Draft Regulations laid before Parliament under section 37(2) of the Jobseekers Act 1995, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

SOCIAL SECURITY

The Jobseeker's Allowance Regulations 2013

Made - - - -

Coming into force - - 29th April 2013

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 2(1)(c), (2A) and (3B)(a), 4(1)(b), (2) and (4), 5(3), 6A(5), 6B(2), 6D(4), 6E(3) and (5), 6F(1), 6H(1)(a), (5) and (6), 6I, 6J(2)(a), (5) and (7), 6K(4), (5) and (9), 12(1) to (4)(a) and (b), 35(1) and (3) and 36(2) to (4) of, and Schedule 1 to, the Jobseekers Act 1995(**1**), sections 5(1)(i) and (j) and (1A), 189(4), (5) and (6) and 191 of the Social Security Administration Act 1992(**2**), sections 171D, 171G(2) and 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(**3**) and paragraphs 2(3) and 3 of Schedule 5 to the Welfare Reform Act 2012(**4**).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(**5**).

A draft of these Regulations has been laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995 and approved by a resolution of each House of Parliament.

(**1**) 1995 c.18. Section 2(1) was amended by paragraph 3 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c.30), paragraph 6 of Schedule 2 and Schedule 7 to the Welfare Reform Act 2009 (c.24) and Schedule 14 to the Welfare Reform Act 2012 (c.5). Section 2(2A) and (3B) was inserted by section 12 of the Welfare Reform Act 2009. Section 4(1) was amended by paragraph 5 of Schedule 5 and Schedule 14 to the Welfare Reform Act 2012 and S.I. 2006/343. Section 5(3) was amended by Schedule 14 to the Welfare Reform Act 2012. Sections 6A to 6K were inserted by section 49(3) of the Welfare Reform Act 2012. Those definitions were amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2). Section 36(4) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999.

(**2**) 1992 c.5. Section 5(1)(j) was amended by section 98 of the Welfare Reform Act 2012. Section 5(1A) was inserted by section 99 of the Welfare Reform Act 2012. Section 189(4), (5) and (6) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c.14). Section 191 is cited for the meaning it gives to "prescribed" and was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).

(**3**) 1992 c.4. Sections 171D and 171G were inserted by section 6 of the Social Security (Incapacity for Work) Act 1994 (c.18). Section 171G(2) is cited for the meaning it gives to "prescribed". Section 175(4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 and paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994.

(**4**) 2012 c.5.

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

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Jobseeker's Allowance Regulations 2013.

(2) They come into force on 29th April 2013.

(3) They apply in relation to a particular case on any day on which section 33(1)(a) of the Welfare Reform Act 2012 (abolition of income-based jobseeker's allowance) is in force and applies in relation to that case.

General interpretation

2.—(1) For the purposes of the Act and of these Regulations—

"employed earner" has the meaning it has in Part 1 of the Benefits Act by virtue of section 2(1)(a) of that Act(**6**);

"employment" includes any trade, business, profession, office or vocation, except in section 14 of the Act(**7**), where it means employed earner's employment within the meaning in the Benefits Act;

"jobseeking period" means the period described in regulation 37;

"pensionable age" has the meaning it has in Parts 1 to 6 of the Benefits Act by virtue of section 122(1) of that Act(**8**).

(2) In these Regulations—

"the Act" means the Jobseekers Act 1995;

"adoption leave" means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(**9**);

"attendance allowance" means—

(a) an attendance allowance under section 64 of the Benefits Act(**10**);

(b) an increase of disablement pension under section 104 or 105 of the Benefits Act;

(c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(**11**) or any analogous payment;

(d) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(**12**));

"basic rate" has the same meaning as in the Income Tax Act 2007(**13**);

(**6**) Section 2(1)(a) was amended by paragraph 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).
(**7**) Section 14 was amended by paragraph 67 of Schedule 1 to the Employment Rights Act 1996 (c.18).
(**8**) The definition of "pensionable age" was substituted by paragraph 13 of Schedule 4 to the Pensions Act 1995 (c.26).
(**9**) Section 75A was inserted by section 3 of the Employment Act 2002 (c.22) and amended by paragraph 33 of Schedule 1 to the Work and Families Act 2006 (c.18). Section 75B was inserted by section 3 of the Employment Act 2002 and amended by paragraph 34 of Schedule 1 to the Work and Families Act 2006.
(**10**) Section 64 was amended by section 66(1) of the Welfare Reform and Pensions Act 1999 (c.30) and paragraph 5 of Schedule 9 to the Welfare Reform Act 2012.
(**11**) S.I. 1983/686. Article 14 was substituted by S.I. 2001/420. Article 15 was amended by S.I. 2001/420. Article 16 was amended by S.I.s 1984/1675 and 2001/420.
(**12**) 2003 c.1. Section 639(2) was inserted by the Finance Act 2005 (c.7).
(**13**) 2007 c.3. *See* section 989 of that Act.

