

Section 19 – JSA Legislation and Regulations

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Introduction

19.2. This section summarises the key existing areas of social security legislation considered relevant to the enhanced JSA regime and the Flexible New Deal (FND). It is not, nor can be quoted as, a replacement for the legislation itself.

19.3. Two key areas of legislation have been impacted by FND:

- Primary Legislation – **Jobseeker’s Act 1995 (chapter 18)** – The Act determines the framework of eligibility criteria for JSA, the conditions for continuing receipt, circumstances in which entitlement can be sanctioned, the extent of what Regulations may specify (i.e. ‘powers’) and the Parliamentary controls necessary for any changes; and,
- Principal Regulations – **Jobseekers Allowance Regulation 1996 (SI 1996/207)** – The Regulations provide much of the detail for the conditions in the Act, providing interpretation, specifying the calculation of benefit, variations and exemptions to conditions, sanction durations.

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The Flexible New Deal

- 19.4. The Flexible New Deal being the programme known by that name and provided pursuant to arrangements made by the secretary of state or on his behalf under section 2 of the Employment and Training act 1973, which lasts for up to 78 weeks for any individual and consisting for that individual of one or more of the following elements:
- (a) assisting in the completion of an action plan to record the activity that he will undertake whilst attending the programme in order to improve his employment prospects or to obtain employment.
 - (b) a work placement, training or other work related activity lasting for a continuous period of at least four weeks.
 - (c) other work experience or training guidance, support, motivation, assistance with job search or in pursuing self-employed earner's employment or other activity designed to assist him to select, train for, obtain and retain suitable employment.

Jobseeker's Act 1995 (Chapter 18) – Part I The Jobseeker's Allowance

Sections 1 – 5: Entitlement

- 19.5. The first five sections determine what the Allowance is, the entitlement conditions for the contribution-based, income-based and joint-claim components, as well as amounts payable and duration for contribution-based JSA.

Section 1: The Jobseeker's Allowance

- 19.6. The main entitlement criteria are that a customer:
- is available for employment;
 - has entered into a Jobseeker's Agreement which remains in force;
 - is actively seeking employment;
 - satisfies the conditions set out in section 2;
 - is not engaged in remunerative work;
 - is capable of work;
 - is not receiving relevant education;
 - is under pensionable age; and
 - is in Great Britain.
- 19.7. Section 1 also allows regulations to determine that certain unemployed childless couples must both claim by make a joint-claim to JSA.

Section 2: Contribution-based conditions

- 19.8. Defines the relevant income tax years, benefit year and first and second Contribution Conditions relevant to a claim, and are to be used in assessing whether the customer has paid and/or been credited with sufficient Class 1 National Insurance to give entitlement to contribution based JSA.

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Sections 3 – 4A: Income-based conditions and rates of JSA

- 19.9. These sections explain the conditions for entitlement to income-based JSA for an individual and/or their family. Section 3A outlines the conditions for joint claim couples for income-based JSA. Sections 4 and 4A explain the various categories of JSA that are payable, such as single age-related categories, couple rates, and premiums.

Section 5: Duration of contribution based JSA

- 19.10. This section determines that JSA(CB) can be paid for 182 days for any claims based on the same Relevant Income Tax Years. Crucially, where there is entitlement to, but no payment of, JSA(CB) this determines that the relevant period erodes the 182-day period. This will cover periods of sanction or full abatement of benefit (e.g. by occupational/personal pensions).

Sections 6 – 10: Jobseeking

- 19.11. These sections expand on the labour market conditions in section 1 for continuing entitlement to JSA. That is, a person is immediately available for and capable of full-time work, is actively seeking employment, has entered into a Jobseeker's Agreement (JSAg) or variations to it. This part also describes the attendance and information-giving requirements a customer must meet during their claim.
- 19.12. For a more detailed explanation of these requirements, see the description for JSA Regulations 5 – 40.

Sections 12 – 13: Income & capital

- 19.13. These sections handle how income, (such as earnings from part time work) and capital are treated for calculating entitlement to JSA.

Section 16: Severe hardship

- 19.14. This section allows a severe hardship JSA to be paid to customers under 18 years old who are not entitled to JSA or income support. Such customers must be registered for, but not receiving, training and would be in severe hardship without financial support.

Section 17: Reduced payments

- 19.15. Allows regulations to determine the circumstances in which severe hardship JSA is reduced, such as refusing a training place.

