Draft Regulations laid before Parliament under section 65(4) of the Child Support, Pensions and Social Security Act 2000 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No.

SOCIAL SECURITY

The Social Security (Breach of Community Order) Regulations 2001

Made - - - -	*2001*
Coming into force - -	*15th October 2001*

Whereas a draft of this instrument was laid before Parliament in accordance with section 65(4) of the Child Support, Pensions and Social Security Act 2000(**1**) and approved by resolution of each House of Parliament.

Now therefore, the Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 62(2) to (5) and (8), 63(2) to (4), 64(2), (6) and (8) and 65(1) and (2) of the Child Support, Pensions and Social Security Act 2000(**2**) and section 189(4) of the Social Security Administration Act 1992(**3**), and of all other powers enabling him in that behalf, which is made before the end of a period of 6 months beginning with the coming into force of sections 62 to 65 of the Child Support, Pensions and Social Security Act(**4**), by this Instrument, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations shall be cited as the Social Security (Breach of Community Order) Regulations 2001 and shall come into force on 15th October 2001.

(2) In these Regulations, unless the context otherwise requires—

(**1**) 2000 c. 19.
(**2**) Section 62(8) is cited because of the meaning ascribed to "relevant benefit" in relation to payments under section 2 of the Employment and Training Act 1973 (c. 50). Section 65(1) is cited because of the meaning ascribed to the word "prescribed".
(**3**) 1992 c. 5; section 189 is applied to regulations made under sections 62 to 64 of the Child Support, Pensions and Social Security Act 2000 by section 65(5) of that Act.
(**4**) Section 73 added sections 62 to 65 of that Act to the list of "relevant enactments" in respect of which regulations must normally be referred to the Committee. *See* however section 173(5)(a) of the Social Security Administration Act 1992.

"the Act" means the Child Support, Pensions and Social Security Act 2000;

"the Benefits Act" means the Social Security Contributions and Benefits Act 1992(**5**);

"the Jobseekers Act" means the Jobseekers Act 1995(**6**);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(**7**);

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

"local probation board" means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000(**9**);

"offender" means the person in respect of whom a court has made a determination in accordance with section 62(1)(a) of the Act;

"prescribed period" means the period in respect of which the restrictions on payment of a relevant benefit apply in accordance with sections 62 and 63 of the Act and shall be interpreted in accordance with regulation 3.

(3) Expressions used in these Regulations which are defined either for the purposes of the Jobseekers Act or for the purposes of the Jobseeker's Allowance Regulations shall, except where the context otherwise requires, have the same meaning as for the purposes of that Act or, as the case may be, those Regulations.

(4) In these Regulations, unless the context otherwise requires, a reference—

(a) to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Description of a prescribed payment for the purposes of section 62(8) of the Act and the extent to which it is payable in accordance with section 62(5) of the Act

2.—(1) A prescribed payment for the purposes of paragraph (d) of the definition of "relevant benefit" in section 62(8) of the Act is a payment of a training allowance made to an individual pursuant to arrangements under section 2 of the Employment and Training Act 1973(**10**) in respect of that individual's participation in—

(a) the programme known as Work-Based Learning for Adults;

(b) one of the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations or the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

(c) the Intensive Activity Period within the meaning of regulation 75(1)(a)(iv) of those Regulations(**11**); or

(d) the Intensive Activity Period for 50 plus as defined in regulation 1(3) of those Regulations(**12**).

(2) In accordance with section 62(5) of the Act, where section 62(2) of the Act applies, the payment prescribed in paragraph (1) shall be payable for the prescribed period only to the extent of any part of that payment that is within the meaning of—

(**5**) 1992 c. 4.
(**6**) 1995 c. 18.
(**7**) S.I.1987/1967.
(**8**) S.I. 1996/207.
(**9**) 2000 c. 43.
(**10**) 1973 c. 50.
(**11**) The definition was inserted by S.I. 2001/1029.
(**12**) The definition was inserted by S.I. 2001/1029.

(a) sub-paragraph (a), (b), (c) or (d) of paragraph 14 of Schedule 7 to the Jobseeker's Allowance Regulations(**13**); or

(b) paragraph 60 of Schedule 7 to those Regulations(**14**).

Prescribed period

3.—(1) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(2) of the Act applying in respect of a jobseeker's allowance, the prescribed period shall be—

(a) where the offender was entitled to a jobseeker's allowance on the examination day, the period of four weeks commencing on the operative day;

(b) where the offender claims a jobseeker's allowance after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the offender is entitled to a jobseeker's allowance and ending on the last day of the benefit week which ends on, or immediately before, the final day.

(2) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(2) of the Act applying in respect of a payment prescribed in regulation 2, the prescribed period shall be the period of four weeks commencing on the operative day.

(3) Subject to paragraphs (5) and (6), in relation to a restriction under section 62(3) of the Act (income support), the prescribed period shall be—

(a) where the offender was entitled to income support on the examination day, the period of four weeks commencing on the operative day;

(b) where the offender claims income support after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the offender is entitled to income support and ending on the last day of the benefit week which ends on, or immediately before, the final day.

