Chapter 21 - Jobseeker’s Allowance - Labour market questions, special conditions for contribution-based Jobseeker’s Allowance and jobseeking periods

Contents

Definition of claimant

General 21001

Jobseeking periods

Introduction 21002

Which days are part of a jobseeking period?

Days which are part of a jobseeking period 21008

Linking with periods of interruption of employment 21011

Linking with periods of interruption of employment
- linked period spans 07.10.96 21012

Changes to regulations from 01.12.97 21015

Changes to regulations from 01.04.98 21016

Linking with periods of interruption of employment
- linked period and jobseeking period start after 07.10.96 21017

Days which are not part of a jobseeking period 21018

Linking periods 21021

Linking - calculation of 8 and 12 week periods 21022

Linked periods 21027

Carer’s Allowance 21036

Claimants approaching retirement 21044

Claimants who are incapable of work or have limited capability 21047

Claimants who work 21048

Contribution-based conditions and duration of contribution-based Jobseeker’s Allowance

Contribution-based conditions

Definitions

Benefit year 21051

Class 2 contributions and volunteer development workers 21052

Relevant benefit year 21053

Special Class 2 contributions 21054

Tax year 21055

General 21060

Her Majesty’s Revenue and Customs questions 21061

What the decision maker decides 21062

Reference to Her Majesty’s Revenue and Customs 21063

First contribution condition

General 21067

Share fishermen 21068

Volunteer development workers 21069

Determining relevant earnings 21070

Relaxation of the first contribution condition

Spouses and civil partners of service personnel 21072

Second contribution condition

General 21074

Share fishermen 21075

Volunteer development workers 21076

Earnings at or below the lower earnings limit 21077

Prescribed amount of earnings 21081

Late payment of contributions 21083

Duration of contribution-based Jobseeker’s Allowance

Maximum entitlement 21088

More than one period of entitlement
to contribution-based Jobseeker’s Allowance 21090

Days that count as days of entitlement
to contribution-based Jobseeker’s Allowance 21096

Claimants who have had their full entitlement
of contribution-based Jobseeker’s Allowance 21105

Arrears of contribution-based Jobseeker’s Allowance or
Unemployment Benefit due; contribution-based
Jobseeker’s Allowance overpaid 21109

Arrears of contribution-based Jobseeker’s Allowance
due - claimant had full entitlement of contribution-based
Jobseeker’s Allowance 21110

Arrears of Unemployment Benefit due - claimant had full
entitlement of contribution-based Jobseeker’s Allowance 21112

Contribution-based Jobseeker’s Allowance overpaid 21114

Availability

Introduction 21120

Definitions 21122

Benefit week 21123

Caring responsibilities 21125

Casual employment 21126

Child 21127

Close friend 21128

Close relative 21129

Couple 21131

Date of claim 21133

Employment 21135

Employment officer 21137

Examination 21138

Full-time employment 21139

Full-time student 21140

Lone parent 21141

Partner 21142

Pattern of availability 21143

Period of study 21145

Person who is kept on short-term 21147

Person who is laid off 21149

Polygamous marriage 21151

Qualifying course 21152

Temporary 21153

Temporarily absent from Northern Ireland 21154

Temporarily absent from UK 21156

Temporary adverse industrial conditions 21158

Terminal date 21162

Vacation 21163

Voluntary work 21168

Week 21171

Young person 21173

Available to be employed - introduction 21180

Not available at all

General 21190

Proof 21194

Forbidden by law to take employment 21195

Community orders, fine payment work, supervised activity
orders and anti-social behaviour orders 21198

Unpaid work requirement, community service order,
community placements and work squads 20201

Curfew, exclusion, prohibited activity requirements,
non harassment order and restriction of liberty order 21203

Programme requirement 21204

Drug rehabilitation, alcohol treatment, mental health
treatment requirements and drug treatment and testing orders 21205

Residence requirement 21206

Fine payment work and supervised activity order 21207

Leaving employment to accompany someone abroad 21210

Absent from home district 21216

Absent from home and restricted availability 21230

Absent from home - claimants who have a pattern of availability 21231

Absent from home - claimants who do not have a
pattern of availability 21233

Absent from home during a period outside the claimant’s
pattern of availability 21235

When notice starts, when absent from home 21236

Part-time study, training courses and examinations 21238

Restricted availability and study 21247

Restricted availability, study or training and pattern of availability 21252

**Persons regarded as not available**

Prisoners, maternity, parental, paternity or adoption leave cases 21255

Full-time students 21257

Mariners 21258

Period from the date of claim 21260

Claimants who do not have to be available at once

Caring responsibilities and voluntary work 21265

Caring responsibilities, voluntary work and absence from home 21269

Caring responsibilities for a child 21270

Restricted availability and voluntary work 21273

Providing a service 21276

Providing a service and absence from home 21277

People who provide a service 21278

Offenders 21287

Not providing a service 21289

Caring responsibilities, voluntary work, providing a service and
restricted availability 21295

Claimants required to give notice to terminate employment 21298

Treated as available

General 21305

Definitions 21306

Tribunal 21307

Prisoner 21308

Claimants attending a court or tribunal 21309

Detained in custody 21311

Absent from Northern Ireland

Interview for employment 21313

Taking a member of the family abroad for treatment 21314

Member of a couple - both absent 21317

Mariners and share fishermen 21318

Period from the date of claim 21319

Claimants who are laid off 21321

Claimants who are on short-time 21324

Claimants who have had limited capability for work or have been
incapable of work 21328

Deaths, funerals and domestic emergencies 21329

Recently homeless 21333

Serious illness 21336

Domestic emergencies 21337

Discharged from detention 21338

Employment related course 21340

End of entitlement to Jobseeker’s Allowance 21345

Engaged during an emergency 21346

Lifeboat crew 21349

**Looking after a child**

One member of a couple is absent from the UK 21350

Person who looks after a child cannot look after the child 21351

Child away from education 21352

Open University 21354

Part-time member of a fire brigade 21355

Programmes provided by the Venture Trust 21357

Reservists 21360

Temporary absence from Northern Ireland for
National Health Service treatment abroad 21361

Treated as capable of work or as not having
limited capability for work 21362

Work camp 21363

Voluntary organisation 21365

In any period of twelve months 21366

Calculating the number of hours of availability in a week 21367

Domestic violence

General 21369

Definitions 21370

Domestic violence 21371

Family member 21372

Health care professional 21373

Person acting in an official capacity 21374

Registered social worker 21375

Relevant evidence 21376

The four week period 21377

The 13 week period 21380

**Permitted period**

General 21386

Laid off and short-time workers 21387

Maximum length of a permitted period 21388

Deciding if a claimant should have a permitted period 21389

Claimants prospects of returning to the usual occupation 21394

Usual occupation 21397

Level of pay 21409

Used to receiving 21410

Availability in term-time 21417

Availability during examinations and vacation 21418

Lone parents 21419

Restricted availability

Introduction 21420

Restricting availability to less than 40 hours in any benefit week 21423

Restricting availability to 40 hours or more in any benefit week 21424

Nature, rate of pay, locality, terms or conditions of employment 21427

Restrictions on pay 21430

Nature, rate of pay, locality, terms or conditions of employment
and other restrictions 21431

Claimants available at certain times 21432

Claimants with caring responsibilities 21434

Caring responsibilities for a child 21437

Caring responsibilities and other restrictions 21439

Community orders, fine payment work,
supervised activity orders and anti-social behaviour orders 21441

Physical or mental condition 21443

Evidence 21444

Disabilities and other restrictions 21449

Religious beliefs and conscientious objections 21451

Religious beliefs, conscientious objections and other restrictions 21453

Lone parents and school hours 21454

Lone parents and other restrictions on availability 21457

Young people 21460

Whether restrictions imposed 21467

Reasonable prospects of securing employment 21475

Factors to take into account 21479

Evidence 21484

Actively seeking employment

Introduction 21520

Definitions 21522

Charity 21523

Child 21524

Couple 21525

Date of claim 21526

Employment 21528

Employment agency 21529

Employment business 21531

Employment officer 21535

Employment or training programme 21536

Employment related course 21537

Engaged during an emergency 21538

Outward Bound course 21543

Partner 21544

Part-time member of a fire brigade 21545

Person who is kept on short-time 21546

Person who is laid off 21547

Temporary 21548

Temporary adverse industrial conditions 21549

Temporarily absent from Northern Ireland 21552

Temporarily absent from UK 21553

Training allowance 21554

Voluntary work 21557

Week 21559

Young person 21561

Actively seeking employment

General 21571

Period from the date of claim 21575

Extent of decision maker’s determination where other issues arise 21578

Relationship to availability and capability 21584

Evidence 21590

Proof 21596

Steps to seek employment 21600

Steps 21606

Best chance of getting employment 21616

Community orders or anti-social behaviour orders 21621

Appointing someone else to help in finding employment 21626

Reasonably be expected to have to take 21632

Skills, qualifications, abilities and limitations 21638

Steps taken in previous weeks 21644

Time engaged in other activities 21648

Course or programme which helps employment prospects 21655

Claimant with nowhere to live 21659

Nature and conditions of employment 21664

Young people

General 21680

Steps to seek employment 21683

Training 21684

Full-time education 21685

Number of steps to take 21687

Treated as actively seeking employment

General 21690

Definitions 21692

Tribunal 21693

Prisoner 21694

Claimants attending a court or tribunal 21695

Detained in custody 21697

**Absent from Northern Ireland**

Interview for employment 21699

Taking a member of the family abroad for treatment 21702

Member of a couple - both absent 21705

Mariners and share fishermen 21707

Claimants who are laid off 21710

Claimants on short-time 21713

Claimants who have had limited capability for work
or have been incapable of work 21714

Deaths, funerals and domestic emergencies 21716

Domestic emergencies 21718

Serious illness 21719

Discharged from detention 21722

Domestic violence 21724

Employment or training programmes 21725

Employment-related course 21727

End of entitlement to Jobseeker’s Allowance 21731

Engaged during an emergency 21733

Lifeboat crew 21736

Looking after a child

One member of a couple is absent from the UK 21737

Person who looks after a child cannot look after the child 21738

No intention to actively seek employment 21741

Open University 21746

Part-time member of a fire brigade 21748

Permitted period 21750

Programmes provided by Venture Trust 21754

Reservists 21759

Taking steps to become self-employed 21760

Maximum period 21768

Active steps 21771

Temporary absence from Northern Ireland for
National Health Service treatment abroad 21772

Treated as capable of work or as not having
limited capability for work 21774

Work camp 21776

Voluntary organisation 21778

In any period of 12 months 21785

Actively seeking employment during examinations and vacations 21790

Lone parents 21791

The jobseeker’s agreement

Introduction 21810

Definitions 21812

Date of claim 21818

Employment 21819

Employment officer 21820

Young person 21821

Entitlement 21824

What is a jobseeker’s agreement 21826

Young people 21829

Decision maker’s consideration of a proposed jobseeker’s agreement

When and why a jobseeker’s agreement is referred to a decision
maker 21840

Availability and actively seeking employment 21847

Is the jobseeker’s agreement reasonable? 21850

Decision maker’s determinations and directions on a proposed
jobseeker’s agreement 21855

Backdating a jobseeker’s agreement 21865

Reasonable in refusing to accept the jobseeker’s agreement 21875

Prepared to accept a different jobseeker’s agreement 21880

Prepared to accept the employment officer’s jobseeker’s

agreement 21885

First opportunity to sign a jobseeker’s agreement was later

than the date of claim 21893

Automatic backdating of jobseeker’s agreement 21898

End of jobseeker’s agreement 21900

When jobseeker’s agreement stays in force 21905

Jobseeker’s agreement treated as having been made

General 21910

Young people 21920

Variation of jobseeker’s agreement

General 21925

Decision maker’s consideration of proposed variation to

jobseeker’s agreement

When and why a variation to a jobseeker’s agreement is referred to
a decision maker 21930

Availability and actively seeking employment 21937

Is the proposed variation to the jobseeker’s agreement reasonable 21940

Decision maker’s determinations on directions on a proposed
variation to a jobseeker’s agreement 21945

Backdating a variation to jobseeker’s agreement 21955

Reasonable in refusing to accept a variation to the
jobseeker’s agreement 21965

Prepared to accept a different variation to the jobseeker’s
agreement 21969

Prepared to accept the employment officer’s variation to the
jobseeker’s agreement 21973

Decision maker ends jobseeker’s agreement

Decisions and directions given by a decision maker
on how a jobseeker's agreement is to be varied 21980

Appendix 1 - Lower earnings limit

**Appendix 2 - Examples of domestic abuse**

Statutes commonly referred to in Chapter 21

 **Full Title Abbreviation**

 The Jobseeker's (Northern Ireland) Order 1995 JS (NI) Order 95

 Social Security Contributions and Benefits SS C&B (NI) Act 92

 (Northern Ireland) Act 1992

 Employment Rights (NI) Order 1996 ER (NI) Order 96

 Employment and Training Act E & T Act (NI) 50

 (Northern Ireland) 1950

 Disabled Persons (Employment) Dis P (E) Act (NI) 45

 Act (Northern Ireland) 1945

 Social Security Administration (Northern SS A (NI) Act 92

 Ireland) Act 1992

Statutory Rules commonly referred to in Chapter 21

 **Short description Full Title Abbreviation**

 Jobseeker’s The Jobseeker’s Allowance JSA Regs (NI)

 Allowance Regulations (Northern Ireland)

 Regulations 1996 No 198

 Jobseeker's The Social Security and SS & CS (JSA)

 Allowance Child Support (Jobseeker's (Misc Amdts)

 Amendment Allowance) (Miscellaneous Regs (NI) Regulations Amendments) Regulations (Northern Ireland) 1996 No 503

 Claims and The Social Security (Claims and SS (C&P) Regs (NI)
Payments Payments) Regulations (Northern
Regulations Ireland) 1987 No 465

 IS General The Income Support (General) IS (Gen) Regs (NI)
Regulations Regulations (Northern Ireland)

 1987 No 459

 Mariners’ The Social Security (Mariners’ SS (Mariners’
Benefit Benefit) Regulations (Northern Benefit) Regs (NI)
Regulations Ireland) 1975 No 529

 Decisions and The Social Security and Child Support SS & CS (D&A)
Appeals (Decisions and Appeals) Regs (NI)
Regulations Regulations (Northern Ireland)
 1999 No 162

 Contribution The Social Security (Contributions) SS (Conts) Regs
Regulations Regulations 2001 No 1004

 Crediting and The Social Security (Crediting and SS (Crediting etc)
Treatment of Treatment of Contributions and Regs (NI)
Contributions National Insurance Numbers)
and National Regulations (Northern Ireland)
Insurance 2001 No 102
Numbers
Regulations

Chapter 21 - Jobseeker's Allowance - Labour market questions, special conditions for contribution-based Jobseeker’s Allowance and jobseeking periods

Definition of claimant

General

21001 Throughout this Chapter, the term “claimant” includes a member of a joint claim for Jobseeker’s Allowance, unless otherwise stated.

Jobseeking periods

Introduction

21002 The guidance on jobseeking periods applies only to Jobseeker’s Allowance and not to Income Support. See the definition of claimant for Jobseeker’s Allowance, Income Support and joint claims for Jobseeker’s Allowance, in Chapter 22. Note the exemption of certain members of a joint claim in Chapter 20.

21003 To determine waiting days1 and certain aspects of hardship2 the decision maker has to determine whether the claimant’s current claim starts a new jobseeking periods, or whether it can link with a former jobseeking period.

1 JS (NI) Order 95, Sch 1, para 4; JSA Regs (NI), reg 46; 2 reg 141

21004 The decision maker will need to determine

**1.** which days are part of a jobseeking period1 (DMG 21008 - 21018) **and**

**2.** whether separate jobseeking periods can be treated as one jobseeking period (linking periods)2 (DMG 21021 - 21036).

