

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

DRAFT STATUTORY INSTRUMENTS

1998 No.

SOCIAL SECURITY

The Social Security Amendment (New Deal) Regulations 1998

<i>Made</i>	- - - -	<i>1998</i>
<i>Coming into force</i>	- -	<i>1998</i>

Whereas a draft of this instrument was laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995(1) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in relation to regulation 10, and the Secretary of State for Education and Employment in relation to the remainder of the Regulations, in exercise of the powers conferred by sections 123(1)(d) and (e), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(2) and sections 6(4), 7(4), 19(8) and (10)(c), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(3), and of all other powers enabling each of them in that behalf, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), and after consultation in respect of provisions in these Regulations relating to housing benefit and council tax benefit, with organisations appearing to the Secretary of State for Social Security to be representative of the authorities concerned(5), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Amendment (New Deal) Regulations 1998 and shall come into force on 1 June 1998.

(2) In these Regulations, “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(6).

(1) 1995 c. 18.
(2) 1992 c. 4: sections 123(1)(e) and 137 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraphs 1 and 9; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.
(3) Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.
(4) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5); paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
(5) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
(6) S.I.1996/207; relevant amending instruments are S.I. 1996/2538 and S.I. 1997/2863.

Interpretation of the Jobseeker's Allowance Regulations

2. In regulation 1(3) of the Jobseeker's Allowance Regulations, in the definition of "jobseeking period" there shall be added after the words "regulation 47" the words "except where otherwise provided".

Interpretation of Parts II and IV of the Jobseeker's Allowance Regulations

3. In regulation 4 of the Jobseeker's Allowance Regulations—

(a) in the definition of "casual employment" there shall be inserted after the words "any notice" the words "except where otherwise provided";

(b) after the definition of "employment officer" the following definitions shall be inserted—
 "examination" in relation to a qualifying course means an examination which is specified as an examination related to the qualifying course in a document signed on behalf of the establishment at which the qualifying course is being undertaken;
 "made a claim for a jobseeker's allowance" includes treated as having made a claim for the allowance and treated as having an award of the allowance in accordance with regulation 5, 6 or 7 of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996(7);"; and

(c) after the definition of "a person who is laid off" the following definitions shall be inserted

—
 "qualifying course" has the meaning given in regulation 17A;

"term-time" in relation to a qualifying course means the period specified as term-time in relation to a person to whom regulation 17A(2) applies in a document signed on behalf of the establishment at which the qualifying course is being undertaken;

"vacation" in relation to a qualifying course means any period falling within the period of study, which is not term-time;".

Further circumstances in which a person is to be treated as available for employment

4. After regulation 17 of the Jobseeker's Allowance Regulations there shall be inserted the following regulation—

"Further circumstances in which a person is to be treated as available: full-time students participating in a qualifying course"

17A.—(1) A person to whom paragraph (2) applies shall, notwithstanding regulation 15(a), be treated as available for employment in accordance with paragraph (3).

(2) This paragraph applies to a person—

(a) who is aged 25 years or over; and

(b) who has made a claim for a jobseeker's allowance and has been receiving benefit within a jobseeking period for not less than 2 years as at the date he started, or is due to start, the qualifying course and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

(3) Subject to paragraph (4), where an employment officer has determined, having regard to the factors specified in paragraph (5), that a person to whom paragraph (2) applies may

undertake a qualifying course, that person shall be treated as available for employment in any week in which he is undertaking the qualifying course as a full-time student and—

- (a) which falls wholly or partly in term-time, providing he—
 - (i) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is attending the establishment when required to attend, in such form as may be required by the employment officer; and
 - (ii) provides evidence, as often as may be required by an employment officer, within 5 days of being so required by the employment officer, consisting of a document signed by him and on behalf of the establishment at which he is undertaking the qualifying course, confirming that he is making satisfactory progress on the course, in such form as may be required by the employment officer;
- (b) in which he is taking examinations relating to the qualifying course; or
- (c) which falls wholly in a vacation from the qualifying course, if he is willing and able to take up immediately any casual employment.

