STATUTORY RULES OF NORTHERN IRELAND

2016 No. 241

SOCIAL SECURITY

The Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016

Made - - - - 6th June 2016

Laid before Parliament 13th June 2016

Coming into operation in accordance with regulation 1(1)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Articles 2(2), 10, 21(2)(e) and (3) to (6), 21A(4), (5) and (9), 21B(1) to (4), (6) and (7), 22(4) and 36(1) and (2) of, and paragraph 14AA of Schedule 1 to, the Jobseekers (Northern Ireland) 1995(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 and come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(**3**).

(2) In these Regulations—

"the Order" means the Jobseekers (Northern Ireland) 1995;

"the JSA Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**4**).

(**1**) S.I. 1995/2705 (N.I. 15); Article 10 was amended by Article 51 of, paragraph 3 of Schedule 7 and Part 3 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) ("the 2015 Order"), Article 21 was substituted and Articles 21A and 21B inserted by Article 52(1) of the 2015 Order, Article 36(2) was amended by paragraph 55 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and paragraph 14AA was inserted by 52(2)(b) of the 2015 Order. Article 2(2) is cited for the meaning it gives to 'prescribed'. Those powers are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481. See also section 1(7) of the Departments Act (Northern Ireland) 2016 c. 5 (N.I.)

(**2**) S.I. 2015/2006 (N.I. 1)

(**3**) S.R.2016 No. 216

(**4**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1996 Nos. 356 and 358, S.R. 1997 Nos.130, 165, and 541, S.R. 1998 No. 198, S.R. 1999 Nos. 145 and 428 (C. 32), S.R. 2000 Nos. 9, 37, 197, 255 and 350, S.R. 2001 Nos. 56, 120 and 151, S.R. 2002 Nos. 80, 275 and 363, S.R. 2004 No. 166, S.R. 2007 No. 262, S.R. 2008 Nos. 112, 478 and 498, S.R. 2009 Nos. 141 and 341, S.R. 2010 No. 144, S.R. 2011 No. 291, S.R. 2012 Nos. 14, 44 and 181, S.R. 2014 No. 150 and S.R. 2015 No. 146

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of Part V of the JSA Regulations

2.—(1) Part V of the JSA Regulations (sanctions) is amended in accordance with paragraphs (2) to (9).

(2) For regulation 69(**6**) (prescribed period for purposes of Article 21(2)) substitute—

"**The period of a reduction under Article 21: higher level sanctions**

69.—(1) Subject to paragraphs (3) and (4), a reduction under Article 21 (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) 78 weeks, where there have been 2 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 78 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 Article 21;

(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 claimant's award has been reduced in relation to a sanctionable failure which is specified in Article 21(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 Article 21.

(4) Where a sanctionable failure which is specified in Article 21(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 and including 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,

(**5**) 1954 c. 33 (N.I.)

(**6**) Regulation 69 was substituted by regulation 2(3) of S.R. 2000 No. 9 and amended by regulation 2(2) and (3) of S.R. 2000 No. 197, paragraph 25 of Schedule 2 to S.R. 2000 No. 350, regulation 4 of S.R. 2001 No. 151, regulation 2(3) of S.R. 2009 No. 141 and regulation 2 of S.R. 2009 No. 341

(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,

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

(5) 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.

(6) The period of a reduction under Article 21 begins—

(a) on and including 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 and including 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 Article 21A: Other sanctions

69A.—(1) A reduction under Article 21A (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 Article 21A;

(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 Article 21A begins—

(a) on and including 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 and including 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 Article 21B: 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 jobseeker'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 Article 3(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 Article 3(2)(a) or (c).

(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 Article 3(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 Article 3(2)(a) or (c).

(5) This regulation does not apply where—

(a) the claimant had been treated as available for work under regulation 14(**7**) (circumstances in which a person is to be treated as available), or as actively seeking employment under regulation 19(**8**) (circumstances in which a person is to be treated as actively seeking employment);

(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 Article 3(2)(a) or (c) (availability for employment and actively seeking employment); and

(d) the Department 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 has 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 and including 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 or where regulation 3(g) of the Claims and Payments Regulations (claims not required for entitlement to benefit in certain cases) applies, the day before the suspension ends.

(8) The period of a reduction under this regulation begins on the date of claim or where regulation 3(g) of the Claims and Payments Regulations applies, the date on which the suspension ends.".

(**7**) Regulation 14 has been amended but not in ways relevant to these Regulations
(**8**) Regulation 19 has been amended but not in ways relevant to these Regulations

(3) For regulation 70(**9**) (sanctions of discretionary length) substitute—

"**The amount of a reduction under Article 21 and 21A and regulation 69B**

70.—(1) Subject to paragraph (2), the amount of a reduction under Article 21 or 21A 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

(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 Article 21 or 21A 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 Article 21 or 21A 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 Article 4 of the Order (contribution based conditions), a rate equal to the amount calculated in accordance with Article 6(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(**10**), 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 Article 6(3A)(**11**) (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 Article 21 or 21A**

70A.—(1) No reduction is to be made under Article 21 (higher-level sanctions) where—

(a) the sanctionable failure is listed in Article 21(2)(a), (b) or (d);

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

(**9**) Regulation 70 was amended by Article 9(3)(d) of S.R. 1999 No. 428 (C. 32) and paragraph 26 of Schedule 2 to S.R. 2000 No. 350

(**10**) Part IXA was inserted by regulation 2(3) of S.R. 2000 No. 350

(**11**) Article 6(3A) was inserted by paragraph 6(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))