1 JS (NI) Order 95, art 2(2); JSA Regs (NI), reg 47;
2 JS (NI) Order 95, Sch 1 para 3; JSA Regs (NI), reg 48

 21005 - 21007

Which days are part of a jobseeking period

Days which are part of a jobseeking period

21008 Days will be part of a jobseeking period if they are days on which the claimant satisfies, or is treated as satisfying, **all** the following conditions1

**1.** availability2

**2.** having a current jobseeker’s agreement that remains in force3

**3.** actively seeking employment4

**4.** not being in remunerative work5

**5.** capability6

**6.** not receiving relevant education7

**7.** being under pension age8

**8.** being in Northern Ireland9 (see Chapter 7)

 Waiting days are part of a jobseeking period.

1 JSA Regs (NI), reg 47(1); 2 JS (NI) Order 95, art 3(2)(a); 3 art 3(2)(b); 4 art 3(2)(c); 5 art 3(2)(e);
6 art 3(2)(f); 7 art 3(2)(g); 8 art 3(2)(h); 9 art 3(2)(i)

21009 Days on which a claimant

**1.** does not satisfy the conditions at DMG 21008 **1.** to **3.** **and**

**2.** gets a hardship payment

 are treated as days on which those conditions are satisfied, and will be part of a jobseeking period1.

1 JSA Regs (NI), reg 47(2)

21010 From and including 28.10.96 any period during which claimants are entitled to contribution-based Jobseeker’s Allowance because they have satisfied the engaged in employment and weekly earnings rules (DMG 37170 - 37334) forms part of a jobseeking period1. This does not apply to any days falling in the period 07.10.96 - 27.10.96.

1 JSA Regs (NI), reg 47(2A)

Linking with periods of interruption of employment

21011 From 28.10.96 a period of interruption of employment (see DMG Chapter 37 for guidance on the meaning of period of interruption of employment)1 that ends in

**1.** the 8 weeks before

**1.1** a jobseeking period **or**

**1.2** linked period

that begins on 07.10.96 **or**

**2.** the 12 weeks before

**2.1** a jobseeking period **or**

**2.2** linked period

that begins after 07.10.96

 is treated as a jobseeking period2. This does not apply when the days of claim the decision maker is considering fall in the period 07.10.96 - 27.10.96. When working out 8 or 12 weeks before a date, the date itself is excluded.

1 JSA Regs (NI), reg 47A(2); 2 reg 47A(1)

**Example**

Stuart Brown has been claiming and receiving either Unemployment Benefit or Incapacity Benefit throughout the period 02.01.95 - 17.08.96. He works from 19.08.96 until 08.11.96 when he is made redundant. Stuart claims Jobseeker’s Allowance on 09.11.96. Stuart's period of interruption of employment ended on 17.08.96, which is within 12 weeks of a jobseeking period (which began on 09.11.96). The period of interruption of employment is treated as a jobseeking period, so Stuart's jobseeking period begins on 02.01.95.

Linking with periods of interruption of employment - linked period spans 07.10.96

21012 For any days of a Jobseeker’s Allowance claim up to and including 30.11.97 a period of interruption of employment can only be treated as a jobseeking period if1

**1.** the period of interruption of employment ends within 12 or 8 weeks of a jobseeking period or linked period **and**

**2.** that jobseeking period or linked period starts on or after 07.10.96.

1 JSA Regs (NI), reg 47A

21013 If the conditions in DMG 21012 are not satisfied, part of the period of interruption of employment under consideration may also be a linked period. Such a linked period should be treated in the normal way. If the linked period is a period for which a training allowance was payable see DMG 37126.

21014 A period of interruption of employment must end on 06.10.96 at the latest. Legislation for period of interruption of employments does not exist after this date1.

1 SS C&B (NI) Act 92, sec 25A; JS (NI) Order 95, Sch 3

**Example 1**

Claimant has

Unemployment Benefit from 11.08.93 to 16.03.94.

Incapacity Benefit from 17.03.94 to 06.11.96.

Then claims Jobseeker’s Allowance from 07.11.96.

The claims to Unemployment Benefit and Incapacity Benefit form a period of interruption of employment. This period of interruption of employment is treated as a jobseeking period as 06.10.96 (the end of the period of interruption of employment) is within 12 weeks of the start of the claimant's jobseeking period.

The claimant's jobseeking period starts on 11.08.93.

The claimant's relevant benefit year (DMG 21053) is the benefit year that includes 11.08.93 (that is 1993). The claimant does not have to serve waiting days (DMG 20901).

**Example 2**

Claimant has

Unemployment Benefit from 11.08.93 to 16.03.94.

Incapacity Benefit from 17.03.94 to 19.03.97.

Then claims Jobseeker’s Allowance from 20.03.97.

The claims to Unemployment Benefit and Incapacity Benefit form a period of interruption of employment. That period of interruption of employment ends on 06.10.96.

The period on Incapacity Benefit is a linked period - but it starts before 07.10.96 (on 17.03.94).

The end of the period of interruption of employment (06.10.96) and the start of the jobseeking period (20.03.97) are more than 12 weeks apart. The period of interruption of employment cannot be treated as a jobseeking period (DMG 21011).

But the Incapacity Benefit period is also a linked period and ends within 12 weeks of the start of the jobseeking period. The claimant's relevant benefit year (DMG 21053) is the benefit year that includes 17.03.94 (that is 1994). The claimant does not have to serve waiting days (DMG 20901).

Changes to regulations from 01.12.97

21015 For any days of a Jobseeker’s Allowance claim from 01.12.97 to 31.03.98 inclusive any days of unemployment that form part of a period of interruption of employment can be treated as a jobseeking period where1

**1.** the last day of unemployment in the period of interruption of employment is within 8 weeks of a linked period **and**

**2.** the linked period began before 07.10.96 and is still current on 01.12.97.

 **Note :** Guidance on days that cannot be days of unemployment is at 37010 et seq. Guidance on period of interruption of employments is at 37026 et seq.

1 JSA Regs (NI), reg 47A(za)

**Example**

Claimant claims and receives Unemployment Benefit 11.08.93 to 16.03.94.

The claimant then claims Incapacity Benefit 17.03.94 to 09.03.97 and from 14.04.97 to 07.12.97.

On 08.12.97 the claimant claims Jobseeker’s Allowance.

The linked period that began before 07.10.96 is not still current on 01.12.97 so the days of unemployment (11.08.93 to 16.03.94) cannot be treated as a jobseeking period.

The claimant's jobseeking period starts on 17.03.94.

The claimant's relevant benefit year (DMG 21053) is the benefit year that includes 17.03.94 (that is 1994). The claimant does not have to serve waiting days (DMG 20901).

**Example**

Claimant claims and receives Unemployment Benefit 11.08.93 to 16.03.94.

The claimant then claims Incapacity Benefit 17.03.94 to 09.03.97 and from 14.04.97 to 07.12.97.

On 08.12.97 the claimant claims Jobseeker’s Allowance.

The linked period that began before 07.10.96 is not still current on 01.12.97 so the days of unemployment (11.08.93 to 16.03.94) cannot be treated as a jobseeking period.

The claimant's jobseeking period starts on 17.03.94.

The claimant's relevant benefit year (DMG 21053) is the benefit year that includes 17.03.94 (that is 1994). The claimant does not have to serve waiting days (DMG 20901).

Changes to regulations from 01.04.98

21016For any days of a Jobseeker’s Allowance claim from and including 01.04.98 any days of unemployment that form part of a period of interruption of employment can be treated as a jobseeking period where1

**1.** the last day of unemployment in the period of interruption of employment is within 8 weeks of a linked period **and**

**2.** the linked period began before 07.10.96.

 **Note :** Guidance on days that cannot be days of unemployment is at DMG Chapter 37. Guidance on periods of interruption of employment is at DMG Chapter 37.

1 JSA Regs (NI), reg 47A(1)(za)

**Example 1**

Claimant claims and receives Unemployment Benefit 11.08.93 to 16.03.94.

The claimant then claims Incapacity Benefit 17.03.94 to 09.03.97 and from 14.04.97 to 01.04.98.

On 02.04.98 the claimant claims Jobseeker’s Allowance.

16.03.94 is within 8 weeks of 17.03.94, so the days of unemployment (11.08.93 to 16.03.94) can be treated as a jobseeking period.

The claimant's jobseeking period starts on 11.08.93.

The claimant's relevant benefit year (DMG 21053) is the benefit year that includes 11.08.93 (that is 1993). The claimant does not have to serve waiting days (see DMG Chapter 20).

**Example 2**

Claimant claims and receives Unemployment Benefit 11.08.93 to 16.03.94.

The claimant then claims Incapacity Benefit 17.03.94 to 09.03.97 and from 14.04.97 to 13.03.98.

On 14.03.98 the claimant claims Jobseeker’s Allowance.

In respect of the period 14.03.98 to 31.03.98 : the days of unemployment (11.08.93 to 16.03.94) cannot be treated as a jobseeking period because the linked period that began before 07.10.96 is not still current on 01.12.97; the claimant's jobseeking period starts on 17.03.94 and his relevant benefit year is 1994. The claimant does not have to serve waiting days.

In respect of the period 01.04.98 onwards; the days of unemployment (11.08.93 to 16.03.94) can be treated as a jobseeking period; the claimant's jobseeking period starts on 11.08.93 and his relevant benefit year is 1993. The claimant does not have to serve waiting days.

Linking with period of interruption of employments - linked period and jobseeking period start after 07.10.96

21017 Where a claimant has a

**1.** period of interruption of employment that ends before 07.10.96 **and**

**2.** linked period that begins after 07.10.96 **and**

**3.** jobseeking period that begins after 07.10.96

 the period of interruption of employment, linked period and jobseeking period are treated as one jobseeking period as long as each period is separated by no more than 12 weeks.

**Example**

Claimant has a period of interruption of employment that ends on 06.10.96.

On 14.12.96 the claimant claims Incapacity Benefit. The claim to Incapacity Benefit ends on 14.02.97.

On 15.02.97 the claimant claims Jobseeker’s Allowance.

The linked period begins on 14.12.96 and ends on 14.02.97. The jobseeking period begins on 15.02.97.

The claimant has a jobseeking period and a linked period that begin after 07.10.96.

The period of interruption of employment is treated as a jobseeking period because it ends within 12 weeks of the start of the linked period.

The 2 jobseeking periods (the period of interruption of employment that is treated as a jobseeking period and the jobseeking period that begins on 15.02.97) are treated as one jobseeking period (DMG 21021).

Days which are not part of a jobseeking period

21018 Days will not be part of a jobseeking period if they are

**1.** days for which no claim for Jobseeker’s Allowance has been made or treated as made1 **or**

**2.** days that are before the day on which a claim for Jobseeker’s Allowance is made or treated as made2 **or**

**3.** days for which the claimant is not entitled to Jobseeker’s Allowance because they are more than 12 months before the date on which the claim to Jobseeker’s Allowance was made or treated as made3 **or**

**4.** days for which a claimant4

**4.1** satisfies the conditions at DMG 21008 **1.** to **8.** **but**

**4.2** is not entitled to Jobseeker’s Allowance5 because of

**4.2.a** not attending on the day specified in a written notice given or sent by the Department **or**

**4.2.b** not attending at the time specified in a written notice given or sent by the Department, where the claimant has been given a warning in writing **or**

**4.2.c** failing to provide a signed declaration when required to do so by the Department **and**

not showing good cause for the failure **or**

**5.** in any week (Sunday - Saturday) for which a claimant is not entitled to Jobseeker’s Allowance because of a trade dispute6.

**6.** any days falling on or after 6.9.99 for which a claimant is not entitled to Jobseeker’s Allowance under certain legislation7 because the required information or evidence about an National Insurance number is not provided8.

1 JSA Regs (NI), reg 47(3)(a); 2 Reg 47(3)(b); 3 reg 47(3)(c); SS A (NI) Act 92, sec 1(2)(b) & 1(4)(aa);
4 JSA Regs (NI), reg 47(3)(d); 5 reg 25; 6 reg 47(3)(e); JS (NI) Order 95, art 16;
7 SS A (NI) Act 92, sec 1(1A); 8 JSA Regs (NI), reg 47(3)(f)

21019 - 21020

Linking periods

21021 Two or more jobseeking periods are treated as one jobseeking period where they are separated only by1

 **1.** 12 weeks or less **or**

**2.** one linked period (DMG 21027 - 21036)or more than one linked period where one follows immediately after the other **or**

 **3.** any linked periods that are separated by a period of 12 weeks or less **or**

 **4.** linked periods immediately followed by a period of 12 weeks or less **or**

 **5.** linked periods immediately preceded by a period of 12 weeks or less **or**

 **6.** any combination of **3,** **4** and **5** **or**

**7.** one or more periods for which the claimant has been called to serve on a jury and is required to attend court. But such periods should follow immediately one after the other.

Week means a period of 7 days2.

1 JSA Regs (NI), reg 48(1); 2 reg 1(2)

 **Example 1**

Ruby claims Jobseeker’s Allowance for 4 weeks, then does jury service for 4 weeks. Ruby waits for 10 weeks before claiming Jobseeker’s Allowance again. The current jobseeking period will not link with the 4 week jobseeking period.

**Example 2**

Jobseeker’s Allowance (2 years)
Training (Linked period) (1 year)
Gap (1 week)

Incapacity Benefit (Linked period) (20 weeks)
 Gap (1 week)
 Maternity Allowance (Linked period) (18 weeks)

Jobseeker’s Allowance

The two periods of Jobseeker’s Allowance link and can be treated as one jobseeking period as they are separated by linked periods that are separated by a period of 12 weeks or less (DMG 21021 **3.**).

**Example 3**

Jobseeker’s Allowance (2 months)
Gap (2 days)
 Jobseeker’s Allowance (6 months)
 Incapacity Benefit (Linked period) (13 weeks)
 Jobseeker’s Allowance (4 months)
Incapacity Benefit (Linked period) (20 weeks)

Jobseeker’s Allowance

All the periods of Jobseeker’s Allowance link and are treated as one jobseeking period.

**Example 4**

 Jobseeker’s Allowance (2 years)
Incapacity Benefit (Linked period) (14 weeks)
Training (Linked period) (6 months)
Jobseeker’s Allowance

The two periods of Jobseeker’s Allowance link and can be treated as one jobseeking period. They are separated by two linked periods which follow immediately one after the other (DMG 21021 **2**.)

**Example 5**

Jobseeker’s Allowance (1 year)
 Incapacity Benefit (Linked period) (13 weeks)
Gap (10 weeks)
 Training (Linked period) (3 months)
 Gap (2 days)
Jobseeker’s Allowance

The two periods of Jobseeker’s Allowance link and can be treated as one jobseeking period. They are separated by linked periods that are separated by a period of 12 weeks or less (DMG 21021 **3.**) and by a linked period immediately followed by a period of 12 weeks or less (DMG 21021 **4.** and DMG 21021 **5.**).

Linking - calculation of 8 and 12 week periods

21022 When calculating whether periods of interruption of employment or linked periods fall within 8 weeks (56 consecutive days) or 12 weeks (84 consecutive days) of the start of a jobseeking period or linked period (DMG 21011 and 21053), decision makers should disregard the first day of the jobseeking period or later linked period.

**Example**

Last day of period of interruption of employment = 18.07.96

First day of current jobseeking period = 10.10.96

18.7.96 is within the 12 weeks (84 days) (18.07.96 - 09.10.96) before the start of the jobseeking period. The decision maker does not include 10.10.96 in this calculation. The period of interruption of employment and the jobseeking period are treated as one jobseeking period.

