Draft Regulations laid before Parliament under section 37(1)(ab) of the Jobseekers Act 1995, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

SOCIAL SECURITY

The Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012

Made - - - -	***
Coming into force - -	*22nd October 2012*

In accordance with section 37(1)(ab) of the Jobseekers Act 1995(**1**) a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 8(**2**), 19(2)(e), (3), (4), (5) and (6), 19A(4), (5) and (9), 19B(1), (2), (3), (4), (6) and (7)(**3**), 35(**4**) and 36(2) and (4) of, and paragraph 14AA(**5**) of Schedule 1 to, the Jobseekers Act 1995.

This instrument contains only regulations made by virtue of, or consequential on, sections 45 and 46 of, and Schedule 7 to, the Welfare Reform Act 2012(**6**) and is made before the end of the period of 6 months beginning with the coming into force of those provisions(**7**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 and shall come into force on 22nd October 2012.

(2) In these Regulations—

"the Act" means the Jobseekers Act 1995;

"the JSA Regulations" means the Jobseeker's Allowance Regulations 1996(**8**).

(**1**) 1995 c 8. Section (1)(ab) was inserted by section 46(2) of the Welfare Reform Act 2012 (c.5) ("the 2012 Act").
(**2**) Section 8 was amended by section 45 of, Schedule 7 paragraph 2 and Schedule 14 Part 3 to the 2012 Act.
(**3**) Sections 19, 19A and 19B were inserted by section 46(1) of the 2012 Act.
(**4**) Section 35 is an interpretation provision and is cited because of the meaning given to word "prescribed" and for the power to prescribe the meaning of the word "week".
(**5**) Paragraph 14AA was inserted by section 46(3) of the 2012 Act.
(**6**) 2012 c.5.
(**7**) See section 173(5) of the Social Security Administration Act 1992. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the enactment by virtue of which the regulations were made.
(**8**) S.I.1996/207.

Amendment of Part V of the JSA Regulations (Sanctions)

2.—(1) Part V of the JSA Regulations (sanctions) is amended as follows.

(2) For regulation 69 (prescribed period for purposes of section 19(2)) substitute—

"**The period of a reduction under section 19: higher-level sanctions**

69.—(1) Subject to paragraphs (3) and (4), a reduction under section 19 (higher level sanctions) is to have effect for—

(a) 13 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2);

(b) 26 weeks, where there has been only one previous sanctionable failure by the claimant that falls within paragraph (2);

(c) 156 weeks, where there have been two or more previous sanctionable failures by the claimant that fall within paragraph (2)(a) and, if applicable, (b) and the most recent of those failures—

(i) falls within paragraph (2)(c), and

(ii) resulted in a reduction that has effect for 26 weeks under sub-paragraph (b) or 156 weeks under this sub-paragraph, or would have done but for paragraph (4).

(2) A previous sanctionable failure referred to in paragraph (1) falls within this paragraph if—

(a) the failure resulted in a decision to reduce the claimant's award in accordance with section 19;

(b) in the case of a joint-claim couple, the failure was by the same claimant; and

(c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.

(3) Where a claimant's award has been reduced in relation to a sanctionable failure which is specified in section 19(2)(a), (b) or (d) and which occurred before the date of claim for a jobseeker's allowance, any such failure must not be counted for the purpose of determining the period of a reduction for a subsequent sanctionable failure under section 19.

(4) Where a sanctionable failure which is specified in section 19(2)(a), (b) or (d) occurs on or before the date on which a claim for a jobseeker's allowance is made—

(a) except where sub-paragraph (b) applies, the reduction relating to that failure is to have effect for the period set out in paragraph (1) that applies in the claimant's case (the "applicable sanction period") minus the period beginning with the day after the date of the sanctionable failure and ending with the day before the date of claim;

(b) if—

(i) the failure was in relation to employment which was due to last for a limited period,

(ii) the limited period ends on or before the end of the applicable sanction period, and

(iii) the date of claim is on or before the last day of the limited period

(5) The reduction relating to that failure is to have effect for the period beginning with the day after the date of the sanctionable failure and ending with the last day of the limited period minus the period beginning with the day after the date of the sanctionable failure and ending with the day before the date of claim.

(6) In paragraph (4)(b), "limited period" means a specific term which is fixed, or which can be ascertained, before it begins, by reference to some relevant circumstance.

(7) The period of a reduction under section 19 begins—

(a) on the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or

(b) in any other case, on the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

The period of a reduction under section 19A: Other sanctions

69A.—(1) A reduction under section 19A (other sanctions) is to have effect for—

(a) 4 weeks, where there has been no previous sanctionable failure by the claimant that falls within paragraph (2); or

(b) 13 weeks, where there has been—

(i) only one previous sanctionable failure by the claimant that falls within paragraph (2), or

(ii) more than one previous sanctionable failure and the most recent of those failures falls within paragraph (2).

(2) A previous sanctionable failure falls within this paragraph if—

(a) the failure resulted in a decision to reduce the claimant's award in accordance with section 19A;

(b) in the case of a joint-claim couple, the failure was by the same claimant; and

(c) the date of the failure is within 52 weeks but not within 2 weeks of the date of the claimant's current sanctionable failure.

(3) The period of a reduction under section 19A begins—

(a) on the first day of the benefit week in which the sanctionable failure occurred where, on the date of the determination to reduce the award, the claimant has not been paid a jobseeker's allowance since the sanctionable failure occurred; or

(b) in any other case, on the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid a jobseeker's allowance.

The period of a reduction under section 19B: Claimants ceasing to be available for employment etc.

