

PAYMENT RESTRICTIONS – DUE TO A BREACH OF A COMMUNITY SENTENCE

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INTRODUCTION

- 1 This memo gives guidance on a scheme to reduce or withdraw the payment of certain benefits and training allowances from claimants who fail to comply with the requirements of a relevant community sentence. The legislation¹ comes into force on 15.10.01.

1 Child Support, Pensions and Social Security Act 2000, s 62 and 6; Social Security (Breach of Community Order) Regulations 2001 [SI 2001 No.1395]

BACKGROUND

- 2 From 15.10.01, where a court finds an offender to be in breach of a community sentence, the Probation Service will provide the S of S with specific details¹.

1 SS (Breach of Community Order) Regs, reg 18 and 19

- 3 This procedure will only operate if the offender is being supervised by the Probation Service in one of four pilot Probation Service areas (Derbyshire, Hertfordshire, Teeside and West Midlands)¹.

1 Child Support, Pensions and Social Security Act 2000 (Commencement No. 10) Order 2001

- 4 When a notification is received from the Probation Service, confirming that a claimant is in breach of a specified community sentence, the DM should reduce or withdraw payment of IS/JSA or a specific training allowance¹ for the relevant period prescribed in the regulations.

1 Child Support, Pensions and Social Security Act 2000, s 62 and 63; SS (Breach of Community Order) Regs, reg 3

DEFINITIONS

- 5 The following terms¹ are used to explain the period of reduction or withdrawal of benefit as a result of a breach of a community sentence.

Examination day

The day that a nominated officer acting as the S of S first checks entitlement to a relevant benefit or training allowance.

Final day

The day before the day which is four weeks after the examination day.

Operative day

The first day of the first benefit week following the S of S's decision that IS/JSA or training allowance should either be reduced or withdrawn.

1 SS (Breach of Community Order) Regs, reg 3(7)

CALCULATING THE PRESCRIBED PERIOD

- 6 The DM should reduce or withdraw payment of IS, JSA and training allowance for the prescribed period. This period is either

1. where the claimant is entitled on the examination day to

1.1 IS¹ **or**

1.2 JSA² **or**

1.3 a relevant training allowance

The period of four benefit weeks starting on the operative day **or**

2. where after the examination day but before the final day the claimant

2.1 makes a claim for IS³ or JSA⁴ **or**

2.2 becomes entitled to a relevant training allowance

the period starting on the first day of the first benefit week following the examination day on which the claimant is entitled to IS, JSA or a specific training allowance and ending on the last day of the benefit week which ends on or immediately before the final day.

1 SS (Breach of Community Order) Regs, reg 3(3)(a); 2 reg 3(1)(a) and 4(a); 3 reg 3(3)(b); 4 reg 3(1)(b) and 4(b)

HOW PAYMENTS WILL BE AFFECTED

JSA

7 JSA will be withdrawn for the prescribed period¹ if a claimant is

1. found to be in breach of a specified community sentence **and**
2. in receipt of JSA **and**
3. aged 18 to 59 (note paragraphs 12 and 13).

1 Child Support, Pensions and Social Security Act 2000; s 62(2), SS (Breach of Community Order) Regs, reg 3(1)

Joint claims for JSA

8 This also applies to a claimant who is a member of a joint claim couple¹. In this case, unless the couple qualify for hardship, the other member of the couple may receive the equivalent of a single person's rate, dependant on the following circumstances²

1. where the other member satisfies the conditions for contribution-based JSA they will receive JSA(Cont) **or**
2. the other member of the couple will receive JSA(IB) at a rate equivalent to the single person's applicable amount.

The above only applies so long as the other member of the couple is not subject to any employment sanctions.

1 Child Support, Pensions and Social Security Act, s 63(1); SS (Breach of Community Order) Regs, reg 3(4); 2 reg 5

IS

9 IS personal allowance rate will be reduced by 40% for the prescribed period¹ if a claimant is

1. found to be in breach of a specified community sentence **and**
2. in receipt of IS **and**

3. aged 18 to 59 (note paragraphs 12 and 13).

Where the claimant or any member of the claimant's family is pregnant or seriously ill the personal allowance rate will be reduced by 20%. But DMs should note that a claimant's payment must not be reduced below 10 pence per week².