21023 To calculate whether linked periods or jobseeking periods are separated by 12 weeks (84 consecutive days) (DMG 21021), decision makers should disregard the1

**1.** last day of the first period **and**

**2.** first day of the second period.

1 JSA Regs (NI), reg 48(1)(a) & (1)(c)

**Example 1**

Last day of previous jobseeking period = 16.02.97

First day of current jobseeking period = 12.05.97

There are 12 weeks (84 days) between the two jobseeking periods. The decision maker does not include 16.2.97 and 12.5.97 in this calculation. The two jobseeking periods are treated as one jobseeking period.

**Example 2**

Jobseeking period ends 06.01.97.

Incapacity Benefit period from 01.04.97 to 13.05.97.

Current jobseeking period starts 06.08.97.

There are 12 weeks (84 days) between the first jobseeking period and the beginning of the Incapacity Benefit period. The decision maker does not include 06.01.97 and 01.04.97 in this calculation.

There are 12 weeks (84 days) between the end of the Incapacity Benefit period and the current jobseeking period. The decision maker does not include 13.05.97 and 06.08.97 in this calculation.

The two jobseeking periods are treated as one jobseeking period.

21024 - 21026

Linked periods

21027 Linked periods are1 any period when the claimant is

 **1.** entitled to Carer’s Allowance2 (but see DMG 21036) **or**

 **2.** incapable of work or is treated as incapable of work3 **or**

 **3.** has limited capability for work or is treated as having limited capability for work4

 **4.** entitled to Maternity Allowance5 **or**

 **5.** doing training for which a training allowance is payable6 (DMG 21554).

**Note :** See Chapter 14 for guidance on periods on New Deal 18-24 being linked periods.

1 JSA Regs (NI), reg 48(2); 2 reg 48(2)(a); SS C&B (NI) Act 92, sec 70; 3 JSA Regs (NI), reg 48(2)(b);
SS C&B (NI) Act 92, Part XIIA; 4 JSA Regs (NI), reg 48(2)(bb); SS C&B (NI) Act 92, sec 35;
5 JSA Regs (NI), reg 48(2)(c) & 1(2); 6 reg 48(2)(d) & 1(2)

21028 From 28.10.96 a period

**1.** that included 06.10.96 **and**

**2.** during which the claimant attends court because of a summons for jury service **and**

**3.** immediately preceded by a period of entitlement to Unemployment Benefit

 is a linked period1. This does not apply when the days of claim the decision maker is considering fall in the period 07.10.96-27.10.96.

1 SS & CS (JSA) (Misc Amdts) Regs (NI), reg 2(8); JSA Regs (NI), reg 48(2)(e)

 21029 - 21035

Carer’s Allowance

21036 Carer’s Allowance only becomes a linked period if it allows the claimant to satisfy the contribution conditions for entitlement to contribution-based Jobseeker’s Allowance and the claimant would otherwise be unable to satisfy them1. The linked period of Carer’s Allowance has to end within 12 weeks or less of the starting of a jobseeking period or some other linked period2.

1 JSA Regs (NI), reg 48(3); 2 reg 48(2A)

**Example 1**

Josie Dewson claims and receives contribution-based Jobseeker’s Allowance from and including 14.10.96. Contribution-based Jobseeker’s Allowance stops and Carer’s Allowance is payable from 16.12.96. Caring ends on 11.10.98 and Josie claims contribution-based Jobseeker’s Allowance on 12.10.98. If 12.10.98 was the start of the jobseeking period, she would not be entitled to contribution-based Jobseeker’s Allowance. As Josie cannot satisfy the contribution conditions for contribution-based Jobseeker’s Allowance, then the period of Carer’s Allowance **does** become a linked period, and the jobseeking period begins on 14.10.96

**Example 2**

Meg Moore claims and receives contribution-based Jobseeker’s Allowance from and including 14.10.96. Contribution-based Jobseeker’s Allowance stops and Carer’s Allowance is payable from 16.12.96. Caring ends on 21.12.97 and Meg claims contribution-based Jobseeker’s Allowance on 22.12.97. If 22.12.97 was the start of the jobseeking period, she would be entitled to contribution-based Jobseeker’s Allowance. As Meg can satisfy the contribution conditions for contribution-based Jobseeker’s Allowance, then the period of Carer’s Allowance **does not** become a linked period, and the jobseeking period begins on 22.12.97.

 21037 - 21043

Claimants approaching retirement

21044 The guidance on claimants approaching retirement only applies to claimants who are not receiving Jobseeker’s Allowance, for example because entitlement to contribution-based Jobseeker’s Allowance has exhausted1.

1 JSA Regs (NI), reg 49(1) & (5)

21045 Claimants are treated as satisfying the conditions (for the purposes only of forming a jobseeking period) in 21008 **1.** to **8.**1 for days

**1.** that fall after 06.10.96 **and**

**2.** that fall within a tax year (6th April to 5th April) in which the claimant has reached age 60, but is under pension age (see DMG 20010) **and**

**3.** for which Jobseeker’s Allowance is not payable because the claimant

**3.1** has exhausted entitlement to 182 days contribution-based Jobseeker’s Allowance2 **or**

**3.2** does not satisfy one or both of the contribution conditions for contribution-based Jobseeker’s Allowance3 **or**

**3.3** is entitled to contribution-based Jobseeker’s Allowance, but nothing is payable because of pension payments that the claimant receives4 **and**

**4.** on which the claimant

**4.1** is not available and is not treated as available5 **or**

**4.2** is not actively seeking employment and is not treated as actively seeking employment6 **or**

**4.3** does not have a valid jobseeker’s agreement and is not treated as having a valid jobseeker’s agreement7.

**Note :** Prior to 6.4.10 the condition in **2.** is that the days fall within a tax year (6th April to 5th April) in which the claimant has reached age 60, but is under pension age.

1 JSA Regs (NI), reg 49(1)&(2); 2 JS (NI) Order 95, art 7(1); 3 art 4(1)(a) & (b); 4 JSA Regs (NI), reg 81;
5 JS (NI) Order 95, art 3(2)(a); JSA Regs (NI), reg 14 & 16; 6 JS (NI) Order 95, art 3(2)(c);
JSA Regs (NI), reg 19, 20 & 21; 7 JS (NI) Order 95, art 3(2)(b); JSA Regs (NI), reg 34

21046 The qualifying age for State Pension Credit is1

 **1.** for a woman - pension age **or**

 **2.** for a man - the age which is pension age for a woman born on the same date as the man.

1 JSA Regs (NI), reg 1(2)

Claimants who are incapable of work or have limited capability for work

21047 Any day of

 **1.** incapacity for work that falls within a period of incapacity for work (see DMG Chapter 56)1 **or**

 **2.** limited capability for work that falls within a period of limited capability for work (see DMG Chapter 42)2

 cannot be treated as a day on which a claimant satisfies the conditions at DMG 21008 **1.** to **8.**.

1 JSA Regs (NI), reg 49(4); SS C&B (NI) Act 92, sec 30C; 2 JSA Regs (NI), reg 49(4A); WR Act (NI) 07, Part 1

Claimants who work

21048 Where claimants work as employed earners or self-employed earners for more than 12 continuous weeks they cannot be treated as satisfying the conditions at DMG 21008 **1.** to **8.** for any days within the 12 weeks or following the 12 weeks. But if claimants stop work and claim Jobseeker’s Allowance, they can again be treated as satisfying the conditions at DMG 21008 **1.** to **8.**, as long as they satisfy the requirements of DMG 210461. Week means a period of 7 days2.

1 JSA Regs (NI), reg 49(3); 2 reg 1(2)

 21049 - 21050

Contribution-based conditions and duration of contribution-based Jobseeker’s Allowance

Contribution-based conditions

Definitions

Benefit year

21051 A benefit year is the period that1

**1.** begins with the first Sunday in January in any calendar year **and**

**2.** ends with the Saturday immediately before the first Sunday in January in the next calendar year.

1 JS (NI) Order 95, art 4(4)(a); SS C&B (NI) Act 92, sec 21(6)

Class 2 contributions and volunteer development workers

21052 A person who works abroad as a volunteer development worker1 (for example, for an organisation such as Voluntary Service Overseas) may be entitled to pay special Class 2 contributions under specific legislation**2**. Her Majesty’s Revenue and Customs decides whether a person is entitled to pay the special Class 2 contributions. But this only applies if that person is3

**1.** ordinarily resident in Northern Ireland (see DMG Chapter 7) **and**

**2.** employed outside Northern Ireland (see DMG Chapter 7).

1 JSA Regs (NI), reg 166 & SS (Conts) Regs (NI), reg 115A(1); 2 reg 115C; 3 reg 115A(2)

Relevant benefit year

21053 The relevant benefit year1 is the benefit year that includes the beginning of

**1.** the current jobseeking period **or**

**2.** any linked period that ends within 12 weeks of the start of a

**2.1** jobseeking period **or**

**2.2** linked period2

 whichever is earlier.

 **Note :** See DMG 21022 for guidance on calculating the 12 weeks.

1 JS (NI) Order 95, art 4(4)(b); 2 JSA Regs (NI), reg 48(2A)

Special Class 2 contributions

21054 Special Class 2 contributions are1 any Class 2 contributions paid by a share fisherman2.

1 JSA Regs (NI), reg 159(b); 2 SS (Conts) Regs (NI), reg 96(c)

Tax year

21055 A tax year is a period of 12 months beginning with 6th April of any year1. For example, the tax year beginning April 2012 is the period 6.4.12 - 5.4.13.

1 JS (NI) Order 95, art 2(2)

 21056 - 21059

General

21060 The contribution-based conditions for entitlement to contribution-based Jobseeker’s Allowance are that the claimant must1

**1.** satisfy the first contribution condition (DMG 21067 - 21071) **and**

**2.** satisfy the second contribution condition (DMG 21074 - 21076) **and**

**3.** not have earnings higher than the prescribed amount (DMG 21081 - 21082) **and**

**4.** not be entitled to Income Support.

**Note :** Claimants who do not make a claim for Income Support cannot be entitled to Income Support.

1 JS (NI) Order 95, art 4(1)

Her Majesty’s Revenue and Customs questions

21061 Her Majesty’s Revenue and Customs decide whether Class 1 or Class 2 contributions have been paid or credited in any year1.

1 SSC (T of F) Act 99, s 8(1)(e); R(JSA) 8/02

What the decision maker decides

21062 The decision maker determines whether the contribution conditions are satisfied1, including

**1.** the earnings factor derived from Class 1 or Class 2 contributions **and**

**2.** the beginning of the relevant benefit year **and**

**3.** which are the relevant income tax years **and**

**4.** the years in which the contributions must have been paid or credited.

1 SS (NI) Order 98, art 9(1)

Reference to Her Majesty’s Revenue and Customs

21063 Entitlement to contribution-based Jobseeker’s Allowance depends on the contribution conditions being satisfied. In practice the national insurance contribution record is usually obtained and any decision is based on the assumption that the record is factually correct. However, where there is a dispute about the record, the matter must be referred by the decision maker to Her Majesty’s Revenue and Customs for a formal decision1.

 **Note 1 :** See DMG Chapters 03, 04 and 06 for guidance on how decisions and appeals are handled after a reference to Her Majesty’s Revenue and Customs.

 **Note 2 :** See DMG Chapter 01 where the dispute is about whether credits should be awarded.

1 SS & CS (D&A) Regs (NI), regs 11A and 38A

 21064 - 21066

First contribution condition

General

21067 To satisfy the first contribution condition1

**1.** the claimant must have paid Class 1 contributions in respect of one (“the base year”) of the last two complete tax years before the beginning of the relevant benefit year **and**

**2.** Class 1 contributions must have been paid before the week that the claimant claims Jobseeker’s Allowance **and**

**3.** the claimant must have had relevant earnings for the base year on which the Class 1 contributions have been paid or treated as paid of at least 26 times the lower earnings limit for that tax year (see DMG Appendix 1 to this Chapter).

1 JS (NI) Order 95, art 4(1)(a), 4(2) & 2(2)

Share fishermen

21068 For share fisherman DMG 21067 **1.** can include Class 1 or special Class 2 contributions1.

1 JS (NI) Order 95, art 4(1)(a), 4(2) & 2(2); JSA Regs (NI), reg 159(b)

Volunteer development workers

21069 For volunteer development workers DMG 21067 **1.** can include1 Class 1 contributions or Class 2 contributions2.

1 JS (NI) Order 95, art 4(1)(a), 4(2) & 2(2); JSA Regs (NI), reg 166; 2 SS (Conts) Regs (NI), Part IX, Case E

Determining relevant earnings

21070 Relevant earnings are determined by the number of weeks worked in the base year. The relevant earnings are the total amount of earnings at the level of the lower earnings limit1.

1 JS (NI) Order 95, art 2(2A); JSA Regs (NI), reg 45A(1)

21071 When working out the relevant earnings any earnings in excess of the lower earnings limit are ignored1.

1 JSA Regs (NI), reg 45A(2)

Relaxation of the first contribution condition

Spouses and civil partners of service personnel

21072 The first contribution condition is taken to be satisfied1 where the claimant is entitled to be credited with earnings equal to the lower earnings limit on the grounds that they

 **1.** are a spouse or civil partner of a member of Her Majesty’s Forces **and**

 **2.** accompanied that member of Her Majesty’s Forces on an assignment outside the UK or treated as such by the Secretary of State

 in respect of any week during the last complete tax year before the relevant benefit year.

1 JSA Regs (NI), reg 45B(2); Social Security (Credits) Regulations (NI) 1975, reg 9E

21073 In addition to satisfying DMG 21072, the claimant must also1

 **1.** have paid Class 1 contributions before the relevant benefit week in respect of **any previous** tax year **and**

 **2.** have earnings at the level of the lower earnings limit in that tax year on which Class 1 contributions have

 **2.1** been paid **or**

 **2.2** treated as paid

 of at least 26 times the lower earnings limit for that tax year, disregarding any earnings which exceed the lower earnings limit.

1 JSA Regs (NI), reg 45B(1)

 **Example**

 Jessica’s husband is in the army and she accompanied him when he served overseas in various spells during 2010 and 2011. Prior to 2010, Jessica had worked intermittently but most frequently in 2007 and 2008. Whilst overseas Jessica did not work but was credited with earnings equal to the lower earnings limit on the grounds that she accompanied her husband on overseas postings. When they arrived back in the UK, Jessica made a claim for Jobseeker’s Allowance with a date of claim of 10.1.12.

 The decision maker decides that Jessica satisfies the first contribution condition for contribution-based Jobseeker’s Allowance. This is based on her relevant benefit year being 2012. Ordinarily, the two tax years to be used to determine the first contribution condition would be 2010/2011 or 2009/2010. However, because of Jessica’s time overseas as a spouse of a member of Her Majesty’s Forces, the decision maker decides to use the tax year 2007/2008 where Jessica’s earnings were such that the first contribution condition can be taken to have been satisfied.

 Jessica will still need to satisfy the second contribution condition for the two tax years 2010/11 and 2009/10.

Second contribution condition

General

21074 To satisfy the second contribution condition1

**1.** the claimant must have

**1.1** paid Class 1 contributions **or**

**1.2** been credited with earnings

 for the last two complete tax years before the beginning of the relevant benefit year **and**

**2.** the earnings factor from the earnings

**2.1** on which primary Class 1 contributions have been paid or treated as being paid **or**

**2.2** credited

 must be at least 50 times the lower earnings limit for each of those last two complete tax years (see Appendix 1 to this Chapter).

