

Jobseeker's Allowance

Research Paper 96/5

16 January 1996



A number of draft Regulations connected with the introduction of Jobseeker's Allowance in October 1996 are due to be debated on 17 January. Most of this Research Paper is devoted to summarising the main Jobseeker's Allowance provisions, as contained in the draft Jobseeker's Allowance Regulations 1996. However, it does look briefly at the Back to Work Bonus, National Insurance rebates for employers who take on the long term unemployed and improvements to housing benefit for people who return to work.

For more detailed background and commentary on Jobseeker's Allowance, see Library Research Paper 94/129.

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I Summary

- Jobseeker's Allowance (JSA) replaces unemployment benefit and income support for the unemployed from October 1996 - delayed from April 1996.
- Contribution-based JSA will only last for 6 months. Unemployment benefit currently lasts for a year.
- Despite the delay in implementation to October 1996, the six month cut in the duration of payment will apply to unemployment benefit claimants from April 1996.¹
- The new Jobseeker's Agreement will have to be signed before benefit is payable.
- Where a claimant has taken a step to find employment, but his "behaviour or appearance" undermined his prospects of getting a job, then unless it was beyond his control, this step can be disregarded. This could result in benefit being withdrawn.
- Benefit sanctions are to be toughened. People disqualified will only get reduced rate means-tested help if they can show hardship, and even then they will not be paid for the first two weeks unless they belong to certain vulnerable groups.
- Contribution-based JSA contains no allowance for dependants. Unemployment benefit has additions for adult dependants (and for children for pension age claimants).
- The earnings rules have been integrated and based on income support rules.
- The rates of benefit are to be integrated, with lower rates for 18-24 year olds. This currently applies to income support, but not to unemployment benefit.
- A new back-to work bonus is to be introduced to encourage a move from part-time to full-time employment.
- Employers will get up to a year's national insurance contribution holiday when they take on a person who has been unemployed for two years or more.
- People who take up a job after 6 months unemployment will be able to keep their housing benefit at the existing full rate for an extra four weeks.

¹ HC Deb 16.5.95 c 159W

II Introduction

Under the provisions of the Jobseekers Act 1995, which received Royal Assent on 28 June 1995, Jobseeker's Allowance (JSA) is to replace unemployment benefit and income support for the unemployed with effect from October 1996. The rules are to be broadly aligned with income support, with rates based on income support rates. There will be two routes to JSA. Unemployed people with sufficient national insurance contributions will receive a non-means-tested "contribution-based" JSA for six months - half the period for which unemployment benefit is now paid. Unemployed people with low income or no income may be able to get "income-based" JSA.

The White Paper which set out the proposed changes stated that the Government has three main aims in introducing JSA:²

- **to improve the operation of the labour market** by helping people in their search for work, while ensuring that they understand and fulfil the conditions of receipt for benefit
- **to secure better value for money for the taxpayer** by a streamlined administration, closer targeting on those who need financial support and a regime which more effectively helps people back into work
- **to improve the service to unemployed people themselves** by a simpler, clearer, more consistent benefit structure and by better service delivery.

Originally JSA was due to come in from April 1996, but on 16 May 1995, the Government announced its postponement for six months to allow sufficient time for the installation of new computer systems and for training.³

The most recent estimates are that the benefit savings resulting from the introduction of JSA will be around £240m in a full year.⁴

² Jobseeker's Allowance, Cm 2687, October 1994, para 1.5.

³ HC Deb 16.5.95, c 159W, HL Deb 16.5.95, c 418.

⁴ Source: DSS

III The Draft Jobseeker's Allowance Regulations

A. Availability for Work

Under the current rules, to get unemployment benefit or income support, unemployed people have to be available for work. People can put restrictions on the kind of work they are prepared to do, including the type of work, the hours and the rate of pay providing they can prove they still have a reasonable chance of getting a job. People who have a usual occupation are allowed to restrict their job search to this occupation for up to 13 weeks. This is known as the "permitted period".⁵

1. Working Hours

The White Paper made it clear once Jobseeker's Allowance was introduced, claimants would have to be available for a minimum of 40 hours per week.⁶ This is set out in Regulation 6. An exception is made for carers, providing they are available for at least 16 hours per week, and also, for a limited period, for workers laid off or kept on short time.⁷ People may restrict their availability to 40 hours per week, providing this will not reduce their prospects of getting a job.⁸

2. Pay

Regulations 8 and 9 make it clear that people may only place restrictions on the pay for which they are prepared to work for 6 months.