Sections 19 – 20A: Denial of JSA

Section 19 & 20A: Sanctions

- 19.16. Where there is entitlement to JSA, Section 19 outlines the circumstances in which JSA can be sanctioned for "offences" in respect of Jobseekers Directions, losing employment (leaving voluntarily, misconduct, refusal of employment), training

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courses and employment programme (refusing, leaving, misconduct). Section 20A replicates these arrangements for joint-claim JSA.

Section 20: Exemptions from Section 19

19.17. This provides a number of exemptions to s19 (sanctions) – e.g. no sanction is applicable to a vacancy subject to a Trade Dispute or a job left during a trial period. This section also allows for the payment of JSA Hardship when a sanction applies.

Jobseeker's Allowance Regulations 1996 (SI 1996/207)

Part I: General

19.18. 1-3: Citation, commencement and interpretation; these regulations provide definitions and meanings of certain expressions used throughout the Regulations. Terms/expressions that are unique to a specific Part or chapter are defined in that section (e.g. see Reg 4 and 75).

Part IA: Joint claim couples

19.19. 3A-3G: Defines a joint claim couple where one of a childless, unemployed, couple was born after 28 Oct 1947. These Regulations cover entitlement to joint claim JSA at the start of a claim, during a claim or at the end of the relationship. They also provide for one member of the couple to be exempt from the requirements for a variety of reasons, (e.g. caring for a child, in relevant education, claiming incapacity benefit, pregnant or over state pension age).

Part V: Sanctions

19.20. Regulations 69-75 set the periods of all sanctions, what may and may not be considered as a person's good cause, and defines the range of employment programmes and training schemes to which this can be applied (including FND).

69: Prescribed periods of sanctions

19.21. Defines the fixed lengths of sanctions for:

- failing to attend a 'Back to Work session' – 1 week;
- failing to comply with a Jobseeker's Direction, other than a Back to Work Session – two weeks or four weeks for further failures in 12 months; and
- refusing or losing a place on an employment programme or training scheme (including the New Deal) – two weeks, four weeks for second offence in 12 months and 26 weeks for a third act within 12 months of the second (and 26 weeks for subsequent acts/omissions).

70: Sanctions of discretionary lengths

19.22. For losing a job voluntarily, through misconduct, refusing employment, or neglecting to avail themselves of a job opportunity a variable sanction can be applied for up to 26 weeks, taking into account the circumstances of the loss, failure or refusal. In these cases a Decision Maker can sanction benefit for a

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minimum of one week up to a maximum of 26 weeks according to the scale of the doubt.

71: Voluntary redundancy

19.23. This regulation protects a customer as being treated as leaving voluntarily where they are dismissed from employment, or leave on an agreed date, having agreed to be made redundant voluntarily. It also protects those laid off or on short time who leave that employment after four weeks (or six continuous weeks out of 13).

72: Good cause

19.24. For failing to comply with a Jobseeker's Direction, refusing to apply for or accept a job, or neglecting to avail themselves of a job opportunity this details the:

- circumstances that count as good cause;
- matters to be taken into account; and
- circumstances that do not count as good cause.

73: Refused, failed to attend or left a place on FND

19.25. Describes where a customer refused, failed to attend or left a place on FND ([Further information regarding where a customer refused, failed to attend or left a place on FND can be found in: Section 08 – Customer Benefit Sanctions and DMA](#)).

74: Persons of prescribed description

19.26. 'Trial periods': Describes those customers who are protected from a variable length sanction (in Reg 70) for leaving voluntarily or neglecting to avail themselves of a job without just cause. The customer must not have been in employment, self-employed, a full-time student or in relevant education in the 13 weeks preceding the date they started a job. The trial period can be up to 12 weeks long.

75: Interpretation

19.27. This defines the employment programme (including New Deal) and training schemes to which s19(5)(b) applies – see Reg 73 above.

Useful publications

19.28. Please see below:

- Blue Volumes guide to social security legislation:
<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>
- Child Poverty Action Group (2008) Welfare benefits and tax credits handbook 2009/2010 : www.cpag.org.uk
- Social Security Legislation 2008/09 Volume II – income support, jobseeker's allowance, state pension credit and the social fund, Sweet & Maxwell

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- Office of public sector information, 'UK legislation'
<http://www.opsi.gov.uk/legislation/uk.htm>
- 'Jobseeker's Allowance – Help while you look for work', DWP leaflet 1002 (ISBN 978-1-84763-026-1)
http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/webcontent/dev_015482.pdf