1 JS (NI) Order 95, art 4(1)(b), 4(3) & 2(2)

Share fishermen

21075 For share fishermen DMG 21074 **1.1** and **2.1** can include Class 1 or special Class 2 contributions1.

1 JS (NI) Order 95, art 4(1)(b), 4(3) & 2(2); JSA Regs (NI), reg 159(b)

Volunteer development workers

21076 For volunteer development workers DMG 21074 **1.1** and **2.1** can include1 Class 1 contributions or Class 2 contributions2.

1 JS (NI) Order 95, art 4(1)(b), 4(3) & 2(2); JSA Regs (NI), reg 166;
2 SS (Conts) Regs (NI), Part IX, Case E

Earnings at or below the lower earnings limit

21077 People who have earnings at or below the lower earnings limit and people who have earnings above the lower earnings limit do not have to pay any contributions on earnings at or below the lower earnings limit1.

1 SS C&B (NI) Act 92, sec 6A

21078 The earnings

**1.** on which primary class 1 contributions have been paid or treated as paid, that did not exceed the upper earnings limit **and**

**2.** at or below the lower earnings level

count towards satisfying the first contribution condition and second contribution condition1.

1 JS (NI) Order 95, art 4(3A)

 21079 - 21080

Prescribed amount of earnings

21081 Claimants are not entitled to contribution-based Jobseeker’s Allowance for any week that they have earnings that are higher than the prescribed amount (DMG 21060 **3.**)1.

1 JS (NI) Order 95, art 4(1)(c)

21082 The prescribed amount of the claimant’s earnings is calculated by using the formula1

 (A + D) - £0.01 where

**1.** A is the age-related amount that is appropriate to the claimant’s age **and**

**2.** D is any earnings disregard appropriate to the claimant as in2

**2.1** DMG 25082 - 25083 (two payments to be taken into account for the same week because of the impracticability rule, first of two payments due before the date of claim) **and**

**2.2** DMG 26102 - 26103 (disabled people, repeat claims) **and**

**2.3** DMG 26108 (lone parents) **and**

**2.4** DMG 26114 - 26133, (carers, special occupations, earnings from one or more occupations, income-based Jobseeker’s Allowance and Income Support-couples, amount of disregard, earnings paid for employment which has been interrupted, earnings payable outside UK, earnings paid in a foreign currency) **and**

**2.5** DMG 26417 (effects of awards for unfair dismissal) **and**

**2.6** DMG 26642 - 26647 (remunerative work, part-time work and payments on termination) **and**

**2.7** DMG 27471 (earnings from self-employment that has ceased).

1 JSA Regs (NI), reg 56(1) & (2); 2 reg 99(2) & 101(2) & Sch 5

**Example**

Darren is entitled to an age-related amount of £67.50 a week.

In his particular case he is entitled to a disregard of £5.00 a week.

Applying the formula - (£67.50 + £5.00) - £0.01 = £72.49.

If the claimant has earnings of more than £72.49 he is not entitled to contribution-based Jobseeker’s Allowance.

Late payment of contributions

21083 The decision maker determines whether the contribution conditions for contribution-based Jobseeker’s Allowance are satisfied. Contributions paid after the due date are generally treated as paid on the date of payment. However there are circumstances in which the decision maker may accept that contributions are treated as having been paid on an earlier date1. The decision maker will need to liaise with Her Majesty’s Revenue and Customs.

1 SS (Conts) Regs, reg 60-65; SS (Crediting etc) Regs (NI), reg 4

 21084 - 21087

Duration of contribution-based Jobseeker’s Allowance

Maximum entitlement

21088 Claimants who are entitled to contribution-based Jobseeker’s Allowance cannot have more than 182 days contribution-based Jobseeker’s Allowance1 for any periods of claim using the same two tax years (DMG 21090-21091). Each day for which

 **1.** contribution-based Jobseeker’s Allowance is paid **or**

 **2.** contribution-based Jobseeker’s Allowance is treated as paid (DMG 21097) **or**

**3.** the claimant is entitled to contribution-based Jobseeker’s Allowance but it is not payable (DMG 21098 - 21099)

 counts towards the 182 day total.

1 JS (NI) Order 95, art 7(1)

21089

More than one period of entitlement to contribution-based Jobseeker’s Allowance

21090 If a claimant has two or more separate claims to Jobseeker’s Allowance on which entitlement to contribution-based Jobseeker’s Allowance is decided using the same two tax years, the days of entitlement in each of those claims are added together, up to a maximum of 182 days1.

1 JS (NI) Order 95, art 7(1)

21091 If a claimant has two or more separate claims to Jobseeker’s Allowance, the days of entitlement to contribution-based Jobseeker’s Allowance in each of those claims are **not** added together for any claims where

**1.** the claimant’s entitlement to contribution-based Jobseeker’s Allowance is decided using at least one different tax year to the earlier claim1 **and**

**2.** the separate claims do not link.

 In these cases claimants can start their 182 day maximum entitlement again if they satisfy DMG 21067-21082.

1 JS (NI) Order 95, art 7(1) & 2(2)

**Example 1**

A man claims Jobseeker’s Allowance from 04.11.96.

The two complete tax years used for calculating whether he satisfies the second contribution condition, for this claim, are

**1.** 06.04.93 - 05.04.94 **and**

**2.** 06.04.94 - 05.04.95.

contribution-based Jobseeker’s Allowance is paid from 07.11.96 (04.11.96 - 06.11.96 are waiting days).

The award ends on 25.11.96.

He has had 19 days contribution-based Jobseeker’s Allowance.

The claimant is employed on a short-term contract that ends on 02.12.96.

He then makes a new claim to Jobseeker’s Allowance from 03.12.96.

The two complete tax years used for calculating whether he satisfies the second contribution condition, for this second claim, are the same as for the previous claim.

The days of entitlement on the second claim are added to those of the first claim, so 03.12.96 is his 20th day of entitlement to contribution-based Jobseeker’s Allowance.

**Example 2**

A woman claims Jobseeker’s Allowance from 04.11.96.

The two complete tax years used for calculating whether she satisfies the second contribution condition, for this claim, are

**1.** 06.04.93 - 05.04.94 **and**

**2.** 06.04.94 - 05.04.95.

contribution-based Jobseeker’s Allowance is paid from 07.11.96 (04.11.96-06.11.96 are waiting days).

The award ends on 25.11.96. She has had 19 days contribution-based Jobseeker’s Allowance.

She is employed on a short-term contract that ends on 17.01.97.

She makes a new claim to Jobseeker’s Allowance from 20.01.97.

As the second claim is made within 12 weeks of the first claim ending the linking period rules apply and the two complete tax years used for calculating whether she satisfies the second contribution condition are the same as for the first claim.

The days of entitlement on the second claim are added to those of the first claim, so 20.01.97 is her 20th day of entitlement to contribution-based Jobseeker’s Allowance.

**Example 3**

A man claims Jobseeker’s Allowance from 13.01.97.

The two complete tax years used for calculating whether he satisfies the second contribution condition, for this claim, are

**1.** 06.04.94 - 05.04.95 **and**

**2.** 06.04.95 - 05.04.96.

Contribution-based Jobseeker’s Allowance is paid from 16.01.97 (13.01.97 - 15.01.97 are waiting days).

The award ends on 04.02.97. He has had 20 days contribution-based Jobseeker’s Allowance.

He is employed from 05.02.97 - 09.05.97.

He then makes a new claim to Jobseeker’s Allowance from 12.05.97.

As the second claim is made more than 12 weeks after the end of the first claim

**1.** the linking period rules do not apply **and**

**2.** 12.05.97 - 14.05.97 are waiting days.

But the two complete tax years used for calculating whether he satisfies the second contribution condition, for the second claim, are the same as for the first claim.

The days of entitlement on the second claim are added to those of the first claim, so 15.05.97 is his 21st day of entitlement to contribution-based Jobseeker’s Allowance.

**Example 4**

A woman claims Jobseeker’s Allowance from 04.11.96.

The two complete tax years used for calculating whether she satisfies the second contribution condition, for this claim, are

**1.** 06.04.93 - 05.04.94 **and**

**2.** 06.04.94 - 05.04.95.

Contribution-based Jobseeker’s Allowance is paid from 07.11.96 (04.11.96 - 06.11.96 are waiting days).

The award ends on 25.11.96. She has had 19 days contribution-based Jobseeker’s Allowance.

She is employed on a fixed term contract that ends on 27.02.97.

She then makes a new claim to Jobseeker’s Allowance from 28.02.97.

As the second claim is not made within 12 weeks of the end of the first claim

**1.** the linking period rules do not apply **and**

**2.** 28.02.97 - 02.03.97 are waiting days

The two complete tax years used for calculating whether she satisfies the second contribution condition for this second claim are

**1.** 06.04.94 - 05.04.95 **and**

**2.** 06.04.95 - 05.04.96.

The days of entitlement on the second claim are **not** added to those of the first claim because her entitlement to contribution-based Jobseeker’s Allowance is calculated using one different tax year (06.04.95 - 05.04.96).

She is entitled to a maximum of 182 days contribution-based Jobseeker’s Allowance on the later claim.

21092 - 21095

Days that count as days of entitlement to contribution-based Jobseeker’s Allowance

21096 Days can be

**1.** treated as days of entitlement to contribution-based Jobseeker’s Allowance **and**

**2.** count towards the maximum of 182 days1

 even though no contribution-based Jobseeker’s Allowance is payable.

1 JS (NI) Order 95, art 7(3); JSA Regs (NI), reg 47(4)

21097 The days that are treated as counting towards the maximum of 182 days1

 **1.** are days that fall in a jobseeking period2 **and**

**2.** are days

 **2.1** on which

 **2.1.a** the claimant satisfies the contribution conditions except DMG 21060 **3.** and **4.**3

 **2.1.b** contribution-based Jobseeker’s Allowance is not payable because of a sanction or disqualification for benefit fraud offences or joint claim Jobseeker’s Allowance is not payable or is reduced because of a sanction or disqualification for benefit fraud offences4 **or**

 **2.2** that fall in a period that is treated as a period in which the claimant satisfies availability, actively seeking employment and as having a jobseeker’s agreement as in DMG 210095.

1 JS (NI) Order 95, art 7(3); JSA Regs (NI), reg 47(4); 2 reg 47(4)(a);
3 reg 47(4)(b)(i); 4 reg 47(4)(b)(ii); 5 reg 47(4)(c)

**Example**

Nora is entitled to contribution-based Jobseeker’s Allowance.

Contribution-based Jobseeker’s Allowance is paid to her for 100 days.

Nora refuses employment without good cause.

The decision maker imposes a sanction. Any days that

**1.** fall in the jobseeking period **and**

**2.** the sanction is imposed for

count towards Nora’s remaining 82 days of entitlement.

21098 Days where

 **1.** claimants are entitled to contribution-based Jobseeker’s Allowance **but**

**2.** contribution-based Jobseeker’s Allowance is not payable for whatever reason will count towards the maximum of 182 days.

**Example 1**

Dan is entitled to contribution-based Jobseeker’s Allowance.

Due to the amount of his occupational pension no contribution-based Jobseeker’s Allowance is payable.

Each day in the jobseeking period counts towards the maximum of 182 days.

**Example 2**

A share fisherman who is entitled to contribution-based Jobseeker’s Allowance is paid contribution-based Jobseeker’s Allowance for 100 days.

In a particular week

**1.** he does not work as a share fisherman **and**

**2.** he fails to prove that he had not neglected to avail himself of a reasonable opportunity of employment as a share fisherman.

The decision maker decides that contribution-based Jobseeker’s Allowance is not payable for the week.

Any of the days in the week that are in the jobseeking period count towards his remaining 82 days entitlement.

21099 Claimants who satisfy the

 **1.** contribution-based conditions **and**

 **2.** income-based conditions

 for Jobseeker’s Allowance, and the amount of income-based Jobseeker’s Allowance is higher than the amount of contribution-based Jobseeker’s Allowance, will be paid income-based Jobseeker’s Allowance. But in these circumstances, the days that income-based Jobseeker’s Allowance are paid for can count towards the 182 days maximum for contribution-based Jobseeker’s Allowance.

**Example 1**

Peggy who lives with her partner and 5 children claims Jobseeker’s Allowance and qualifies for contribution-based Jobseeker’s Allowance and income-based Jobseeker’s Allowance.

Peggy is paid income-based Jobseeker’s Allowance because her entitlement to income-based Jobseeker’s Allowance is higher than her entitlement to contribution-based Jobseeker’s Allowance.

After claiming for 160 days Peggy’s partner and children leave and live elsewhere.

The decision maker supersedes Peggy’s award of Jobseeker’s Allowance and her personal rate of contribution-based Jobseeker’s Allowance equals her applicable amount of income-based Jobseeker’s Allowance.

Peggy is now paid contribution-based Jobseeker’s Allowance.

The first day that she is paid contribution-based Jobseeker’s Allowance is the 161st day of her claim to Jobseeker’s Allowance and all of these days count towards the 182 day maximum.

 21100 - 21104

Claimants who have had their full entitlement of contribution-based Jobseeker’s Allowance

21105 The decision maker decides whether the claimant can have another period of entitlement to contribution-based Jobseeker’s Allowance.

21106 Claimants who have had their full 182 days entitlement to contribution-based Jobseeker’s Allowance can have another period of contribution-based Jobseeker’s Allowance if1

**1.** they satisfy the contribution-based conditions **and**

**2.** at least one of the two complete tax years that are used to decide whether they have satisfied the contribution-based conditions is later than both the tax years used to decide entitlement to the first 182 days.

1 JS (NI) Order 95, art 7(2) & 2(2)

**Example 1**

A man claims Jobseeker’s Allowance and is paid contribution-based Jobseeker’s Allowance.

His award of contribution-based Jobseeker’s Allowance totals 182 days on 25.11.96.

The two complete tax years used for calculating whether he satisfies the contribution-based conditions, for this claim, are

**1.** 06.04.93 - 05.04.94 **and**

**2.** 06.04.94 - 05.04.95.

The claim to Jobseeker’s Allowance ends on 26.11.96.

The claimant is employed from 27.11.96 - 17.01.97.

He then makes a new claim to Jobseeker’s Allowance from 20.01.97.

The two complete tax years used for calculating whether he satisfies the contribution-based conditions, for this claim, are the same as for the previous claim. This is due to the linking period rules.

The claimant is not entitled to another period of 182 days contribution-based Jobseeker’s Allowance.

**Example 2**

A man claims Jobseeker’s Allowance from 13.01.97.

The two complete tax years used for calculating whether he satisfies the second contribution condition, for this claim, are

**1.** 06.04.94 - 05.04.95 **and**

**2.** 06.04.95 - 05.04.96.

contribution-based Jobseeker’s Allowance is paid from 16.01.97 (13.01.97 – 15.01.97 are waiting days).

16.07.97 is the claimant’s 182nd day of contribution-based Jobseeker’s Allowance. His award to Jobseeker’s Allowance ends on 17.07.97.

The claimant is employed from 18.07.97 - 17.10.97.

He then makes a new claim to Jobseeker’s Allowance from 20.10.97.

As the second claim is made more than 12 weeks after the end of the first claim, the linking period rules do not apply.

But the two complete tax years used for calculating whether he satisfies the second contribution condition, for the second claim, are the same as for the previous claim.

He is not entitled to another period of 182 days contribution-based Jobseeker’s Allowance.

**Example 3**

A woman claims Jobseeker’s Allowance and is paid contribution-based Jobseeker’s Allowance.

Her award of contribution-based Jobseeker’s Allowance totals 182 days on 25.11.96.

The two complete tax years used for calculating whether she satisfies the contribution-based conditions, for this claim, are

**1.** 06.04.93 - 05.04.94 **and**

**2.** 06.04.94 - 05.04.95.

The claim to Jobseeker’s Allowance ends on 26.11.96.

The claimant is employed from 27.11.96 - 27.02.97.