3. The "Permitted Period"

Regulation 16 brings forward into JSA the existing provision. It allows a person with a usual occupation to restrict their availability to this, (and/or to the same rate of pay) for up to 13 weeks.

4. Groups allowed to be available with notice

Most people under the current rules are expected to be available for employment immediately. However, people who are providing a service can be available at 24 hours notice, and volunteers working for a charity or other non-profit organisation or doing voluntary work for someone not in their families can be available at 48 hours notice. JSA retains these

⁵ Reg 7B, Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 SI No 1598.

⁶ Op. Cit., para 4.4

⁷ Regulation 13 (4), Draft Jobseeker's Allowance Regulations 1996

⁸ Regulation 7, Draft Jobseeker's Allowance Regulations 1996

concessions, and extends them so that carers can be available at 48 hours notice as well as volunteers. This change for carers is contained in Regulation 5. It resulted from a Government concession following pressure during the Lords Report Stage of the Jobseekers Bill 1994-95. A Labour amendment to achieve this effect was withdrawn in the light of the Government's concession.⁹

B. Actively Seeking Work

1. Steps to be Taken

The requirement that claimants should be actively seeking work has been in place since October 1989. Each week, claimants have to take "steps which are reasonable in (their) case" to find work.¹⁰ The White Paper stated: "At present the rules take into account only actions directly concerned with applying for jobs. The new rules will recognise that other activity has value."¹¹

Regulation 18(2) sets out the steps which it is reasonable for a person to be expected to have to take. Those set out in sub-paragraphs (2)(a)-(d) (making oral and written applications, seeking information from advertisements, advertisers, employment agencies and employers, registering with employment agencies and appointing third parties) are reproduced from the current regulations.¹² Those set out in sub-paragraphs (2)(e)-(j) are new. They include:

- seeking specialist advice
- drawing up CVs
- seeking a reference from a previous employer
- drawing up lists of potential employers
- seeking information about employers or about occupations

⁹ HL Deb 15 May 1995 c 366

¹⁰ Regulation 12B, Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 SI No 1598

¹¹ Op. Cit., para 4.12

¹² Op. Cit. Reg 12B(4)

2. Behaviour and Appearance

Another new provision is set out in Regulation 18(4). This allows that a step taken by a claimant can be disregarded if, in taking it, he acted in a violent or abusive manner, or if he spoiled the application for a job, or "where by his behaviour or appearance he otherwise undermined his prospects of securing the employment in question." This applies "unless those circumstances were due to reasons beyond his control". The Government argued that this provision was necessary in the White Paper:¹³

"Jobseekers can meet the current conditions by adhering to the letter of the law, even though they may take other action which guarantees that they do not get a job. The benefit rules will be changed to enable benefit to be stopped where the unemployed person's behaviour is such that it actively militates against finding work."

C. The Jobseeker's Agreement

At the start of the claim, all unemployed people will be required to complete and sign a Jobseeker's Agreement before benefit can be paid. This puts on a compulsory footing the present voluntary Back to Work plan which was introduced in 1990. The Agreement is drawn up between the Employment Officer and the claimant, and either party may refer it to an Adjudication Officer, who should decide on whether it is reasonable within 14 days "so far as practicable".¹⁴

During the Standing Committee debates, the Opposition voiced concerns on the level of training and experience of Employment Officers, and pointed to potential problems caused by non-payment of benefit in cases where the Agreement was unreasonable. The then Employment Minister, Ann Widdecombe, gave an assurance that where the adjudication was in favour of the claimant, benefit would be backdated to the beginning of the claim.¹⁵ This is provided for in Section 9(7)(c) of the Jobseekers Act 1995, and Regulation 32 sets out the relevant matters to be taken into account by the Adjudication Officer.

