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

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

SOCIAL SECURITY

The Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations 2012

Made - - - -	*2012*
Coming into force - -	*23rd April 2012*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 6(4), 7(4), 9(10), 35(1), 36(2) and (4)(a) of, and paragraph 8B of Schedule 1 to the Jobseekers Act 1995(**a**).

A draft of these Regulations was laid before Parliament in accordance with section 37(1)(c) of the Jobseekers Act 1995.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**b**), the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to them.

Citation and commencement

1. These Regulations may be cited as the Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations 2012 and come into force on 23rd April 2012.

Amendment of the Jobseeker's Allowance Regulations 1996

2.—(1) The Jobseeker's Allowance Regulations 1996(**c**) are amended as follows.

(2) After regulation 14 (circumstances in which a person is to be treated as available)(**d**), insert—

"**14A.**—(1) Paragraph (2) applies where a person (V) notifies the Secretary of State, in such manner as the Secretary of State specifies, that—

(**a**) 1995 c.18. Section 35(1) is an interpretation provision and is cited because of the meaning given to "prescribed" and "regulations". Those definitions were amended by the Social Security Contributions and Benefits (Transfer of Functions, etc) Act 1999 (c.2), section 2, Schedule 3, paragraph 62. Paragraph 8B of Schedule 1 to the Jobseekers Act 1995 was inserted by section 29(1) of the Welfare Reform Act 2009 (c.24).
(**b**) 1992 c.5.
(**c**) S.I. 1996/207.
(**d**) Regulation 14 has been amended in a number of ways not material to these Regulations.

(a) domestic violence has been inflicted on or threatened against V by V's partner or former partner or a family member, during the period of 26 weeks ending on the date of the notification; and

(b) at the time of the notification, V is not living at the same address as the person who inflicted domestic violence on or threatened it against V.

(2) Where this paragraph applies V is to be treated as being available for employment for a period of 4 weeks ("the 4 week exemption period") beginning on the date of V's notification to the Secretary of State under paragraph (1).

(3) V is to be treated as available for employment under paragraph (2)—

(a) whether or not V is entitled to a jobseeker's allowance for the whole or part of the 4 week exemption period; and

(b) on only one occasion in any 12 month period.

(4) Paragraph (6) applies where domestic violence has been inflicted on or threatened against V by V's partner or former partner or a family member.

(5) Domestic violence is only to be regarded as having been inflicted on or threatened against V for the purpose of paragraph (4) if V provides relevant evidence to the Secretary of State during the 4 week exemption period.

(6) Where this paragraph applies, V is to be treated as being available for employment for a period of 13 weeks ("the 13 week exemption period") beginning on the date of V's notification to the Secretary of State under paragraph (1).

(7) Subject to paragraphs (8) and (9), the 13 week exemption period shall apply for 13 consecutive weeks, whether or not V is entitled to a jobseeker's allowance for the whole or part of that period.

(8) After the first 4 weeks of the 13 week exemption period, V may notify the Secretary of State that V no longer wishes to be treated as available for employment by virtue of paragraph (6).

(9) Where V gives such a notification to the Secretary of State, the 13 week exemption period—

(a) shall be suspended from the date of the notification until the date on which V gives a further notification to the Secretary of State that V wishes again to be treated as available for employment by virtue of paragraph (6); and

(b) shall not apply at any time after the expiry of 12 months from the date of the notification referred to in paragraph (1).

(10) For the purpose of this regulation—

"domestic violence" means abuse of a kind specified on page 11 of section 2.2 of 'Responding to domestic abuse: a handbook for health professionals' published by the Department of Health in December 2005(**a**), regardless of the gender or sexuality of V,

"family member" means the following members of the family of V, V's partner or V's former partner – grandparent, grandchild, parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, brother-in-law, sister, sister-in-law, or, if any of the preceding persons is a member of a couple, the other member of that couple,

"health care professional" means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**b**),

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(**a**) A copy of the guidance can be obtained from the Department of Health, Room 212 Wellington House, 133-135 Waterloo Road, London SE1 and at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyandGuidance/DH_4126161.

(**b**) 2002 c.17. Subsection (3) of section 25 was amended by S.I. 2010/231 and by the Health and Social Care Act 2008 (c.14).