*1 Child Support, Pensions and Social Security Act 2000, s 62(3); SS (Breach of Community Order) Regs, reg 4(1);
2 reg 4(3)*

Training allowances

- 10 Participants in receipt of any of the following training allowances¹ will also be affected by the new legislation

- Work based learning for adults
- ND 18 - 24
- ND 25+ Intensive Activity Period
- ND 25+ Intensive Activity Period 50+

1 Social Security (Breach of Community Order) Regs, reg 2

- 11 Training allowance¹ should be withdrawn for the prescribed period if a claimant is
 1. found to be in breach of a specified community sentence **and**
 2. in receipt of a relevant training allowance **and**
 3. aged 18 to 59 (note paragraphs 12 and 13).

Any training premium or ND grant will remain in payment during the prescribed period², as long as the conditions for receipt continue to be met

1 SS (Breach of Community Order) Regs, reg 2(1); 2 reg 2(2)

Claimant aged 17

- 12 Where a claimant is aged 17 on the examination day¹, but reaches the age of 18 before the last day of the prescribed period (see paragraph 6), the reduction/withdrawal of benefit will start on the first day of the BWC immediately after the claimant's 18th birthday. The reduction/withdrawal of benefit will end on the last day of the period prescribed in paragraph 6.

1 Social Security (Breach of Community Order) Regs, reg 3(5)

Claimant aged 59

- 13 Where a claimant is aged 59 on the examination day¹, but reaches the age of 60 before the final day, the reduction/withdrawal of benefit will start on the first day of the

prescribed period in paragraph 6. It will end on the last day of the BWE immediately before the day on which the claimant is 60.

1 Social Security (Breach of Community Order) Regs, reg 3(6)

IF A CLAIMANT MOVES AWAY

IS/JSA

- 14 For the payment restrictions to be applied the claimant must come under the supervision of one of the four Probation Service areas mentioned in paragraph 3¹. Once breach action has been initiated² the supervision of the offender remains the responsibility of the current probation area. No formal transfer of an offender's case to another probation area can be considered until the court has concluded breach of community sentence proceedings. So if a claimant in a pilot probation area moves he will still be subject to the full period of payment restriction irrespective of where any claim for benefit is made.

1 Child Support, Pensions and Social Security Act 2000 (Commencement No. 10) Order 2001;

2 Child Support, Pensions and Social Security Act 2000, s 62(1)

Training – Scotland and Wales

- 15 Responsibility for training allowance is a devolved matter. So where an offender

1. is found to be in breach of a specified community sentence **and**

1. is in receipt of a relevant training allowance **and**

2. moves to live in Scotland or Wales

he/she will not be subject to a payment restriction.

HARDSHIP PROVISIONS

JSA

- 16 JSA claimants, including members of a joint claim couple whose payments of JSA are withdrawn as a result of a breach of a community sentence, will have access to hardship payments under the same criteria¹ as existing hardship rules.

1 Social Security (Breach of Community Order) Regs, regs 6 -17

Training allowance

- 17 A participant who has payment of a relevant training allowance withdrawn as a result of a breach of a community sentence will have access to hardship payments¹. The

DM should disregard² any training premium or ND grant when deciding the resources available to the claimant's family

1 Social Security (Breach of Community Order) Regs, regs 6 -17; 2 reg 6(6) and 12(6)

WHERE A COURT DECISION IS SET ASIDE

18 Where notification is received that a court has quashed or set aside¹ a determination that a claimant has breached a community sentence, the DM should

1. revise the decision to reduce or withdraw payment of IS/JSA or a relevant training allowance **and**
2. decide if any arrears are payable to the claimant².

*1 SS (Breach of Community Order) Regs, reg 20; SS and Child Support (Decisions and Appeals) Regs, reg 3(8A);
2 Child Support, Pensions and Social Security Act 2000, s 62(6)*

ANNOTATIONS

Please annotate the number of this memo DMG JSA/IS 06 against the following DMG paragraphs:

24001 (heading)

CONTACTS

If you have any queries about this memo, please write to ACIB, Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in AGU Letter GEN 01/01, issued in April using the urgent e-mail service.

Distribution: All holders of JSA/IS Volumes 4 - 7 ACIB: October 2001