(4) In a case where the combined duration of—

- (a) any qualifying course, other than one falling within paragraph (6), which a person to whom paragraph (2) applies has previously undertaken in respect of which he was, for any part of such qualifying course, treated as available for employment in accordance with paragraph (3); and
- (b) the qualifying course which he is currently undertaking

is more than 1 year, the person shall only be treated as available for employment in accordance with paragraph (3) if he has been receiving benefit within a jobseeking period for not less than 2 years since the last day of the most recent such qualifying course in respect of which he was, for any part, treated as available in accordance with paragraph (3), and for the purposes of this paragraph the linking provision set out in regulation 48 shall apply.

(5) The factors which an employment officer must take into account when determining whether a person may undertake a qualifying course are—

- (a) the skills, qualifications and abilities of that person;
- (b) whether the course would assist him to acquire new skills and qualifications;
- (c) whether he would have to give up a course of study in order to undertake this course;
- (d) any needs arising from his physical or mental condition;
- (e) the time which has elapsed since he was last engaged in employment as an employed earner or as a self-employed earner;
- (f) his work experience;
- (g) the number of jobs in the labour market and, if relevant, the local labour market, which require the skills and qualifications which he would acquire on the course; and
- (h) any evidence about whether this course or this type of course has facilitated the obtaining by persons of work.

(6) A qualifying course falls within this paragraph if the person had good cause for any act or omission for the purposes of section 19(5)(b) in relation to that course.

(7) In this regulation—

“benefit” means income support, unemployment benefit or a jobseeker’s allowance and “receiving benefit” means receiving benefit which that person has claimed and received as an unemployed person or in accordance with Part I of the Act;

“casual employment” means employment from which the employee can be released without his giving any notice or, if he is required to give notice, employment from which he can be released before the end of the vacation;

“duration” in relation to a qualifying course means the period beginning with the start of the course and ending with the last day of the course;

“jobseeking period” means the period described in regulation 47 and any period treated as a jobseeking period pursuant to regulation 47A;

“last day” in relation to a qualifying course means the date on which the last day of the course falls, or the date on which the final examination relating to that course is completed, whichever is the later;

“qualifying course” means a course which—

- (a) is an employment-related course;
- (b) lasts no more than 12 consecutive months; and
- (c) except where it falls within paragraph (8), is either—
 - (i) a course of a description falling within Schedule 2 to the Further and Higher Education Act 1992⁽⁸⁾; or
 - (ii) a programme of learning falling within section 6 of the Further and Higher Education (Scotland) Act 1992⁽⁹⁾.

(8) A course or a programme of learning which is of a standard above that of a course or programme of learning falling within paragraph (c) of the definition of “qualifying course” falls within this paragraph if an employment officer so determines in a particular case.”.

Circumstances in which a person is to be treated as actively seeking employment

5. For paragraph (1)(r) of regulation 19 of the Jobseeker’s Allowance Regulations there shall be substituted the following:

- “(r) in any week, being part of a single period not exceeding 8 weeks falling within a period of continuous entitlement to a jobseeker’s allowance, during which he is taking active steps to establish himself in self-employed earner’s employment under any scheme for assisting persons to become so employed—
- (i) where, in Wales, his participation under the scheme is attributable to arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973⁽¹⁰⁾,
 - (ii) where, in Scotland, the scheme—
 - (aa) is established by virtue of arrangements made by Scottish Enterprise or Highlands and Islands Enterprise under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990⁽¹¹⁾ or

⁽⁸⁾ 1992 c. 13.

⁽⁹⁾ 1992 c. 37.

⁽¹⁰⁾ 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

⁽¹¹⁾ 1990 c. 35; section 2(3) was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(4) (a) and Schedule 10.