The Regulations also provide for the variation of the Agreement on a proposal of the claimant or employment officer, and procedures for reviews and appeals.

¹³ Op. Cit. para 4.13

¹⁴ Section 9(7), Jobseekers Act 1995

¹⁵ Standing Committee B Deb, 14 February 1995, c 387

D. Waiting Days

At present, a person is not entitled to unemployment benefit for the first three days of a claim.¹⁶ This is a longstanding provision designed to prevent claims of benefit in respect of very short periods of unemployment because of the high administrative costs of such claims. However, this provision does not currently apply to unemployed people on income support - indeed, unemployment benefit claimants with sufficiently low resources may be able to claim income support to tide them over for this period.

Under JSA the three waiting days will apply both to the contribution-based and to the income-based benefit. The basic provision is in Paragraph 4 of Schedule 1 of the Jobseeker's Act 1995, and Regulation 46(2) sets the number of waiting days at 3. Exceptions are made for young people being paid under the severe hardship provisions and for people whose entitlement to JSA is within 12 weeks of the end of their entitlement to income support, incapacity benefit or invalid care allowance.

The Government have estimated that the introduction of waiting days to the income-related JSA will save around £10m in 1997-98.¹⁷

E. "Remunerative Work"

Currently, income support cannot be paid if the claimant or their partner is in full-time work, referred to as "remunerative" work.¹⁸ This is currently defined as 16 hours per week.¹⁹ Until April 1992, it was 24 hours per week.

There is no hours limit for unemployment benefit, although benefit cannot be paid for any day where earnings exceed £2 or any week where they exceed £58.

Under JSA, a person will not be able to claim either the contribution-based or the income-based benefit if they are in "remunerative work".²⁰ Regulation 51 defines this for the claimant as being 16 hours per week. However, the definition for partners of claimants is 24 hours per week. This will help couples where one partner is working between 16 and 24 hours per week. This improvement was announced by the Secretary of State for Social Security, Peter Lilley, in his 1993 Uprating Statement.²¹

¹⁶ Section 25(3), Social Security Contributions and Benefits Act 1992

¹⁷ HC Deb 12.12.94 c 535-6W

¹⁸ Section 124(c), Social Security Contributions and Benefits Act 1992

¹⁹ Regulation 5(1), Income Support (General) Regulations 1987 SI No 1967

²⁰ Section 1 (2), Jobseekers Act 1995

²¹ HC Deb 1.12.93 c 1040

F. Sanctions and Hardship Payments

1. The Current Rules

Currently, no benefit is allowed unless claimants are available for, and actively seeking, work. It is also possible for people to be disqualified from unemployment benefit for up to 26 weeks if they are found to be "voluntarily unemployed", for example because they left their job voluntarily without good cause, or were dismissed for misconduct, or refused to accept a job or training place. However, claimants with sufficiently low resources can automatically get reduced rate income support. This "voluntary unemployment deduction" is 40% of the single person's personal allowance (or 20% if the claimant or their partner or child are seriously ill and if savings are no more than £200).

2. Disqualification

As under income support and unemployment benefit, no JSA will be paid if the claimant is not available for and actively seeking employment.²² As we have seen, a new requirement has been introduced for the claimant to have "entered into a jobseeker's agreement" otherwise again, no JSA will be paid.²³

A number of the grounds for disqualification, and resultant sanctions, remain very similar to the current rules. A discretionary period of disqualification of up to 26 weeks will be applied to claimants who:²⁴

- lose their jobs through misconduct
- leave work voluntarily without just cause
- refuse or fail to apply for a notified vacancy
- neglect to avail themselves of a reasonable employment opportunity

Some offences, however, will have a "prescribed" sanction applied to them. This is defined in the regulations as being 2 weeks, or 4 weeks for repeat offences within the same 12 months.²⁵ This new sanction will be applied to the new offence of failing to carry out a

²² Section 1, Jobseekers Act 1995

²³ Ibid

²⁴ Section 19(6), Jobseekers Act 1995. One minor difference is that the minimum period of disqualification is one week, whereas under the present rules it is one day.