69B.—(1) Subject to paragraph (5), the amount of an award of a jobseeker's allowance, other than a joint-claim jobseeeker's allowance, is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the claimant—

(a) was previously entitled to a jobseeker's allowance, or was a member of a couple entitled to a joint-claim jobseeker's allowance; and

(b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) or (c) (availability for employment and actively seeking employment).

(2) Subject to paragraph (5), the amount of an award of a joint-claim jobseeker's allowance is to be reduced in accordance with this regulation and regulation 70 (amount of a reduction) if the case falls within either paragraph (3) or (4).

(3) A case falls within this paragraph if—

(a) one of the claimants was previously entitled to a jobseeker's allowance, other than a joint-claim jobseeker's allowance; and

(b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) .

(4) A case falls within this paragraph if -

(a) the couple were previously entitled to a joint-claim jobseeker's allowance but ceased to be so entitled by either or both of them failing to comply with the condition in section 1(2)(a) or (c); or

(b) either member of the couple was a member of another couple previously entitled to such an allowance and that couple ceased to be so entitled by that person failing to comply with the condition in section 1(2)(a) or (c).

(5) This regulation does not apply where—

(a) the claimant had been treated as available for work under regulation 14 (circumstances in which a person is to be treated as available)(**9**), or as actively seeking employment under regulation 19 (circumstances in which a person is to be treated as actively seeking employment)(**10**);

(b) the claimant ceased to be so treated due to no longer falling within regulation 14 or 19;

(c) as a result of (b), the claimant's award was terminated for failing to comply with the conditions in section 1(2)(a) or (c) (availability for employment and actively seeking employment); and

(d) the Secretary of State considers that a reduction is not appropriate in the claimant's circumstances.

(6) Subject to paragraph (7), a reduction under this regulation is to have effect for a period of—

(a) 4 weeks, where there has been only one occasion on which the claimant's previous entitlement ceased; or

(b) 13 weeks, where there have been two or more occasions on which the claimant's previous entitlement ceased and the date of the most recent occasion was within 52 weeks but not within 2 weeks of the last previous occasion.

(7) The period specified in paragraph (6) is to be reduced by the period beginning with the first day of the benefit week following the benefit week in which the claimant was last paid an award of jobseeker's allowance and ending with the day before the date of claim.

(8) The period of a reduction under this regulation begins on the date of claim.".

(3) For regulation 70 (sanctions of discretionary length)(**11**) substitute—

"**The amount of a reduction under section 19 and 19A and regulation 69B**

70.—(1) Subject to paragraph (2), the amount of a reduction under section 19 or 19A or regulation 69B is—

(a) 100% of the allowance payable to the claimant; or

(b) in the case of a joint-claim couple—

(i) 100% of the allowance payable to the couple, where the reduction relates to a sanctionable failure by each member of the couple; or

(**9**) Regulation 14 has been amended but not in ways material to these Regulations.
(**10**) Regulation 19 has been amended but not in ways material to these Regulations.
(**11**) Regulation 70 has been amended but not in ways material to these Regulations.

(ii) an amount calculated in accordance with paragraph (3), where the reduction relates to a sanctionable failure by only one member of the couple.

(2) In a case where the following circumstances apply —

(a) a claimant's award is already reduced in accordance with section 19 or 19A or regulation 69B; or

(b) in the case of a joint-claim couple, an award of a joint-claim jobseeker's allowance is already reduced in accordance with section 19 or 19A or regulation 69B as a result of a sanctionable failure by one or each member of the couple and the current sanctionable failure is by the same claimant,

no reduction is to be made for any days when those circumstances apply.

(3) The amount referred to in paragraph (1)(b)(ii) is such amount which, after its deduction from the full amount of the award of a joint-claim jobseeker's allowance, leaves the following amount—

(a) in any case in which the member of the couple, who is not the member whose sanctionable failure led to the reduction, satisfies the conditions set out in section 2 of the Act (contribution based conditions), a rate equal to the amount calculated in accordance with section 4(1) (amount payable by way of a jobseeker's allowance);

(b) in any case where the couple are a couple in hardship for the purposes of Part IXA(**12**), a rate equal to the amount calculated in accordance with regulation 146G (applicable amount in hardship cases for joint-claim couples);

(c) in any other case, a rate calculated in accordance with section 4(3A)(**13**) (amount payable by way of a joint-claim jobseeker's allowance) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 which would have been the applicable amount had the member of the couple who is not subject to sanctions been a single claimant.".

(4) After regulation 70 insert—

"**Cases in which no reduction is to be made under section 19 or 19A**

70A.—(1) No reduction is to be made under section 19 (higher-level sanctions) where—

(a) the sanctionable failure is listed in section 19(2)(a), (b), or (d);

(b) the sanctionable failure occurs before a claim to a jobseeker's allowance is made; and

(c) the period of the reduction as calculated under sub-paragraph (a) or (b) of regulation 69(4) is the same as, or shorter than, the period between the date of the sanctionable failure and the date of claim.

(2) No reduction is to be made under section 19A (other sanctions) where the sanctionable failure is specified in section 19A(2)(a) (failure to comply with regulations under section 8(1) or (1A)) and—

(a) is a failure to comply with regulation 24 (provision of information and evidence); or

(b) unless paragraph (3) or (4) applies, is a failure to comply with regulation 23 (attendance) or 23A (attendance by members of a joint-claim couple)(**14**).

(3) This paragraph applies where the claimant—

(a) fails to attend on the day specified in a relevant notification;

(**12**) Part IXA was inserted by S.I.2000/1978.
(**13**) Section 4(3A) was inserted by section 59 of the Welfare Reform and Pensions Act 1999.
(**14**) Regulation 23A was inserted by S.I. 2000/1978.