She then makes a new claim to Jobseeker’s Allowance from 28.02.97. This claim does not link to the previous claim.

The two complete tax years used for calculating whether she satisfies the contribution-based conditions, for this second claim, are

**1.** 06.04.94 - 05.04.95 **and**

**2.** 06.04.95 - 05.04.96.

She is entitled to another period of 182 days contribution-based Jobseeker’s Allowance because one of these tax years (06.04.95 - 05.04.96) is later than the tax years used for the earlier claim.

 21107 - 21108

Arrears of contribution-based Jobseeker’s Allowance or Unemployment Benefit due; contribution-based Jobseeker’s Allowance overpaid

21109 The guidance in DMG 21110 - 21118 can only be applied if

**1.** the decision maker's decision is made on or after 28.10.96 **and**

**2.** some of the later contribution-based Jobseeker’s Allowance that would have been overpaid as in

**2.1** DMG 21110 **3.** **and**

**2.2** DMG 21112 **3.**

is for days on or after 28.10.96.

Arrears of contribution-based Jobseeker’s Allowance due - claimant had full entitlement of contribution-based Jobseeker’s Allowance

21110 Where

**1.** claimants become entitled to arrears of contribution-based Jobseeker’s Allowance **and**

**2.** they have already received contribution-based Jobseeker’s Allowance for a later day or days in one or more periods of entitlement to Jobseeker’s Allowance **and**

**3.** because of the 182 days limit on contribution-based Jobseeker’s Allowance , payment of the arrears would cause any of the later contribution-based Jobseeker’s Allowance to be overpaid

 the overpaid contribution-based Jobseeker’s Allowance is treated as paid on account of the arrears. The arrears due should be reduced accordingly1.

1 SS & CS (JSA) (Misc Amdts) Regs (NI), reg 5; SS (Gen Ben) Regs (NI), reg 9(5A)

21111 No overpayment arises even if the contribution-based Jobseeker’s Allowance that would become overpaid was paid at a higher weekly rate than the contribution-based Jobseeker’s Allowance that later becomes payable (for example due to benefit up-rating). But if the amount of arrears due **is higher** than the amount that would become overpaid, the claimant should be paid the balance.

Arrears of Unemployment Benefit due - claimant had full entitlement of contribution-based Jobseeker’s Allowance

21112 Where

**1.** claimants become entitled to arrears of Unemployment Benefit for one or more days that were before 07.10.96 or in the benefit week that includes 07.10.96 **and**

**2.** they have already received contribution-based Jobseeker’s Allowance for a later day or days in one or more periods of entitlement to Jobseeker’s Allowance **and**

**3.** because of the

**3.1** 182 days limit of contribution-based Jobseeker’s Allowance **or**

**3.2** 156 or 312 days limit under transitional protection

payment of the arrears would cause any of the later contribution-based Jobseeker’s Allowance to be overpaid

 the overpaid contribution-based Jobseeker’s Allowance is treated as paid on account of the arrears of Unemployment Benefit. The arrears due should be reduced accordingly1.

1 SS & CS (JSA) (Misc Amdts) Regs (NI), reg 5; SS (Gen Ben) Regs (NI), reg 9(5B)

21113 No overpayment arises even if the contribution-based Jobseeker’s Allowance that would become overpaid was paid at a higher weekly rate than the Unemployment Benefit that later becomes payable (for example due to benefit up-rating). But if the amount of arrears due **is higher** than the amount that would become overpaid, the claimant should be paid the balance.

Contribution-based Jobseeker’s Allowance overpaid

21114 Where

**1.** a decision is changed on appeal or review **and**

**2.** contribution-based Jobseeker’s Allowance has been paid for days for which there was no entitlement, due to that changed decision

 the days in **2.** are treated as days for which the claimant has entitlement to contribution-based Jobseeker’s Allowance.

21115 DMG 21114 only applies in deciding whether

**1.** the claimant has had the maximum number of days entitlement to contribution-based Jobseeker’s Allowance **and**

**2.** the date on which the claimant has reached the maximum number of days entitlement to contribution-based Jobseeker’s Allowance.

But it does not apply where DMG 21116 applies1.

1 SS & CS (JSA) (Misc Amdts) Regs (NI), reg 5; SS (Gen Ben) Regs (NI), reg 9(5C)

21116 If any part of the sum overpaid is **recovered**, the amount recovered reduces the number of days entitlement for the purposes of calculating the date on which the claimant reaches the maximum number of days entitlement to contribution-based Jobseeker’s Allowance. The number of days is calculated1

**1.** by dividing the amount recovered by 1/7 of the weekly rate at which the benefit was paid **and**

**2.** rounding up or down to the nearest whole number.

1 SS (Gen Ben) Regs (NI), reg 9(5C)(b)

21117 If

**1.** an award continues after the claimant has reached the maximum number of days entitlement to contribution-based Jobseeker’s Allowance **and**

**2.** the decision maker then decides that some or all of the contribution-based Jobseeker’s Allowance paid before the claimant reached the maximum number of days entitlement to contribution-based Jobseeker’s Allowance was overpaid and recoverable

 then the benefit to which there would have been entitlement, if the claimant had not reached the maximum number of days entitlement, cannot be awarded and then used to reduce the overpayment and postpone the date on which the claimant reaches the maximum number of days entitlement to contribution-based Jobseeker’s Allowance. For DMG 21116 to apply the overpayment must first actually be repaid1.

1 R(S) 14/53

21118 DMG 21114 - 21117 do not apply to days for which1

**1.** there would have been entitlement to contribution-based Jobseeker’s Allowance but for the payment by the Department of Enterprise, Trade and Investment to certain employees of insolvent businesses2 **and**

**2.** in calculating that payment, the Department of Enterprise, Trade and Investment made a deduction on account of contribution-based Jobseeker’s Allowance received.

 Such days are not treated as days of entitlement to contribution-based Jobseeker’s Allowance when calculating when the claimant has reached the maximum number of days of entitlement to contribution-based Jobseeker’s Allowance, even though the overpayment resulting from any revised decision has not been recovered to the National Insurance Fund.

1 SS & CS (JSA) (Misc Amdts) Regs (NI), reg 5; SS (Gen Ben) Regs (NI), reg 9(5D);
2 Employment Rights (NI) Order 1996 Art 227

21119

Availability

Introduction

21120 The guidance on availability in DMG 21121 - 21488 applies only to Jobseeker’s Allowance and not to Income Support. Availability decisions should start from the date on which the doubt arose. Except, in cases where the claimant is not available because of restrictions on the number of hours that they are available (DMG 21423 - 21424), the availability decision should start from the beginning of the benefit week being considered. See DMG Chapter 14 for guidance on availability in relation to New Deal.

 21121

Definitions

21122 Unless otherwise stated the definitions in DMG 21123 - 21173 apply whenever the words or phrases are used in DMG 21123 - 21488.

Benefit week

21123 A benefit week1 is a period of 7 days ending with the day determined by the last 2 digits of the claimant’s National Insurance number as shown in the following table unless the Department arranges otherwise.

 National Insurance number Pay day

 00 - 19 Monday

 20 - 39 Tuesday

 40 - 59 Wednesday

 60 - 79 Thursday

 80 - 99 Friday

1 JSA Regs (NI), reg 1(2)

 21124

Caring responsibilities

21125 Caring responsibilities means responsibility for caring for a person

**1.** who is

**1.1** a child **or**

**1.2** an elderly person **or**

**1.3** a person who needs to be cared for because of their physical or mental condition **and**

**2.** who is

**2.1** in the same household (DMG Chapter 22) **or**

**2.2** a close relative1.

**Note :** The definition of “elderly person” means a person of, or over pension age2 (see DMG 20010).

1 JSA Regs (NI), reg 4; 2 reg 4

Casual employment

21126 Casual employment means1 employment from which the employee can be released

 **1.** without having to give notice **or**

 **2.** if notice has to be given, before the end of the vacation.

1 JSA Regs (NI), reg 17A(7)

Child

21127 A child is a person under the age of 161.

1 JS (NI) Order 95, art 2(2)

Close friend

21128 When considering whether a person is a close friend1 the decision maker should note that

**1.** the depth of the relationship is more important than its duration

**2.** a relative who is not a close relative could be a close friend, for example a great grandparent.

1 JSA Regs (NI), reg 14(2)

Close relative

21129 A close relative is1

**1.** a member of a couple **or**

**2.** a parent **or**

**3.** a step-parent or civil partner of a parent **or**

**4.** a grandparent **or**

**5.** a parent-in-law or civil partner’s parent **or**

**6.** a son **or**

**7.** a step-son or son of a civil partner **or**

**8.** a son-in-law or son’s civil partner **or**

**9.** a daughter **or**

**10.** a step-daughter or daughter of a civil partner **or**

**11.** a daughter-in-law or daughter’s civil partner **or**

**12.** a brother or half-brother2 **or**

**13.** a sister or half-sister3 **or**

**14.** a grandchild **or**

**15.** if any of the people in **1.** to **14.** are one of a couple, the other member of that couple.

 **Note 1 :** A great grandparent is not a close relative.

 **Note 2 :** A spouse includes each spouse in a polygamous marriage.

1 JSA Regs (NI), reg 4; 2 R(SB) 22/87; 3 R(SB) 22/87

**Example**

A man is married to 3 women (A, B and C).

In this polygamous marriage

**1.** A is the man’s spouse **and**

**2.** B is the man’s spouse **and**

**3.** C is the man’s spouse.

21130 Whether an adopted person is a close relative of another person depends on the legal relationship and not the blood relationship. Upon adoption a child becomes

**1.** a child of the adoptive parents **and**

**2.** the brother or sister of any child of those parents.

 The child is no longer the child, or the brother or sister of any children of, the natural parents1.

1 R(SB) 22/87

Couple

21131 A couple is two people who are1

 **1.** married and are members of the same household (this includes each of the couples in a polygamous marriage) **or**

 **2.** living together as husband and wife (see DMG Chapter 11) **or**

 **3.** civil partners of each other and members of the same household **or**

 **4.** not civil partners of each other but are living together as civil partners.

 **Note :** Two people should be regarded as living together as civil partners if they would be regarded as living together as husband and wife if they were two people of the opposite sex2.

1 JS (NI) Order 95, art 2(2); JSA Regs (NI), reg 1(2);
2 JS (NI) Order 95, art 2A; JSA Regs (NI), reg 1(2)

 21132

Date of claim

21133 The date of claim is the date that the claimant

**1.** makes **or**

**2.** is treated as making (see DMG Chapter 02)

 a claim for Jobseeker’s Allowance1.

1 JSA Regs (NI), reg 1(2); SS (C&P) Regs (NI), reg 6

 21134

Employment

21135 Employment means employed earner’s employment (see DMG Chapter 26)1.

1 JSA Regs (NI), reg 4

 21136

Employment officer

21137 An employment officer is an officer of the Department. Officers of the Department for Employment and Learning have also been designated as employment officers1.

1 JSA Regs (NI), reg 4; JS (NI) Order 95, art 11(13)

Examination

21138 Examination means an examination related to the qualifying course that is confirmed as such in a document signed on behalf of the establishment where the course is taken1.

1 JSA Regs (NI), reg 4

Full-time employment

21139 Full-time employment means work of 16 hours or more, or 16 hours or more on average, where the hours of work fluctuate1.

1 JSA Regs (NI), reg 72(3B) & 51(1)(a)

Full-time student

21140 Full-time student is explained in DMG Chapter 301.

1 JSA Regs (NI), reg 1(2)

Lone parent

21141 A lone parent1 is a person who is

 **1.** not a member of a

 **1.1** couple **or**

 **1.2** polygamous marriage **and**

 **2.** responsible for a

 **2.1** child **or**

 **2.2** young person

 who is a member of that person’s household

1 JSA Regs (NI), reg 1(2)

Partner

21142 A partner1 is

**1.** the other member of a couple **or**

**2.** if the claimant is married polygamously to

**2.1** two **or**

**2.2** more than two

 members of the claimant’s household (see DMG Chapter 22), any such member.

1 JSA Regs (NI), reg 1(2)

Pattern of availability

21143 A pattern of availability is the

**1.** times on each day **and**

**2.** days in each benefit week

 that a claimant is available for employment1.

1 JSA Regs (NI), reg 4; reg 7(2)(a)

 21144

Period of study

21145 A period of study

**1.** is the period

**1.1** beginning with the start of the course of study (see DMG Chapter 30) **and**

**1.2** ending with the earlier of the

**1.2.a** last day of the course (see DMG Chapter 30) **or**

**1.2.b** date the claimant abandons the course (see DMG Chapter 30) **or**

**1.2.c** date the claimant is dismissed from the course (see DMG Chapter 30) **and**

**2.** includes any period before or after the period of the course that the claimant

**2.1** attends the educational establishment (see DMG Chapter 30) **or**

**2.2** does study

in connection with the course1.

1 JSA Regs (NI), reg 4

**Example**

Hannah was a full-time student. She has taken her final exams and has completed her course.

She does not pass her exams and re-sits them.

The days that Hannah re-sits the exams are treated as a part of the period of study.

She is regarded as not available for those days.

 21146

Person who is kept on short-time

21147 A person who is kept on short-time is a person whose hours of employment have been reduced due to temporary adverse industrial conditions1.

1 JSA Regs (NI), reg 4

 21148

Person who is laid off

21149 A person who is laid off is a person whose employment has been suspended due to temporary adverse industrial conditions1.

1 JSA Regs (NI), reg 4

 21150

Polygamous marriage

21151 A polygamous marriage1 is any marriage

**1.** during which one of the people concerned is married to more than one person **and**

**2.** for which the marriage ceremony took place under the law of a country that allows such marriages.

1 JSA Regs (NI), reg 1(2)

Qualifying course

21152 A qualifying course1 is one that

 **1.** helps the person to gain or enhance skills needed for employment or seeking employment or a particular occupation (on employment related course)2 **and**

 **2.** lasts no more than twelve consecutive months **and**

 **3.** is a course described in certain legislation3.

 **Note :** An employment officer can decide that a course is a qualifying course for a claimant even if it is above the level of the courses specified4.

1 JSA Regs (NI), reg 17A(7); 2 reg 1(2); 3 Further Education (NI) Order 97; 4 JSA Regs (NI), reg 17A(8)

Temporary

21153 The principle in DMG 070853 et seq should be applied when deciding if something is temporary.

Temporarily absent from Northern Ireland

21154 Guidance on temporarily absent from Northern Ireland is at DMG 070853 et seq.

 21155

Temporarily absent from UK

21156 The principles in DMG 070853 et seq should be applied when deciding if someone is temporarily absent from UK.

 21157

Temporary adverse industrial conditions

21158 Temporary adverse industrial conditions only apply if claimants’ employers

**1.** have recently

**1.1** reduced working **or**

**1.2** closed down **and**

**2.** are expected to resume working at some point in the foreseeable future.

21159 Decision makers should not accept temporary adverse industrial conditions as the reason for claimants being laid off or on short-time if their employer has permanently

**1.** reduced working **or**

**2.** closed down.

21160 Customary slackness at particular times of the year is not temporary adverse industrial conditions1.

1 R(U) 3/59

Term-time

21161 Term-time means the period confirmed as such for the claimant in a document signed on behalf of the establishment where the qualifying course is being undertaken1.