²⁵ Regulation 69, Draft Jobseeker's Allowance Regulations 1996

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reasonable **Jobseeker's Direction**.²⁶ This is wider than the existing power of employment advisers to make "official recommendations" with a view to assisting claimants finding employment. A Jobseeker's Direction can be made with a view to "improving the claimant's prospects of being employed" as well as actually finding a job.²⁷ Examples given in the White Paper include attending a course to improve jobseeking skills or motivation, or taking steps to present themselves acceptably to employers.²⁸

The new 2 or 4 week sanction will also apply to claimants who, without good cause, neglect to avail themselves of or refuse training places, or who give up training places or lose them through misconduct.

Under Jobseeker's Allowance, the periods of disqualification will cut into the period of entitlement for contributory JSA. This is not currently the case for unemployment benefit.

3. "Good Cause"

Under the current rules, people can avoid benefit sanctions for, for example, leaving work voluntarily or refusing a job offer providing they can show that they had good cause for doing so. What constitutes "good cause" has been the subject of extensive case law. The White Paper stated that: "JSA legislation will seek to define (its) scope more clearly".²⁹

Regulation 72 of the Draft Regulations sets out "good cause" for refusing or failing to carry out a Jobseeker's Direction, refusing a job or neglecting to avail oneself of a reasonable job offer. They include:

- where the employment or Direction would be likely to cause significant physical or mental stress, or significant harm to health
- religious and conscientious objections
- caring responsibilities
- travel time
- excessive expenses

²⁶ Section 19 (5)(a) and (10), Jobseekers Act 1995

²⁷ Section 19 (10)(b)(ii), Jobseekers Act 1995

²⁸ Op. Cit. para 4.18

²⁹ Op. Cit. para 4.38

Under Regulation 72(6) a reason which relates to a person's "income and outgoings" (except for excessive expenses) are not normally going to be taken as "good cause" for refusal, and neither is travel time of less than an hour either way unless this is unreasonable in view of the person's health or caring responsibilities.

Regulation 73 sets out good cause for refusing or giving up training.

4. Hardship Payments

Payments to people who are disqualified from benefit are to be tightened up considerably under Jobseeker's Allowance. The principle that benefit paid in these circumstances should be reduced by either 40% or 20% of the single adult personal allowance remains. However, these payments will no longer be made automatically. People will not get any help at all unless they can show that there will be hardship. Even then, unless they are in a vulnerable group, they will get no benefit at all for the first two weeks. Thereafter they will get the reduced amount.

Regulation 140 of the Draft Regulations sets out the vulnerable groups who will be able to get the reduced payments straight away. They are claimants who would otherwise suffer hardship (or are responsible for people who would otherwise suffer hardship) and:

- are pregnant, or the partner of a pregnant woman
- are responsible for a child or young person
- receive a disability premium
- suffer (or their partner suffers) from a chronic medical condition likely to last for at least 26 weeks
- are carers (or the partners of carers)
- are 16-17 years old and from the prescribed groups who can receive JSA (or the partners of such young people)

Regulation 145 sets out the applicable amount in these cases, with the 40% and 20% reductions.

G. Rates of benefit

The rates of both contribution-based and income-based JSA are based on income support rates. Consequently the rates of contribution-based JSA are lower for 18-25 year olds, even though the contribution conditions are the same for them. This was the subject of much debate during the Bill's proceedings. In the Commons Committee Stage, Labour social security spokesman Keith Bradley called it "fundamentally unfair":³⁰

We have received many representations on the matter. I thank the citizens advice bureaux, which have expressed particular concern that the rules governing entitlement to JSA should be seen to be fair. A lower rate of benefit for those under 25 is fundamentally unfair. Unless the contribution rules governing entitlement to JSA are reviewed, young people who have worked and paid the same level of contribution as older people - it is important to stress that they will have paid the same amount into the system - will get a lower rate out of the system if they become unemployed. The amendments reflect the lower rate of benefit by making the contributions more equitable.