"person acting in an official capacity" means a health care professional, a police officer, a registered social worker, V's employer or a representative of V's trade union and any public, voluntary or charitable body which has had direct contact with V in connection with domestic violence,

"registered social worker" means a person registered as a social worker in a register maintained by—

(a) the General Social Care Council,

(b) the Care Council for Wales,

(c) the Scottish Social Services Council, or

(d) the Northern Ireland Social Care Council,

"relevant evidence" means written evidence from a person acting in an official capacity showing that—

(a) V's circumstances are consistent with those of a person who has had domestic violence inflicted on or threatened against them during the period of 26 weeks ending on the date of the notification referred to in paragraph (1); or

(b) V has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.".

(3) In regulation 19(1) (circumstances in which a person is to be treated as actively seeking employment) after sub-paragraph (w), insert—

"(x) in any week during which he is treated as available for employment under regulation 14A.".

(4) In regulation 34 (jobseeker's agreement treated as having been made)(**a**), after paragraph (f), insert—

"(g) in any period during which he is treated as available for employment under regulation 14A if the claimant has not entered into a jobseeker's agreement before that period begins.".

Signed by authority of the Secretary of State for Work and Pensions

Name
Parliamentary Under Secretary of State
Department for Work and Pensions

Address
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Jobseeker's Allowance Regulations 1996 (the JSA Regulations) to enable certain victims of domestic violence who are claiming a jobseeker's allowance to be treated as being available for and actively seeking employment, and as having a jobseeker's agreement (if they do not have one already). This will be the case for an initial period of 4 weeks and then, on production of relevant evidence, for a 13 week period, beginning on the date of the initial notification.

Paragraph (2) of regulation 2 inserts a new regulation 14A into the JSA Regulations.

Paragraphs (1) and (2) of new regulation 14A make provision for a JSA claimant to be treated as meeting the requirement to be available for work for a period of 4 weeks on notifying the Secretary of State in the specified manner that they have had domestic violence inflicted on or threatened against them at any time in the 26 weeks before that notification, by their partner or former partner or a family member. The person who inflicted or threatened the violence must not

(**a**) Regulation 34 has been amended in a number of ways not material to these Regulations.

be living at the same address as the claimant at the time of the notification. Paragraph (3)(b) provides that a claimant can only be treated as available for employment under paragraph (2) once in a 12 month period. Where they apply, both the 4 week and the 13 week exemption periods continue to run whether or not the claimant is entitled to a jobseeker's allowance for the whole or only parts of the 4/13 week period (paragraphs (3)(a) and (7)).

Paragraphs (4) to (9) have the effect of extending the 4 week period to 13 weeks if the claimant produces relevant evidence that they have been threatened with or had domestic violence inflicted on them by their partner or former partner or a family member. The 13 week period will start from the date of the initial notification and will run consecutively except where the claimant gives notification that they wish to return to jobseeking. They can only do this after the first 4 weeks of the 13 week period. If they do so, the exemption period is suspended until such time as they again notify the Secretary of State that they want it to apply. However, where the suspension ends and the balance of the exemption period is reapplied, the exemption period will not continue beyond the expiry of 12 months from the date of the initial notification of domestic violence.

Paragraph (10) defines "domestic violence", "family member", "health care professional", "person acting in an official capacity", "registered social worker" and "relevant evidence". It makes clear that "domestic violence" means abuse of a kind specified on page 11 in section 2.2 of the Department of Health publication "Responding to domestic abuse: a handbook for health professionals" (2005) (physical, sexual, psychological, financial or emotional abuse), regardless of the gender or sexuality of the victim.

Paragraph (3) of regulation 2 amends regulation 19(1) of the JSA Regulations to provide for a claimant to be treated as meeting the requirement to be actively seeking employment for any period when they are treated as being available for work under new regulation 14A.

Paragraph (4) of regulation 2 amends regulation 34 of the JSA Regulations to provide for a claimant to be treated as having entered into a jobseeker's agreement for any period when they are treated as being available for work under new regulation 14A, if the claimant does not already have a jobseeker's agreement when the exemption period under regulation 14A begins.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

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