1 JSA Regs (NI), reg 4

Terminal date

21162 Terminal date1 means the first of the following dates to occur after the person ceases full time education

**1.** the last day in February **or**

**2.** the last day in May **or**

**3.** the last day in August **or**

**4.** the last day in November.

1 JSA Regs (NI), reg 1(2); CHB (Gen) Regs, reg 7

Vacation

21163 Vacation means any period falling within the period of study (DMG 30218 et seq) that is not term-time1.

1 JSA Regs (NI), reg 4

 21164 - 21167

Voluntary work

21168 Voluntary work1 is

**1.** work

**1.1** for an organisation whose activities are not carried out for profit **or**

**1.2** other than for a member of the claimant’s family (see DMG Chapter 22) **and**

**2.** work for which the claimant gets

**2.1** no payment **or**

**2.2** a payment only for expenses that were reasonable in doing the voluntary work.

**Note :** Most voluntary work will be undertaken with organisations whose activities are not for profit, for example national and local charities, but it can also be carried out in private companies and in the public sector.

1 JSA Regs (NI), reg 4

21169 Voluntary work may include work experience as long as DMG 21168 is satisfied.

 **Example 1**

 Eddie is in receipt of contribution-based Jobseeker’s Allowance and has started work in his partner’s shop. He works 10 hours a week and receives no payment. Eddie describes this work as “work experience” because he is learning how to serve customers and how to manage stock. The decision maker determines that this work cannot be classed as voluntary work within the meaning of DMG 21168 because it is performed for Eddie’s partner who is a member of his family.

 **Example 2**

 Sara is in receipt of income-based Jobseeker’s Allowance. She has started work at her local primary school for 10 hours a week as a classroom assistant. The work is unpaid. The decision maker decides that this is voluntary work within the meaning of DMG 21168.

 21170

Week

21171 A week1 is a period of 7 consecutive days.

1 JSA Regs (NI), reg 14(6); 16(3) & 17(5)

 21172

Young person

21173 Young person has the same meaning as in DMG Chapter 221, except in DMG 21460 - 21462 when a young person2 is a person

**1.** who has reached the age of 16 but not the age of 18 **and**

**2.** who

**2.1** does not satisfy the contribution conditions (DMG 21060-21082) for contribution-based Jobseeker’s Allowance **or**

**2.2** has had their full entitlement to contribution-based Jobseeker’s Allowance (DMG 21088-21106) **and**

**3.** who is not a person leaving care (see DMG 30517 et seq).

1 JSA Regs (NI), reg 1(2) & 76; 2 reg 57(1)

 21174 - 21179

Available to be employed - introduction

21180 Claimants are not entitled to Jobseeker’s Allowance unless in any benefit week they are

**1.** willing and able to take up at once any employment, unless DMG 21183 applies **or**

1. treated as available1 **or**
2. a member of a joint claim couple exempt from being available for employment2.

 **Note :** Hardship payments may be made in certain circumstances.

1 JS (NI) Order 95, art 3(2)(a); art 8(1); art 8(2) & 8(4); 2 JSA (Joint Claims) Regs (NI), reg 3D(1)(c)(iii) & Sch A1

21181 Claimants who are normally self-employed (including share fishermen) must be willing and able to take up at once any employed earner’s employment unless DMG 21183 applies or unless they are within their permitted period (DMG 21386 - 21412).

 21182

21183 Claimants are allowed to place restrictions1 on the

**1.** nature **or**

**2.** hours **or**

**3.** rate of pay **or**

**4.** locality **or**

**5.** conditions, other than in **1.** - **4.**

 of employment they are available for, if certain rules are met (DMG 21420 - 21488).

1 JSA Regs (NI), reg 6, 7, 8, 9, 10, 11, 12 & 13

 21184

21185 Guidance on

**1.** being willing and able to take up, at once, any employed earner’s employment is at DMG 21190 - 21258

**2.** claimants who do not have to be available at once is at DMG 21265 - 21299

**3.** treating claimants as available is at DMG 21305 - 21412

**4.** restricting availability is at DMG 21420 - 21488.

 21186 - 21189

Not available at all

General

21190 Claimants must prove that they are available for employment for each benefit week. They are available for employment if they are

**1.** willing **and**

**2.** able

 to accept at once **all** offers of employment brought to their notice1.

1 JS (NI) Order 95, art 8(1)

21191 To be available for employment claimants must

**1.** be available in an active, positive sense **and**

**2.** draw attention to their availability.

 Details of what a claimant has agreed to do to satisfy the availability test is contained in the claimant's jobseeker’s agreement. But claimants must continue to satisfy **1.** and **2.** to maintain entitlement to Jobseeker’s Allowance.

 Claimants will not be available for employment if they are passive and merely wait for someone to find and offer them work1.

1 R(U) 5/80

21192 The decision maker determines whether the

**1.** type **or**

**2.** types of employment

 that the claimant is available for are employed earner’s employment1. Usually this can be determined by considering whether other people in that type of work are in employed earner’s employment. If there is any doubt, Her Majesty’s Revenue and Customs should be asked for advice.

1 R(U) 14/51

21193 The decision maker can decide that claimants are not available for employment, even if they have not refused an offer of work1.

1 R(U) 44/53

Proof

21194 Whether claimants are available for employment depends on their intentions and attitude towards taking employment. It should generally be accepted that people are available for employment if

**1.** they say they are available **and**

**2.** they do all that is required of them to prove their availability **and**

**3.** they give the promises that are normally accepted as proving availability **and**

**4.** there is nothing in their statements or actions to suggest they are not available1.

 **Note :** There may be evidence that claimants have taken steps to seek employment. But they may not be able and willing to start work at once, for example because they are engaged in some other activity that they are unable or unwilling to leave.

1 R(U) 3/65; R 4/79 (UB)

Forbidden by law to take employment

21195 To be available for employment a claimant must be able to take up employment in accordance with the law of the UK (DMG Chapter 7)1.

1 R(U) 13/57; R(U) 1/82(T)

**Example 1**

A man who did not have a right to live in the UK, was granted a work permit that is valid for one particular type of employment.

He is not allowed to take other employment without permission of the Home Office.

When his employment ends he claims benefit.

Any offer of employment made to him is subject to a work permit being obtained, from the Home Office, first.

Without obtaining a work permit he is not able to take employment, at once, in accordance with UK legislation.

He is not available.

**Example 2**

A Brazilian woman has a permit to stay in the UK and take up employment.

She does not comply with the conditions of the permit and it is withdrawn.

She is ordered to leave the country by a certain date in a deportation order.

She is not available for employment until the deportation order is revoked and the permit reinstated.

21196 - 21197

Community orders, fine payment work, supervised activity orders and anti-social behaviour orders

21198 The normal availability rules apply to claimants who have a community order, supervised activity order or anti-social behaviour order in place or are doing fine payment work.

21199 Decision makers will need to know exactly what the terms of the community order, supervised activity order, anti-social behavioural order or fine payment work are. If claimants say they are available for work or particular types of work on days and times or in places that would break their orders etc, decision makers cannot accept that they are available for those times or in those locations if the claimant would be breaking the law (see DMG 21195).

21200 Offenders can apply for variations in the conditions of their sentence. If successful, the decision maker should take the varied conditions into account from the date they are varied.

Unpaid work requirement, community service order, community placements and work squads

21201 Unpaid work, community service, community placements and work squads can generally be re-arranged to enable the claimant to satisfy Jobseeker’s Allowance entitlement conditions. Availability will only be in doubt where this does not happen.

Supervision, activity, attendance centre requirements and probation

21202 The Probation Board for Northern Ireland will try not to require an offender to do something that conflicts with their benefit entitlement. The Jobs and Benefits Office adviser will liaise with the Probation Board for Northern Ireland to see if the problems can be resolved. Where problems cannot be resolved the offender will need to contact their legal adviser and an application will need to be made to the court for an amendment. If the claimant’s availability is in doubt normal rules apply.

 **Note :** To comply with the Data Protection Act the Probation Board for Northern Ireland will not be contacted without the claimant’s written consent.

Curfew, exclusion, prohibited activity requirements, non harassment order and restriction of liberty order

21203 The decision maker should consider the impact on the claimant’s availability

 **1.** if a curfew or restriction of liberty order is imposed the claimant cannot be accepted as available for work during the times imposed by the curfew or order, unless working at home

 **2.** if there is an exclusion requirement or non harassment order in place claimants may be prevented from entering specific areas or places. This could cause difficulties with their job search activities and may raise doubts on their availability

 **3.** if the claimant is prevented from taking part in a specific activity this may affect or may place restrictions on the claimant’s ability to be available for work. For example not allowed to work with children and wants to be a non-teaching assistant or work in a school.

Programme requirement

21204 These can be quite intensive and will vary depending on the nature and seriousness of the offence. For example the claimants may be required to attend programmes to address offending behaviour for example drug or alcohol abuse or violent behaviour. Where the order requires the claimant to attend an accredited programme, the times and extent of attendance may affect the claimant’s availability.

Drug rehabilitation, alcohol treatment, mental health treatment requirements and drug treatment and testing orders

21205 These have the greatest potential to affect a claimant’s benefit position depending on the type and the intensity of the programme the claimant is subject to. The claimant will either not be available at all or will probably place some restrictions on their availability for work depending on the treatment received. The Jobs and Benefit Office adviser will already have considered whether the jobseeker’s agreement could be varied to enable the claimant to be available for work. Where there is a doubt about whether the claimant is available the normal rules apply.

Residence requirement

21206 The claimant may be required to stay at a particular address, which may not be in the claimant’s normal travel to work area and this could impact on their availability.

Fine payment work and supervised activity order

21207 When claimants only want employment that fits round their fine payment work or supervised attendance order this will lead to them placing restrictions on the hours they can work, and they may not have reasonable prospects of employment.

 21208 - 21209

Leaving employment to accompany someone abroad

21210 Claimants may not be available if they

**1.** leave their employment voluntarily so that they can accompany someone going abroad **and**

**2.** make a claim to Jobseeker’s Allowance before going abroad.

21211 Claimants who leave employment before they need to

**1.** may be able to show that they are available for employment until they are due to go abroad **but**

**2.** will not have just cause for leaving their employment.

21212 Claimants who leave employment no sooner than is necessary for them to organise their affairs before going abroad, may have just cause for leaving their employment. But there will be few cases that can show that they were also available for employment during the period

**1.** after their employment ended **and**

**2.** before they go abroad.

21213 Claimants who want to export contribution-based Jobseeker’s Allowance when they go abroad must be in receipt of contribution-based Jobseeker’s Allowance before going abroad. If they obtain employment before going abroad they will not be able to export contribution-based Jobseeker’s Allowance. They are unlikely to be able to show that they are available for work before they go abroad1.

1 R(U) 2/90

**Example**

A woman is employed in Antrim. She is married to a flight sergeant in the Royal Air Force.

Her husband is given advance warning that he is to be posted to Holland.

The woman goes to Holland before ending her employment and leaves her details and a general application for employment for work with the Air Force Headquarters for Europe.

When the actual posting date is notified the woman gives one months notice to her employer to terminate her employment.

Her employment ends 10 days before she is due to travel abroad with her husband.

She wants to export contribution-based Jobseeker’s Allowance when she goes abroad.

She claims Jobseeker’s Allowance for 1 week before leaving the country.

She cannot show, although she had no choice but to leave her employment when she did, that she is still available for employment. If she takes employment she cannot export contribution-based Jobseeker’s Allowance when she goes abroad.

As she left her employment no sooner than was necessary she had just cause for leaving her employment.

But she is not available.

 21214 - 21215

Absent from home district

21216 The guidance in DMG 21217-21235 on absence from the claimant’s home district applies to absences for any reason. This may include absences due to holiday.

21217 Claimants can be accepted as available during a period of absence if

**1.** they try to find work in the place where they go to **and**

**2.** there is some prospect of them finding work there.

 A call at a local Jobs and Benefits Office or attendance at a job interview in the district that they visited is evidence in their favour.

21218 Claimants who do not satisfy DMG 21217 must prove that

**1.** they were ready and willing to return in order to accept any employment that might be notified to them

**1.1** at once **or**

**1.2** with 24 hours notice if DMG 21276 applies **or**

**1.3** with 48 hours notice if DMG 21265 applies **and**

**2.** they had taken reasonable and satisfactory steps to make sure that any opportunity of employment would be brought to their attention without delay **and**

**3.** there was nothing connected with their absence or the place they were staying that would have prevented them from accepting any employment that might be notified to them

**3.1** at once **or**

**3.2** with 24 hours notice if DMG 21276 applies **or**

**3.3** with 48 hours notice if DMG 21265 applies1.

 **Note :** DMG 21236 gives guidance on when the 24 or 48 hour notice period starts.

1 R(U) 1/55

 21219

21220 The decision maker determines whether the claimant was available for employment1 **not** whether there was employment available for the claimant2.

1 R(U)1/55; 2 R(U)2/57

21221 Claimants are not available if, for example, they are

**1.** unwilling to interrupt the absence **or**

**2.** not prepared to lose money by leaving accommodation that has already been booked **or**

**3.** doing some activity that they are unwilling or unable to interrupt at once if required, unless they fall within DMG 21265 or DMG 21276 and can interrupt the activity within 24 or 48 hours **or**

**4.** unwilling or unable to leave their families or bring them back with them **or**

**5.** unable to return in time to attend an interview or take up employment taking into account the

**5.1** distance **and**

**5.2** transport available **and**

**5.3** length of notice of a vacancy likely to be given in the type of employment in question **and**

**5.4** guidance in DMG 21265 or DMG 21276.

 21222

21223 Claimants will normally satisfy the availability test if

**1.** they are able and willing to cut short their absence if necessary **and**

**2.** they

**2.1** give the Jobs and Benefits Office an address or telephone number that they can be contacted at throughout the period of absence **or**

**2.2** telephone the Jobs and Benefits Office daily to ask whether any job opportunities have arisen.

21224 Claimants who do not satisfy DMG 21223 **1.** or **2.** must show that they have taken some other steps to make sure that they are told quickly of any interviews or vacancies that may arise. For example, by

**1.** arranging for relatives to open their post and check daily for vacancies **and**

**2.** keeping in daily contact with them.

21225 The type of employment claimants are seeking is also relevant when deciding whether the arrangements they have made are enough. A very short delay in receiving notice of a vacancy or interview

**1.** may make all the difference in the case of a person who is seeking casual employment **but**

**2.** may be insignificant in the case of a person seeking permanent skilled work.

**Example 1**

During the summer, a woman seeking employment as a chef goes to a seaside resort for a weeks holiday. She

**1.** seeks employment while there **and**

**2.** notifies the Jobs and Benefits Office of the holiday address **and**

**3.** is able to return promptly.

She is available for employment during the absence.

**Example 2**

A vehicle wing fitter, who is not within a permitted period, goes away for a touring holiday by car.

He leaves no address and does not want to interrupt the holiday.

Even though

**1.** the period is a holiday for the motor trade in the area **and**

**2.** no vacancies will occur and no interviews will be arranged during the period.

On the facts of the case he is not available because he was on a touring holiday, left no address for contact and would not interrupt his holiday.

 21226 - 21229

Absent from home and restricted availability

21230 Claimants may be able to prove their availability for employment for part of an absence from home.

**Example**

Part way through a holiday Reg leaves the address that he told the Jobs and Benefits Office he was staying at. He does not notify the Jobs and Benefits Office of his new address.

Reg is restricting his availability to the days that he was able to be contacted.

Absent from home - claimants who have a pattern of availability

21231 Claimants are not available for any benefit week during which they1

**1.** are absent from home **and**

**2.** have restricted their availability as in DMG 21424 during the benefit week **and**

**3.** are not available for employment for some part of the week during their pattern of availability **and**

**4.** cannot be treated as available for the benefit week in **2.**.

 This is the case even if they are available for a total of 40 hours or more in that benefit week.

1 JSA Regs (NI), reg 7(3)

**Example 1**

Ross has agreed in his jobseeker’s agreement that he is available for work Monday to Friday from 8am to 6pm. He has a Wednesday benefit week ending.

He goes on holiday in a caravan on Saturday, Sunday and Monday. Ross cannot be contacted, and is not willing to return to take a job.