The Minister, Roger Evans, replied as follows:³¹

The fundamental difficulty in the hon. Gentleman's proposition is that national insurance is a "pay-as-you go" system. It is not like a private occupational pension when a person builds up so many 20ths, 40ths or 50ths, so that what he puts in is what he gets out. There is a system of justice and parity which is understood in an occupational contributory pension scheme operated on that basis. It is fundamental to national insurance that the scheme has not operated on that basis; it is a pure "pay-as-you-go" system. As a result, there are inherent injustices in the scheme.

Let us consider the man who had worked for 38 years before becoming unemployed and who had paid in a great deal of contributions, but who received no more than a person who, at a relatively young age, had drawn on the scheme. The analogy is not accurate. All we can do with the state national insurance scheme is to introduce an element of rationality when the cost is balanced against the benefits. That is earmarked taxation, as my hon. Friend the Minister of State said on Second Reading. The promise is that the sums raised in contributions will be paid out in benefits.

Mr. Keith Hill: In that case, can the Minister explain the precise rationale for slashing 20 per cent. off the entitlement of those between the ages of 18 and 24?

Mr. Evans: If the hon. Gentleman had waited a little longer, that was what I was about to do. Parliament is responsible for the solvency of the fund. The burdens on it must be sensibly met by the needs upon it. In the case of younger, single people, it is not unreasonable to make that adjustment.

The rates of benefit are set out in Regulation 79, Regulations 83-87 and in Schedules 1 and 5.

³⁰ SC 'B' Deb 2.2.95 c 176

³¹ Ibid, cc 179-80

H. Earnings Disregards

Jobseeker's Allowance has integrated earnings rules for the contribution-based and the income-based benefits, and these have been based on the income support rules. Currently unemployment benefit claimants can claim for any day when they earn less than £2. If they earn more than £58 in a week, they lose entitlement altogether.

For contribution-based and income-based JSA, the amount disregarded for a single person will be £5. After that, benefit will be reduced penny for penny.

As under income support, here are higher disregards for certain groups. The position for couples will improve under JSA. Under the current rules, couples on income support get the £5 disregard where only one partner is working. They would only get a £10 disregard where both were working. Under JSA, this disregard will be £10 whether one or both partners are working.

As with income support, a £15 disregard will apply to certain groups, including carers, lone parents and part-time firefighters and coastguards. These provisions are set out in Schedule 6 of the Draft Regulations.

I. Part-time Students

Under the current rules, unemployed people are allowed to claim income support while they study part-time under the so-called "21 hour rule". This enables them to be deemed to be available for work, providing they look for work and are prepared to give up their course to take a job. To qualify under this rule, they must have been unemployed (or sick or in youth training) for three months (or three months in the last six). The 21 hour limit includes some private study time.

During the Committee Stage of the Jobseekers Bill, the then Employment Minister, Ann Widdecombe, announced that this definition would be changed to incorporate ways in which Further Education Funding Council-funded courses are structured. Under JSA, the new rule would be that people unemployed over three months would be able to undertake a further education study for up to 16 'guided learning hours' per week.³² The aim was to clarify confusion and variations in practice over the administration of the 21 hour rule. The Government said that only a small number of people will be adversely affected.³³

³² SC 'B' Deb 14.2.95 cc 367-380. See also DE/DSS Press Notice 27/95, 14.2.95.

³³ Ibid, c 374

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The Association for Colleges gave the following response to the changes:³⁴

The Association's View

The government's policy continues to be that full time students should not be entitled to claim social security benefits, and this will apply to the jobseeker's allowance. The Association accepts this while continuing to press for a thoroughgoing review of student support aimed at removing present anomalies and inconsistencies.

Failing such a review the Association welcomes the government's continued willingness to allow the unemployed to undertake study while claiming benefit. It believes this is important in continuing to motivate those unable to find work, in improving their employability through enhancement of their skills and qualifications, and in improving the national skill base.

The Association welcomes too the recognition given to the changing nature of further education and the proposals to move to a basis for counting study hours consistent with current funding and teaching practice. It believes too that the clarification of the boundary between full and part time courses will remove many current problems.