"benefit week" means a period of seven days ending with the end day unless, in any particular case or class of case, the Secretary of State arranges otherwise, and for these purposes "end day" means the day in column (2) which corresponds to the series of numbers in column (1) which includes the last two digits of the person's national insurance number—

(1)	*(2)*
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday;

"Claims and Payments Regulations 2013" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(**14**);

"close relative" means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or, if any of the preceding persons is one member of a couple, the other member of that couple;

"date of claim" means the date on which the claimant makes, or is treated as making, a claim for a jobseeker's allowance for the purposes of—

(a) regulation 6 of the Social Security (Claims and Payments) Regulations 1987(**15**); or

(b) regulation 20, 22 or 24 of the Claims and Payments Regulations 2013;

"earnings", for the purposes of section 35(3) of the Act, has the meaning specified—

(a) in the case of an employed earner, in regulation 58; or

(b) in the case of a self-employed earner, in regulation 60;

"Health Service Act" means the National Health Service Act 2006(**16**);

"Health Service (Wales) Act" means the National Health Service (Wales) Act 2006(**17**);

"maternity leave" means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(**18**);

"net earnings" means such earnings as are calculated in accordance with regulation 59;

"net profit" means such profit as is calculated in accordance with regulation 61;

"occupational pension" means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

"partner" means, where a claimant—

(a) is a member of a couple, the other member of that couple;

(b) is married polygamously to two or more members of the claimant's household, any such member;

(**14**) S.I. 2013/XXX.
(**15**) S.I. 1987/1968.
(**16**) 2006 c.41.
(**17**) 2006 c.42.
(**18**) 1996 c.18.

"paternity leave" means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996(**19**);

"payment" includes a part of a payment;

"remunerative work" has the meaning prescribed in regulation 42(1);

"self-employed earner" is to be construed in accordance with section 2(1)(b) of the Benefits Act;

"sports award" means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(**20**) out of sums allocated to it for distribution under that section;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;

(b) to a person for their maintenance or in respect of the maintenance of a member of their family; and

(c) for the period, or part of the period, during which the person is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to them or provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that the person is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973(**21**) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(**22**), or the person is training as a teacher;

"voluntary organisation" means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

"voluntary work" means work other than for a member of the claimant's family, where no payment is received by the claimant or the only payment due to be made to the claimant by virtue of being so engaged is a payment in respect of any expenses reasonably incurred by the claimant in the course of being so engaged;

"week" means, in the definition of "Work Experience" and in Parts 5, 6, 7, 9 and 10, a period of seven days;

"Work Experience" means a programme which consists of work experience, job search skills and job skills (and which is not employment), provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the Employment and Training Act 1973, and which—

(a) subject to paragraph (b), is of between two and eight weeks duration; or

(b) is of between two and 12 weeks duration where, during the first eight weeks of the claimant's participation in Work Experience, and as a result of that participation, the

(**19**) Section 80A was inserted by section 1 of the Employment Act 2002 and amended by paragraph 35 of Schedule 1 to the Work and Families Act 2006. Section 80B was inserted by section 1 of the Employment Act 2002 and amended by paragraph 36 of Schedule 1 to the Work and Families Act 2006.
(**20**) 1993 c.39. Section 23(2) was amended by S.I.s 1996/3095, 1999/1563 and 2006/654.
(**21**) 1973 c.50. Section 2 was substituted by section 25 of the Employment Act 1988 (c.19).
(**22**) 1990 c.35. Section 2(3) was amended by section 47 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c.19).

claimant is offered and accepts an apprenticeship made under government arrangements made respectively for England, Wales or Scotland;

"young person" means a person who falls within the definition of "qualifying young person" in section 142 of the Benefits Act (child and qualifying young person)(**23**).

Further interpretation

3.—(1) Any reference to the claimant's family or, as the case may be, to a member of the claimant's family, is to be construed for the purposes of these Regulations as if it included, in relation to a polygamous marriage, a reference to any partner and to any child or young person who is treated by the Secretary of State as the responsibility of the claimant or their partner, where that child or young person is a member of the claimant's household.

(2) In such cases and subject to such conditions or requirements as the Secretary of State may specify by means of a direction, any requirement imposed under these Regulations for a signature may be satisfied by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000(**24**)).

(3) A person of a prescribed description for the purposes of the definition of "family" in section 35(1) of the Act(**25**) is a young person.

(4) For the purposes of paragraph (d) of the definition of "couple" in section 35(1) of the Act, two persons of the same sex are to be regarded as living together as if they were civil partners only if they would be regarded as living together as husband and wife were they instead two persons of the opposite sex.

(5) In this regulation, "polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

(6) References in these Regulations to a person participating as a service user are to the person—

(a) a person who is being consulted by or on behalf of—

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

in the person's capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted under sub-paragraph (a).

(7) In these Regulations, references to obtaining paid work includes obtaining more paid work or obtaining better-paid work.

PART 2

Claimant responsibilities

Interpretation

4.—(1) In this Part—

(**23**) Section 142 was substituted by section 1 of the Child Benefit Act 1995 (c.6).
(**24**) 2000 c.7.
(**25**) The definition of "family" was amended by paragraph 124 of Schedule 24 of the Civil Partnerships Act 2004 (c.33).