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

DRAFT STATUTORY INSTRUMENTS

2012 No. 000

SOCIAL SECURITY

The Jobseeker's Allowance (Jobseeking and Work for Your Benefit) (Amendment and Revocation) Regulations 2012

Made - - - -	*2012*
Coming into force - -	*1st March 2012*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123(1)(d) and (e), 136(3) and (5)(a) and (b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(**a**), sections 6(4), 7(4), 12(1) and (4)(a) and (b), 17A(1), (2), (5)(a), (b), (d) and (f) and (6) to (9), 20B(4), (5) and (6), 29, 35(1) and 36(2) and (4) of the Jobseekers Act 1995(**b**) and sections 30 and 146(1) and (2) of the Housing Grants, Construction and Regeneration Act 1996(**c**).

These Regulations are made with the consent of the Treasury, in so far as regulation 4 is made by virtue of the powers conferred by section 30 (means testing in case of application by owner-occupier or tenant) of the Housing Grants, Construction and Regeneration Act 1996.

In respect of the provision in these Regulations that relates to housing benefit and council tax benefit, organisations appearing to the Secretary of State to be representative of the authorities concerned have agreed that consultations need not be undertaken.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**d**), 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.

(**a**) 1992 c. 4. Section 123(1) was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14), by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21); section 137(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed"; section 175(4) was amended by section 2 of, and paragraph 29(1) and (4) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**b**) 1995 c.18; section 17A was inserted by section 1 of the Welfare Reform Act 2009; section 35(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations"; the definitions of "prescribed" and "regulations" were amended by section 2 of, and paragraph 62 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(**c**) 1996 c. 53 ("the 1996 Act"). Section 30 was amended by S.I. 2002/1860 and by section 81 of, and Schedule 8 to, the Civil Partnership Act 2004 (c. 33); the functions of the Secretary of State and the Treasury, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1; section 146 was amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20), and so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1.

(**d**) 1992 c. 5.

A draft of this instrument was laid before Parliament in accordance with section 37(2) of the Jobseeker's Act 1995 and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Jobseeker's Allowance (Jobseeking and Work for Your Benefit) (Amendment and Revocation) Regulations 2012 and shall come into force on 1st March 2012.

Amendment to the Jobseeker's Allowance Regulations 1996

2. In regulation 14(1)(h) (circumstances in which a person is to be treated as available) of the Jobseeker's Allowance Regulations 1996(**a**), after "youth custody institution" insert "and he is not given notice to participate in the Employment, Skills and Enterprise Scheme under regulation 4(1) of the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011(**b**)".

Amendment to the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011

3. In regulation 5A (requirement to meet the jobseeking conditions) of the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 after paragraph (2) insert—

> "(3) A claimant who is participating in the Scheme is not required to meet the conditions set out in section 1(2)(a) and (c) of the Act if the claimant has been discharged from detention in a prison, remand centre or youth custody institution, for one week commencing with the date of that discharge.".

Revocation of the Jobseeker's Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010

4. The Jobseeker's Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010(**c**) are revoked.

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

Name
Minister for Employment
Date Department for Work and Pensions

We consent

Names
Two of the Lords Commissioners of
Date Her Majesty's Treasury

(**a**) S.I. 1996/207.
(**b**) S.I. 2011/917; regulation 5A was inserted by S.I. 2011/1707.
(**c**) S.I. 2010/1222.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Jobseeker's Allowance Regulations 1996 (the 1996 Regulations) so as to enable claimants who have just been released from prison or custody to be required to participate in the Employment, Skills and Enterprise Scheme.

Under regulation 14(1)(h) of the 1996 Regulations, such claimants are treated as being available for employment for the first week after their release. By virtue of s.17A(4) of the Jobseekers Act 1995, regulations under that section cannot require a person to participate in a scheme unless the person would (apart from the regulations) be required to meet the jobseeking conditions. The jobseeking conditions include the condition of being available for and actively seeking work. This means that, without an amendment to regulation 14, these claimants could not be referred to a scheme under s.17A immediately on their release.

These Regulations therefore amend regulation 14(1)(h) so that claimants who are referred to the Employment, Skills and Enterprise Scheme when they are discharged from a prison, remand centre or youth custody institution will not be treated as being available for work by virtue of regulation 14.

Regulation 19(1)(h) of the 1996 Regulations (circumstances where a person will be treated as actively seeking employment) operates by reference to regulation 14(1)(h). As a result, the amendment to regulation 14(1)(h) also means that claimants just released from prison or custody who are referred to participate in the Employment, Skills and Enterprise Scheme are not treated as being available for employment by virtue of regulation 19 for the first week after their release.

Instead of being treated as available for employment under regulation 14 or treated as actively seeking employment under regulation 19 for the first week after their release, these claimants will be the subject of a similar provision in the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 and an amendment is made to regulation 5A of those Regulations to achieve this.

The Regulations also revoke the Jobseeker's Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010.

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

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