a work search requirement previously applying to the claimant ceases to have effect from the date on which the claimant is first treated as capable of work or as not having limited capability for work under regulation 46A.

(3) Paragraph (4) applies where the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work availability requirement to be able and willing to—

(a) take up work; and

(b) attend an interview.

(4) Where this paragraph applies, "able and willing to take up work" under a work availability requirement means able and willing to take up paid work and to attend an interview, immediately once the claimant ceases to be treated as capable of work or as not having limited capability for work under regulation 46A.

(5) Paragraph (6) applies where the Secretary of State is satisfied that it would be—

(a) unreasonable to require the claimant to comply with a work availability requirement to be able and willing to take up work; and

(b) reasonable to require the claimant to comply with a work availability requirement to be able and willing to attend an interview.

(6) Where this paragraph applies, "able and willing to take up work" under a work availability requirement means—

(a) able and willing to take up paid work immediately once the claimant ceases to be treated as capable of work or as not having limited capability for work under regulation 46A; and

(b) able and willing to attend an interview before the claimant ceases to be so treated.".

(3) In regulation 46 (short periods of sickness)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) omit "satisfies the requirements for entitlement to a jobseeker's allowance or";

(ii) in sub-paragraph (c) for "but for their disease or disablement, would satisfy" substitute "during the period of their disease or disablement, satisfies";

(iii) at the end insert "or universal credit";

(b) in paragraphs (3), (4) and (5) for "The preceding provisions of this regulation do" substitute "Paragraph (1) does";

(c) after paragraph (5) insert—

"(6) Paragraph (1) does not apply to any person—

(a) during any period where the person is treated as capable of work or as not having limited capability for work under regulation 46A (extended period of sickness); or

(b) where the first day in respect of which that person would, apart from this sub-paragraph, have been treated as capable of work or as not having limited capability for work under this regulation falls immediately after the last day on which the person is so treated under regulation 46A.".

(4) After regulation 46 insert—

"**Extended period of sickness**

46A.—(1) This regulation applies to a person who—

(a) has been awarded a jobseeker's allowance or is a person to whom any of the circumstances mentioned in section 6J(2) or (3) or 6K(2) of the Act apply;

(b) proves to the satisfaction of the Secretary of State that they are unable to work on account of some specific disease or disablement;

(c) either—

(i) declares that they have been unable to work, or expect to be unable to work, on account of that disease or disablement for more than 2 weeks but they do not expect to be unable to work on account of that disease or disablement for more than 13 weeks; or

(ii) is not a person to whom regulation 46(1) (short periods of sickness) applies by virtue of paragraph (3) of that regulation;

(d) during the period of their disease or disablement, satisfies the requirements for entitlement to a jobseeker's allowance except those specified in section 1(2)(f) (capable of work or not having limited capability for work); and

(e) has not stated in writing that for the period of the disease or disablement they propose to claim or have claimed an employment and support allowance or universal credit.

(2) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(i) applies is—

(a) evidence of incapacity for work or limited capability for work in accordance with the Social Security (Medical Evidence) Regulations 1976(**16**) (which prescribe the form of a doctor's statement or other evidence required in each case); and

(b) any such additional information as the Secretary of State may request.

(3) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(ii) applies is a declaration made by the person in writing, in a form approved for the purposes by the Secretary of State, that the person has been unfit for work from a date or for a period specified in the declaration.

(4) Subject to the following paragraphs, a person to whom this regulation applies is to be treated as capable of work or as not having limited capability for work for the continuous period beginning on the first day on which the person is unable to work on account of the disease or disablement ("the first day") and ending on—

(a) the last such day; or

(b) if that period would otherwise exceed thirteen weeks, the day which is thirteen weeks after the first day.

(5) This regulation does not apply to a person on more than one occasion in any one period of twelve months starting on the first day applying for the purpose of paragraph (4).

(6) Paragraphs (4) and (5) of regulation 46 apply for the purposes of this regulation as they apply for the purposes of paragraph (1) of regulation 46.".

(**16**) S.I.1976/615.