In the benefit week ending that includes Saturday, Sunday and Monday, Ross is available for work for 40 hours in the remaining 4 days of that week. But he is treated as not available for that week.

**Example 2**

Josephine has agreed in her jobseeker’s agreement that she is available for work Monday to Friday from 8am to 6pm. She has a Wednesday benefit week ending.

She is sent to prison for 3 months from and including Wednesday.

In the benefit week ending that includes the Wednesday she is sent to prison she is available for 40 hours in the remaining 6 days of that week, but she is treated as not available for that week.

21232 But if claimants change their pattern of availability and complete new jobseeker’s agreements to cover the absence, they may be available for the benefit weeks that include the absence.

**Example**

Ellen has agreed in her jobseeker’s agreement that she is available for work Monday to Friday from 8am to 6pm. She has a Wednesday benefit week ending.

Ellen intends to go on holiday in a caravan on Saturday, Sunday and Monday. She will not be able to be contacted and is not willing to return to take a job.

Ellen attends the Jobs and Benefits Office before her holiday to explain the position. She fills in a new jobseeker’s agreement to cover the week of her holiday, saying that she is available only for the Thursday, Friday, Tuesday and Wednesday from 8am to 6pm. The decision maker considers that she has reasonable prospects of finding the type of work she is looking for those hours, and her prospects of employment are not considerably reduced. Ellen has changed her pattern of availability and recorded the change in a varied jobseeker’s agreement. She is therefore available for the benefit week that includes her holiday.

Absent from home - claimants who do not have a pattern of availability

21233 Claimants who usually do not restrict their availability and do not have a pattern of availability will restrict and have a pattern of availability in any benefit week where they are not available for some day in a benefit week (for example they are on holiday). In these cases claimants will only show that they are available for employment for the remaining days in that benefit week if

**1.** they are available for 40 hours or more in those remaining days **and**

**2.** their pattern of availability gives them reasonable prospects of employment **and**

**3.** their prospects of employment are not considerably reduced **and**

**4.** their pattern of availability in that week is recorded in a varied jobseeker’s agreement.

**Note :** Guidance on claimants detained in police custody is at DMG 21311.

 **Example 1**

Paul is available for 40 hours a week but will work any days and any hours. He is a Friday benefit week ending.

He goes on holiday for Saturday and Sunday, cannot be contacted, and is not willing to return home if a job should come up.

He is not available for any days in the benefit week that include Saturday and Sunday because he has restricted his availability to only 5 days in that week and has not recorded his pattern of availability for that week in a varied jobseeker’s agreement.

**Example 2**

Dianne is available for 40 hours a week but will work any days and any hours. She is a Friday benefit week ending.

She goes on holiday for Saturday and Sunday, cannot be contacted and is not willing to return home if a job should come up.

She tells the Jobs and Benefits Office of her holiday plans before she goes, and alters her jobseeker’s agreement for that week to say that she is available for 40 hours for the Monday to Friday, and she will work any hours on those 5 days.

The decision maker decides that she is available for work for the Monday to Friday in that week. She is available for 40 hours, has recorded the changes to her availability in a varied jobseeker’s agreement, has reasonable prospects of getting work, and has not considerably reduced her chances of getting work.

21234

Absent from home during a period outside the claimant’s pattern of availability

21235 If claimants are absent from home at a time that is outside their pattern of availability, no question on availability arises (see DMG 21432)1.

1 JSA Regs (NI), reg 5(4)

When notice starts, when absent from home

21236 Where claimants are entitled to 24 hours, 48 hours, one week or 28 day’s notice (DMG 21276, 21265, 21270 and 21271 respectively) the period of notice starts from the date and time claimants actually receive the notice of any opportunity of

**1.** employment **or**

**2.** interview.

 The 24, 48 hours, one week or 28 day’s concession only applies if they have taken reasonable steps to ensure that any such information will be passed to them whilst they are away from home or otherwise engaged.

**Example**

Dave has been in receipt of Jobseeker’s Allowance for 2 months.

He notifies the Jobs and Benefits Office that he will be away from home for 3 weeks because he is to be involved in voluntary work in various places in both Belfast and Lisburn.

The organisers of the voluntary work will release him immediately should any jobs or interviews arise.

Dave will not return from his daily work until just before the evening meal and then will be involved in the work again in the evening.

He has made arrangements for his parents to telephone him between 10.00pm and 12.00pm should there by any jobs or interviews.

The 48 hours notice starts from the time that Dave actually receives details of any jobs or interviews from his parents.

 21237

Part-time study, training courses and examinations

21238 A part-time student is a person

**1.** who is attending or undertaking a course of study **and**

**2.** who is not a full-time student (see DMG Chapter 30)1.

1 JSA Regs (NI), reg 1(2)

21239 If claimants are doing part-time study or training or some test or examination, the decision maker should establish whether they

**1.** are willing and able to attend an interview or take up at once (but see DMG 21240) any employment that might arise **and**

**2.** can be contacted promptly enough for any notification to reach them in time.

21240 Claimants who are in part-time study or training are rarely providing a service so DMG 21276 will not normally apply to them. But they may be doing some activity as well as their study or training that could fall within DMG 21265 or 21276 (for example they may also be engaged in unpaid work experience that falls within the definition of voluntary work).

21241 Claimants may follow part-time study or training during their pattern of availability. They are available if they are willing and able to

**1.** confine their study or training to times that would fit in with any employment they might obtain **or**

**2.** abandon their study or training at once to take up employment.

21242 When deciding whether claimants are available the following **may be** relevant

**1.** the place where the study or training takes place, and, if any of it is away from claimants' homes, whether they can be contacted if a job opportunity arises

**2.** the extent of their efforts to find employment

**3.** how important the successful completion of the study or training is to their future career including

**3.1** whether completion of the study or training is essential if they are to follow the careers of their choice

**3.2** whether successful completion leads to a qualification of any sort, and if so, what

**3.3** to what extent, if any, completion will enhance their chances of obtaining employment

**4.** whether claimants gave up existing employment or training to do the study or training

**5.** the days and hours of attendance required

**6.** whether

**6.1** the times of attendance could be altered to fit in with any employment that claimants might obtain

**6.2** successful completion of the training is possible if some or all of the scheduled attendances are missed

**7.** whether claimants are required to work or study outside their hours of attendance, and if so, to what extent

**8.** the duration of the study or training

**9.** whether a fee was paid, if so

**9.1** the amount

**9.2** whether claimants received any help towards payment, for example from friends or public sources

**9.3** whether any of the fee would be refunded or transferred if they abandoned or interrupted their studies

**10.** whether

**10.1** if claimants left their study or training, they would be considered for a later course

**10.2** they would have to start the course again from the beginning

**11.** whether claimants received a grant for the course, and if so

**11.1** the source

**11.2** the amount

**11.3** whether claimants would have to repay all or any of it if they abandoned or interrupted the course.

21243 A particular answer to a

**1.** question **or**

**2.** series of questions

 will not necessarily establish the claimant's availability or give grounds for disallowance. Where a number of claimants are following the same course some may be able to show that they are available but others may not.

21244 Claimants may be willing to abandon a course shortly after starting it if a chance of employment arises. But they may be less willing to leave it as the

**1.** end of the course **or**

**2.** chance of obtaining a qualification

approaches.

**Example 1**

A man, who hopes to become an insurance agent for a certain company, studies for an examination at the office of the company.

He receives no pay and the company is under no obligation to employ him.

He is ready, willing and free to accept any employment.

He is available for employment.

**Example 2**

A woman studies at home during a vacation from a course.

She is due to return to her former employer at the end of the course.

She risks losing that employment if she accepts other employment.

She is not available during the vacation.

21245 - 21246

Restricted availability and study

21247 The decision maker should not take anything connected with the course of study into account when determining availability if claimants1

**1.** restrict their availability as in

**1.1** DMG 21324 (claimants who are on short time) **or**

**1.2** DMG 21443 (claimants who are sick/disabled) **or**

**1.3** DMG 21434 (claimants who are carers) **or**

**1.4** DMG 21424 (claimants who restrict availability to 40 hours or more in a week) **or**

**1.5** DMG 21454 (lone parents and school hours) **and**

**2.** are on a course of study where the hours are wholly or partly within their pattern of availability **and**

**3.** are willing and able to re-arrange the hours of the course so that they can take up employment at once **and**

**4.** satisfy DMG 21249 - 21250.

1 JSA Regs (NI), reg 11(1)

21248 In deciding DMG 21247 **3.** only, the decision maker may take matters connected to the study into account. The following may be relevant

**1.** how important the successful completion of the study is to their future career including

**1.1** whether completion of the study is essential if they are to follow the careers of their choice

**1.2** whether successful completion leads to a qualification of any sort, and if so what

**1.3** to what extent, if any, completion will enhance their chances of obtaining employment

**2.** whether claimants gave up existing employment or training to do the study

**3.** the days and hours of attendance required

**4.** whether claimants are required to study outside their hours of attendance, and if so, to what extent

**5.** the duration of the study.

21249 DMG 21247 only applies if claimants

**1.** were for a continuous period of 3 or more calendar months, immediately before the date that they first attended the course of study1

**1.1** in receipt of Jobseeker’s Allowance **or**

**1.2** in receipt of Incapacity Benefit **or**

**1.3** in receipt of Employment and Support Allowance

**1.4** on a course of training **or**

**1.5** in receipt of Income Support because the Income Support decision maker has accepted that the claimant is incapable of work (see DMG Chapter 20) **or**

**2.** in 6 calendar months immediately before the date that they first attended the course of study were for2

**2.1** one or more periods totalling 3 or more months, receiving one of the benefits or on a course of training as in **1.** **and**

**2.2** the period in DMG 21250 engaged in

**2.2.a** remunerative work (see DMG Chapter 20) **or**

**2.2.b** other work, the payments from which disentitled them from receiving any Jobseeker’s Allowance, Employment and Support Allowance, Incapacity Benefit or Income Support that would have been payable in **1.**.

 **Note :** All the period of 3 months in **1.** or 6 months in **2.** must fall after the terminal date.

1 JSA Regs (NI), reg 11(2)(a); IS (Gen) Regs (NI), Sch 1B, para 7;
2 JSA Regs (NI), reg 11(2)(b); IS (Gen) Regs (NI), Sch 1B, para 7

21250 The period referred to in DMG 21249 **2.2** must be1

**1.** the remainder of the 6 months in DMG 21249 **2.** where DMG 21249 **2.1** did not apply **and**

**2.** after the

**2.1** single period of 3 or more months **or**

**2.2** first period, if the 3 or more months were made up of more than one period.

1 JSA Regs (NI), reg 11(2)

**Example**

Richard lives and is seeking employment in Belfast. He received Jobseeker’s Allowance from 30 May - 10 July. He was in remunerative work from 11 July - 21 August and he received Jobseeker’s Allowance from 2 September which he is still receiving.

Richard starts a part-time course of study in Lisburn on 14 November.

In deciding if Richard is able and willing to re-arrange the hours of the course the decision maker can take into account all matters relating to the course.

The decision maker decides that Richard is able and willing to re-arrange the hours of the course.

So in considering other areas of availability, matters relating to the course such as location of the course, times of attendance, are not taken into account.

Matters relating to the course are not taken into account if the decision maker is considering whether, if Richard was notified of a job opportunity in Belfast on a day that he attended college, he could return to Belfast in time.

21251

Restricted availability, study or training and pattern of availability

21252 If claimants are undertaking study or training at times that are outside their pattern of availability, no question on availability arises (see DMG 21432)1.

1 JSA Regs (NI), reg 5(4)

 21253 - 21254

Persons regarded as not available

Prisoners, maternity, parental, paternity or adoption leave cases

21255 Claimants are not available1 if they are

**1.** a prisoner on temporary release2 **or**

**2.** in receipt of maternity allowance or maternity pay3 (see DMG 28211 et seq) **or**

**3.** on

 **3.1** paternity leave **or**

 **3.2** shared parental leave **or**

 **3.3** ordinary adoption leave **or**

 **3.4** additional adoption leave

under certain legislation4.

1 JSA Regs (NI), reg 15(1)(b)(bc) & (c); 2 Prisons Act (NI) 1953;
3 SS C&B (NI) Act 92, sec 35 or 35B & 160 - 167; 4 Employment Rights (NI) Order 1996, art 107A, 107B, 112A & B

 21256

Full-time students

21257 Claimants who are full-time students (see DMG Chapter 30) and make a claim to Jobseeker’s Allowance during a period of study are not available1

 **1.** for any period that is not a summer vacation **and**

 **2.** for the summer vacation **unless** the claimant

 **2.1** either

 **2.1.a** has a partner who is also a full-time student **or**

 **2.1.b** is a single student **and**

 **2.2** is, or their partner is, treated as responsible for a child or young person2 **and**

 **2.3** can

 **2.3.a** satisfy all of the availability conditions3 **or**

 **2.3.b** be treated as available because they are taking part in an employment related course (see DMG 21340 - 21343) or a programme provided by the Venture Trust (see DMG 21357 - 21359)4.

1 JSA Regs (NI), reg 15(1)(a); 2 reg 15(3); 3 reg 15(4)(a); 4 reg 15(4)(b)

Mariners

21258 Claimants

**1.** who are normally resident or have a place of residence in the UK **and**

**2.** who are employed as a mariner on board

**2.1** any British ship that is not a ship that is used wholly or mainly for the disposal of sludge **or**

**2.2** any non-British ship or vessel that is not a ship that is used wholly or mainly for the disposal of sludge where

**2.2.a** the contract of employment, that wholly or partly concerns the ships performance on its voyage, is entered into in the UK **and**

**2.2.b** the owner, or managing owner if there is more than one owner, has a place of business in Northern Ireland (DMG Chapter 07) **and**

**3.** who are entitled to leave with pay after the voyage has ended during the period of the employment **and**

**4.** whose employment is terminated before the end of the period of leave on pay

 are not available for employment on any day that is in the period of leave1.

1 SS (Mariners’ Ben) Regs (NI), reg 2

21259 In deciding if someone is normally resident or has a place of residence in Northern Ireland, the principles in DMG 070804 et seq should be applied.

Period from the date of claim

21260 Where the date of claim is not the first day of a benefit week, claimants are not available for the period from the date of claim to the end of the first benefit week, unless they are treated as available for that period as in DMG 21311 - 21317, 21319 and DMG 21332 - 213681.

1 JSA Regs (NI), reg 15(bb)

 21261 - 21264

Claimants who do not have to be available at once

Caring responsibilities and voluntary work

21265 Claimants do not have to be able to take up any employment at once on any day that they have caring responsibilities or are doing voluntary work.

But this only applies if claimants are willing and able to

**1.** take up employment on being given one weeks notice1 **and**

**2.** attend for an interview in connection with the opportunity of any such employment within 48 hours of being given notice2.

**Note 1 :** See DMG 21273 for volunteers who also restrict their availability.

**Note 2 :** Different rules apply if the claimant is caring for a child. DMG 21270 et seq provides guidance.

1 JSA Regs (NI), reg 5(1)(a); reg 5(1)(b)(i); reg 5(1)(b)(ii)

**Example 1**

Simon has caring responsibilities on Monday and Wednesday.

On Friday 16 June he is offered a job that starts on the following Monday 19 June.

Simon says that he is not available to start work on Monday 19 June because he has caring responsibilities. He will not be able to start work until Friday 23 June because he needs time to organise someone to take over his caring. Simon is still willing and available to take up employment within one weeks notice. He is available.

**Example 2**

Simon (in example 1 above) then contacts the employment officer to say that he will not be able to start work as planned on Friday 23 June because he cannot get someone to take over his caring responsibilities on Monday 26 June. He says his replacement cannot start until Wednesday 28 June. He says he can start work on Tuesday 27 June. Simon is no longer willing and available to start work within one weeks notice (i.e. within one week of 16 June). He is not available.