But the Association remains concerned that

- the planned reduction in permitted hours of study will disadvantage a considerable number of students, who currently study more than 16 hours
- the effect of the lower limit will be to force colleges to redesign courses, and either omit important elements (such as work experience) or make it impossible to obtain a qualification within the normal timescale
- if courses have to be lengthened, students may well be discouraged from enrolling
- the revision will only apply to courses funded by FEFC, so there will continue to be anomalies with other courses
- interpretation of the new regulations in individual cases will still rest with local offices of the Benefit Agency, and there is no guarantee that the inconsistencies in application which cause many of the current problems will disappear
- the demands placed on jobseekers to be available for work and actively seeking work will be so onerous as to make it much more difficult for claimants to pursue study
- jobseekers will still not be able to refuse a job offer if it makes completion of a course impossible

³⁴

The Jobseekers Bill and the 21 Hour Rule - A response document issued by the Association for Colleges, April 1995

The rule precluding full-time students from getting JSA is contained in Regulation 15(a) of the Draft Regulations and the definition of a full-time course of study as being more than 16 guided learning hours per week is contained in Regulation 1(3).

J. Occupational and Personal Pensions

At present, unemployment benefit for people over the age of 55 is reduced in line with any occupational or personal pension they receive over £35. Under Jobseeker's Allowance, the £35 threshold will be raised to £50, which will obviously be beneficial to claimants. However, the age threshold will be abolished, so that all claimants with such pensions will suffer the reductions, not just the over 55s.

This provision is contained in Regulation 81.

IV Other Regulations

A. The Back to Work Bonus

This new scheme, the provisions for which are contained in Section 26 of the Jobseekers Act 1995 and in the Draft Social Security (Back to Work Bonus) Regulations 1996, will start from October 1996. The aim of the bonus is to encourage unemployed people to take part-time work and then to move into full-time work. To qualify, people have to have been unemployed and receiving benefit for three months or more. Under the earnings disregards described above they keep the first £5 of earnings (£10 for couples). Part time earnings over this amount will reduce JSA. The Bonus will provide people with an entitlement to a credit equal to 50% of earnings over the £5 limit. The credit will accumulate and will be paid as a cash lump sum when they or their partners move into full-time work up to a maximum of £1,000.

B. Housing Benefit

As part of the package of measures to help work incentives, people who take up a job after six month's unemployment will be able to keep their housing benefit at their existing full rate for an extra four weeks. Local authorities will be encouraged to arrange any continuing in-work housing benefit during this period.

The provisions for these four week "extended payments" are contained in the Draft Housing Benefit, Supply of Information and Council Tax Benefit (Amendment) Regulations 1996. They are due to come into force on 1 April 1996.

C. Employers' National Insurance Contribution Holiday

During the 1994 Budget the Chancellor announced that employers would be given an incentive to hire people who had been unemployed for two or more years.³⁵ From April 1996, an employer who takes on such a person will receive a full rebate of National Insurance Contributions for that person for up to one year. It has been estimated that on average an employer will save over £300 for each long-term unemployed person added to their work force.³⁶

Provisions for this are contained in Section 27 of the Jobseekers Act and in the Draft Employer's Contributions Reimbursement Regulations 1996.

³⁵ HC Deb 29 11 94 c 1092

³⁶ *Work Incentives*, Treasury Press Release, 29.11.94

Appendix

Proceedings of the Jobseekers Bill 1994-95:

Commons Stages

First Reading	HC Deb 1.12.94 c 1357
Second Reading	HC Deb 10.1.95 cc 47-119
Committee	Standing Committee B, 24.1.94 - 7.3.95
Report Stage	HC Deb 22.3.95 cc 354-57
Third Reading	HC Deb 23.3.95 cc 504-48

Lords Stages

First Reading	HL Deb 27.3.95 c 1494
Second Reading	HL Deb 3.4.95, cc 11-58
Committee Stage	HL Deb 20.4.95 cc 584-694, HL Deb 25.4.95 cc 794-910, HL Deb 27.4.95 cc 1030-1146, HL Deb 11.5.95, cc 195-288
Report stage	HL Deb 15.5.95 cc 330-403, HL Deb 16.5.95 cc 414-554
Third Reading	HL Deb 23.5.95 cc 564
Lords Amendments	HC Deb 26.6.95 cc 578-618

Royal Assent 28.6.95.