(4) Subject to paragraphs (5) and (6), in relation to a restriction under section 63(1) of the Act (joint-claim jobseeker's allowance), the prescribed period shall be—

(a) where a joint-claim couple of which at least one member is an offender is entitled to a joint-claim jobseeker's allowance on the examination day, the period of four weeks commencing on the operative day;

(b) where an offender is a member of a joint-claim couple which claims a joint-claim jobseeker's allowance after the examination day but before the final day, the period commencing on the first day of the first benefit week after the examination day on which the joint-claim couple is entitled to a joint-claim jobseeker's allowance and ending on the last day of the benefit week which ends on, or immediately before, the final day.

(5) Where the offender is aged 17 on the examination day but attains the age of 18 before the last day of the period prescribed in paragraphs (1) to (4), the prescribed period shall be the period commencing on the first day of the benefit week commencing immediately after the day on which the offender attains the age of 18 and ending on the last day of the period prescribed in paragraphs (1) to (4).

(6) Where the offender is aged 59 on the examination day but attains the age of 60 before the final day, the prescribed period shall be the period commencing on the first day of the period prescribed in paragraphs (1) to (4) and ending on the last day of the benefit week ending immediately before the day on which the offender attains the age of 60.

(7) In this regulation—

"benefit week"—

(**13**) The relevant amending instruments are S.I. 1997/2863 and 2001/1029.
(**14**) Paragraph 60 was inserted by S.I. 1998/1174 and amended by S.I. 2001/1029.

(a) in relation to income support, shall have the same meaning as in regulation 2(1) of the Income Support Regulations(**15**);

(b) in relation to a jobseeker's allowance, shall have the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations(**16**);

(c) in relation to a payment referred to in regulation 2, means—

(i) where the offender is also entitled to income support on the examination day, the relevant benefit week under (a) above;

(ii) where the offender is also entitled to a jobseeker's allowance on the examination day, the relevant benefit week under (b) above;

(iii) where the offender is in receipt of such a payment on the examination day but is not entitled to, or in receipt of, income support or jobseeker's allowance on that day, the period of seven days ending on the day which corresponds with the day of the week which is the last day of the period in respect of which that payment is made;

"the examination day" means the day on which the Secretary of State, pursuant to a notification made to him that a determination has been made as mentioned in section 62(1)(a) of the Act, examines his records to ascertain whether the offender is, on that day, entitled to a relevant benefit or whether he is a member of a joint-claim couple who are, on that day, entitled to a joint-claim jobseeker's allowance;

"the final day" means the day before the day which is four weeks after the examination day;

"the operative day" means the first day of the first benefit week following the date of the Secretary of State's decision—

(a) in relation to a relevant benefit, that that benefit shall not be payable or that it shall be reduced pursuant to section 62 of the Act;

(b) in relation to a joint-claim jobseeker's allowance, that that allowance shall not be payable or that it shall be reduced pursuant to section 63 of the Act.

PART II

REDUCED AMOUNTS

Reduction of income support

4.—(1) Subject to paragraphs (3) and (4), any payment of income support which falls to be made to an offender in respect of any week in the prescribed period shall be reduced—

(a) where the offender or any other member of his family is pregnant or seriously ill, by a sum equal to 20%;

(b) in any other case, by a sum equal to 40%,

of the relevant amount applicable on the first day of the prescribed period under paragraph 1(1) of Schedule 2 to the Income Support Regulations in respect of a single claimant for income support.

(2) For the purposes of paragraph (1)(a), whether or not a person is a member of the offender's family shall be determined in accordance with section 137(1) of the Benefits Act and Part III of the Income Support Regulations.

(3) Payment shall not be reduced under paragraph (1) below 10 pence per week.

(**15**) The definition was amended by S.I. 1988/1445.
(**16**) The definition was amended by S.I. 1996/1517 and 2538.

(4) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(5) Where the rate of income support payable to an offender changes, the rules set out above for a reduction in the benefit payable shall be applied to the new rates and any adjustment to the reduction shall take effect from the beginning of the first benefit week to commence for the offender following the change.

Reduction of joint-claim jobseeker's allowance

5.—(1) In respect of any part of the prescribed period for which section 63(2) of the Act does not apply but subject to paragraph (2), the reduced rate of joint-claim jobseeker's allowance payable to the member of that couple who is not the offender for the prescribed period shall be—

(a) in any case in which the member of the couple who is not the offender satisfies the conditions set out in section 2 of the Jobseekers Act (contribution-based conditions), a rate equal to the amount calculated in accordance with section 4(1) of that Act;

(b) in any case where the couple are a couple in hardship for the purposes of regulation 12, a rate equal to the amount calculated in accordance with regulation 17;

(c) in any other case, a rate calculated in accordance with section 4(3A) of the Jobseekers Act(**17**) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 to the Jobseeker's Allowance Regulations which would have been the applicable amount had the member of the couple who is not the offender been a single claimant.

(2) Paragraph (1) shall only apply to the extent that the member of the joint-claim couple who is not the offender is not also subject to sanctions for the purposes of section 20A of the Jobseekers Act.

PART III

HARDSHIP

Meaning of "person in hardship"

6.—(1) In this Part of these Regulations, a "person in hardship" means, for the purposes of regulation 7, an offender, other than an offender 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 a married or unmarried couple where—

(i) the woman is pregnant; and

(ii) the Secretary of State is satisfied that, unless a jobseeker's allowance is paid, she 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, she will suffer hardship;

(**17**) Section 4(3A) was inserted by section 59 of, and paragraph 5(3) of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30).