**Example 3**

Clive who attends the Jobs and Benefits Office every second Wednesday attends an International Scout Camp as a volunteer helper for one week from Saturday to Friday. In answer to the question on the “voluntary work” form “Can you arrange to give up the voluntary work or rearrange it at 48 hours notice to attend interview”, Clive answers “no”.

The decision maker decides that Clive is not available from the Saturday to the Wednesday. But decides that he is available on the Thursday and Friday as on the Thursday and Friday he is available to go to an interview within 48 hours (i.e. on the Saturday and Sunday).

21266 If claimants are engaged in caring responsibilities or voluntary work the decision maker should establish whether they

**1.** are able and willing to attend an interview or take up employment within 48 hours or one week of being given notice **and**

**2.** can be contacted promptly enough for any notification to reach them in time.

21267 In deciding whether claimants with caring responsibilities or who are doing voluntary work are available, the following may be relevant

**1.** the place where the

**1.1** voluntary work **or**

**1.2** caring responsibilities

 take place, and, if any of it is away from claimants’ homes, whether they can be contacted if a job opportunity arises

**2.** the extent of their efforts to find employment

**3.** how important the successful completion of any voluntary work is to their future career including to what extent, if any, completion will enhance their chances of obtaining employment

**4.** whether claimants gave up existing employment or training to do the

**4.1** caring responsibilities **or**

**4.2** voluntary work

**5.** the days and hours of attendance required

**6.** whether the times of attendance for the voluntary work or caring responsibilities could be altered to fit in with any employment that claimants might obtain

**7.** the duration of the voluntary work or caring responsibilities.

21268 Week in DMG 21265 - 21275 means any period of seven consecutive days.

Caring responsibilities, voluntary work and absence from home

21269 If claimants

**1.** have caring responsibilities **or**

**2.** do voluntary work

 away from their home district, they will need to satisfy the conditions set out in DMG 21216 - 21236, taking into account DMG 21265 - 21267.

Caring responsibilities for a child

21270 A claimant who has caring responsibilities for a child is not required1 to be willing and able to

 **1.** take up employment after being given one week’s notice **and**

 **2.** attend an interview in connection with employment after being given 48 hours’ notice

 if the **claimant can show** that those caring responsibilities make **1.** or **2.** unreasonable2 and can satisfy DMG 21271.

1 JSA Regs (NI), reg 5(1A); 2 reg 5(1B)

21271 Where the claimant can show that it is not reasonable then the claimant must be willing and able to

 **1.** take up employment on being given up to 28 days’ notice **and**

 **2.** attend an interview in connection with employment on being given 7 days’ notice1.

1 JSA Regs (NI), reg 5(1A)

 **Example**

 Ros is in receipt of Jobseeker’s Allowance. She has 5 children. Ros has told the Employment Officer that her caring responsibilities make it unreasonable for her to be able to take up employment after being given one week’s notice because she would need to make childcare arrangements for all her children. Ros does agree that she could take up employment if given 3 weeks notice (and is willing to do so) because she thinks that would allow her enough time to arrange childcare. The decision maker decides that Ros is available for employment.

21272 If a claimant with caring responsibilities for a child has placed restrictions on availability then the 28 day or 7 day limit includes periods outside of the pattern of availability1.

1 JSA Regs (NI), reg 5(5)

 **Example**

 Graham is a lone parent in receipt of Jobseeker’s Allowance. His daughter is aged 12 and Graham has restricted his availability for employment to his daughter’s normal school hours which are Monday to Friday from 9.00am to 4.00pm during the term-time.

 In accordance with DMG 21271, the decision maker accepts that Graham needs only to be willing and able to attend a job interview given 7 days notice. This period of 7 days includes term-time weekends when Graham is not required to be available for employment.

Restricted availability and voluntary work

21273 The decision maker should not take anything connected with voluntary work into account when determining availability if claimants1

**1.** restrict their availability as in

**1.1** DMG 21324 (claimants who are on short time) **or**

**1.2** DMG 21424 (claimants who restrict availability to 40 hours or more in a week) **or**

**1.3** DMG 21434 (claimants with caring responsibilities) **or**

**1.4** DMG 21443 (claimants with physical or mental disabilities) **and**

**1.5** DMG 21454 (lone parents and school hours) **and**

**2.** do voluntary work for hours that fall wholly or partly within their pattern of availability **and**

**3.** on being given

 **3.1** one week’s notice they are willing and able to rearrange the hours of the voluntary work so that they can take up employment at times within their pattern of availability **and**

 **3.2** 48 hours’ notice they are willing and able to rearrange the hours of the voluntary work so that they can attend for interview at times within their pattern of availability in connection with the opportunity of any such employment **and**

**4.** satisfy DMG 21420 or 21421.

1 JSA Regs (NI), reg 12

 21274

21275 In considering DMG 21273 **3.** only the decision maker may take matters connected to the voluntary work into account. The following may be relevant

**1.** how important the successful completion of the voluntary work is to their future career including to what extent, if any, completion will enhance their chances of obtaining employment

**2.** whether claimants gave up existing employment or training to do the voluntary work

**3.** the days and hours of attendance required

**4.** whether the times of attendance could be altered to fit in with any employment that claimants might obtain.

Providing a service

21276 Claimants are not required to be able to take up any employment at once on any day that they are

**1.** providing a service

**1.1** whether by contract or not **and**

**1.2** with or without pay **and**

**2.** willing and able to take up any employment within 24 hours of being given notice1.

 **Note :** This does not apply to claimants who have caring responsibilities or who are doing voluntary work.

1 JSA Regs (NI), reg 5(2)

**Example**

Maureen provides a service to the local community on Monday and Friday.

On Thursday she is offered a job that starts on Friday.

Maureen says that she is not available immediately because she will not be able to organise someone to provide this service on Friday.

She provides a service in the 24 hours starting from when she was offered the job and need not be available immediately.

Maureen is available.

Providing a service and absence from home

21277 If claimants are providing a service away from their home district they will need to satisfy the conditions set out in DMG 21216 - 21236, taking into account DMG 21276.

People who provide a service

21278 People who provide a service may include

**1.** people serving community service orders

**2.** people who are working.

 **Note 1 :** Claimants on mandatory probation service programme are unlikely to be providing a service and the decision maker will need to know what the mandatory probation programme involves and decide whether that amounts to providing a service.

 **Note 2 :** Guidance about claimants who are required to attend a court or tribunal is at DMG 21309.

 21279 - 21286

Offenders

21287 Offenders may be ordered by the court to do community service for a specified number of hours1. This is unpaid work. They can be regarded as available if

**1.** arrangements are made so that claimants can be notified of a vacancy or interview quickly **and**

**2.** they can leave their community service in order to satisfy DMG 21276.

1 Criminal Justice (NI) Order 96, Art 13

 21288

Not providing a service

21289 When making a probation order, a court can require probationers to attend a day centre following instructions from their probation officer. They can also require them to attend some other specified place1.

 **Note :** The maximum number of days on which probationers can be required to attend is 60. There is no limit on the duration of each daily attendance.

1 Criminal Justice (NI) Order 96, Art 1 & Sch 1

21290 A court may order offenders, under the age of 17, to attend a specified attendance centre for a specified number of hours1. The time of the first attendance is stated in the order. Further times are fixed by the officer in charge of the centre.

 **Note :** The maximum total attendance is 24 hours.

1 Criminal Justice (Children) (NI) Order 98, Art 37

21291 Offenders under the age of 17 and probationers may still be available. But the decision maker should establish

**1.** whether any notice of a job opportunity or interview would reach the claimant without delay **and**

**2.** whether the

**2.1** officer in charge of the centre **or**

**2.2** probation officer

 would release the claimant quickly so that the claimant could attend an interview or take up employment **and**

**3.** whether any further attendance could be made to fit in with any employment the claimant might obtain.

 **Note :** Orders or instructions made by the courts or probation officer should not interfere with offenders' normal work.

21292 DMG 21276 does not apply to offenders under the age of 17 and probationers because they are not engaged in providing a service.

 21293 - 21294

Caring responsibilities, voluntary work, providing a service and restricted availability

21295 If claimants

**1.** having caring responsibilities including caring responsibilities for a child **or**

**2.** are doing voluntary work **or**

**3.** are providing a service

 at times that are outside their pattern of availability no question on availability arises (see DMG 21433)1.

1 JSA Regs (NI), reg 5(4)

21296 The 24, 48 hours, one week or 28 days notice rules (see DMG 21273, DMG 21271, DMG 21270 and DMG 21265) include periods that are outside the pattern of availability1 if claimants who

**1.** have caring responsibilities including caring responsibilities for a child **or**

**2.** are doing voluntary work **or**

**3.** are providing a service

 also place restrictions on their availability.

1 JSA Regs (NI), reg 5(5)

**Example**

A woman is available for employment for Thursdays to Mondays and for 8 hours on each of those days, as agreed in her pattern of availability.

She also does voluntary work on Tuesdays.

She does not have to be available on Tuesdays and Wednesdays.

On a Tuesday she is notified of an interview for employment on Thursday.

Tuesdays and Wednesdays are included when deciding whether she is available on being given 48 hours notice.

 21297

Claimants required to give notice to terminate employment

21298 Claimants are not required to be able to take any employment at once if they are1

**1.** in employment **and**

**2.** not engaged in remunerative work (see DMG Chapter 20) **and**

**3.** required by employment legislation2 to give notice to terminate their contract (see DMG Chapter 26).

 This applies even though the period of notice does not start until the claimant has given the employer notice to terminate the employment.

1 JSA Regs (NI), reg 5(3); 2 ER (NI) Order 96, art 118

21299 DMG 21298 only applies if claimants are willing and able to take up employment as soon as they are able to do so within their legal obligations to their employer1.

1 JSA Regs (NI), reg 5(3)

**Example**

Jane is working part-time and is available for any employment.

She is required to give 1 weeks notice to leave the employment.

Jane is not required to be available at once if she is available as soon as the period of notice has ended.

 21300 - 21304

Treated as available

General

21305 Claimants can be treated as available under certain circumstances. DMG 21309 - 21396 explains when claimants can be treated as available. Claimants mentioned in DMG 21309 - 21388 are treated as available

**1.** while the circumstances apply **and**

**2.** up to the maximum period mentioned in the relevant paragraph1.

1 JSA Regs (NI), reg 14(1)

Definitions

21306 The following definitions are relevant to guidance in DMG 21309 to 21311 below.

Tribunal

21307 Tribunal1 means any tribunal listed in specific legislation2.

1 JSA Regs (NI), reg 14(7); 2 Tribunals and Inquiries Act 1992, Sch 1

Prisoner

21308 Prisoner means1 a person who is

 **1.** detained in custody pending trial or sentence upon conviction or under a sentence imposed by the court **or**

 **2.** is on temporary release in accordance with the provisions of specified prison legislation2

but not a person who is detained in hospital under the provisions of specified mental health legislation3.

1 JSA Regs (NI), reg 85(4); 2 Prison (NI) Act 1953; 3 Mental Health (NI) Order 1986

Claimants attending a court or tribunal

21309 Subject to DMG 21310 below, claimants can be treated as available1 if they are required to attend a court or tribunal as a

 **1.** justice of the peace **or**

 **2.** party to any proceedings **or**

 **3.** witness **or**

 **4.** juror.

1 JSA Regs (NI), reg 14(1)(q)

21310 A claimant required to attend a court or tribunal as in DMG 21309 above is **not** to be treated as available1

 **1.** for more than eight weeks **and**

 **2.** where he does not, before the date he is required to attend a court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is required to attend **or**

 **3.** where he is a prisoner.

1 JSA Regs (NI), reg 14(2B)

Detained in custody

21311 A claimant can be treated as available1 if held in police detention under specific legislation2 for a maximum of **96 hours** before being released.

 **Note 1 :** This only treats the claimant as available for the actual period he is in custody.

 **Note 2 :** Guidance about claimants released from prison is at DMG 21338.

1 JSA Regs (NI), reg 14(1)(r); 2 Police and Criminal Evidence (NI) Order, art 2(3)

 **Example 1**

 Tony says that he failed to attend the Jobs and Benefits Office as required on Thursday 8 June because he was being questioned in police custody from 4 pm on Wednesday 7 June until 11 am on Saturday 10 June.

 At 11 am Tony was released and not charged with any offence. Tony was held in police custody for less than 96 hours. He can be treated as available for the whole of the period he was in custody.

 **Example 2**

 Louise says she was not able to attend the Jobs and Benefits Office as required on Thursday 8 June because she was being questioned in police custody. She was taken into custody at 4 pm on Wednesday 4 June and was released at 10 am on Monday 12 June.

 Louise was held in custody for more than 96 hours and therefore cannot be treated as available for any of the period she was held in custody.

 21312

Absent from Northern Ireland

Interview for employment

21313 Claimants can be treated as available if they

**1.** are temporarily absent from Northern Ireland (for a maximum of one week at a time) to attend an interview for employment **and**

**2.** have given notice to an employment officer that they will be absent.

 The notice given to the employment officer must be in writing if the employment officer wants it in writing1.

1 JSA Regs (NI), reg 14(1)(l)

Taking a member of the family abroad for treatment

21314 Claimants can be treated as available for a maximum of 8 weeks at a time if they are temporarily absent from Northern Ireland because they are taking a member of their family (see DMG Chapter 22) who is a

**1.** child **or**

**2.** young person

 abroad for treatment1.

1 JSA Regs (NI), reg 14(1)(c)

**Example**

Sheila tells the Jobs and Benefits Office that she has to go to America for 12 weeks as her son will be treated there for a brain tumour. She is treated as available for the first 8 weeks of the 12 weeks absence.

21315 Treatment1 is treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide

**1.** medical treatment **or**

**2.** physiotherapy **or**

**3.** a form of treatment that is similar or related to either **1.** or **2.**.

1 JSA Regs (NI), reg 14(4)

21316 Whether someone is giving treatment depends on the circumstances of each case. Decision makers should obtain as much evidence as they can about the person giving the treatment before deciding whether DMG 21314 is satisfied.

Member of a couple - both absent

21317 Claimants can be treated as available for a maximum of 4 weeks at a time1 if

**1.** the claimant is a member of a couple **and**

**2.** they and their partner are both absent from Northern Ireland **and**

**3.** any of the following are payable for the claimant’s partner

**3.1** pensioner premium2 **or**

**3.2** enhanced pensioner premium (Jobseeker’s Allowance only)3 **or**

**3.3** higher pensioner premium4 **or**

**3.4** disability premium5 **or**

**3.5** severe disability premium6.

1 JSA Regs (NI), reg 14(1)(m); 2 Sch 1, para 10; 3 Sch 1, para 11;
4 Sch 1, para 12; 5 Sch 1, para 13; 6 Sch 1, para 15

Mariners and share fishermen

21318 Mariners and share fishermen who are employed on board any ship or vessel can be treated as available during any period when they are absent from Northern Ireland. But this only applies if they would be available but for the fact that they are absent from Northern Ireland1.

1 SS (Mariners Ben) Regs (NI), reg 6(1); JSA Regs (NI), reg 165(4)

Period from the date of claim

21319 The date of claim may not be the first day of a benefit week. In such a case claimants can be treated as available for any part of the period from the date of claim to the end of the first benefit week when they are not treated as available under DMG 21313 - 21317 or DMG 21329 - 21368 if1

**1.** they2

**1.1** have

**1.1.a** a pattern of availability recorded in a jobseeker’s agreement **or**

**1.1.b** restricted the hours for which they are available because of caring responsibilities (DMG 21434), child’s school hours (see DMG 21454), physical or mental disabilities (DMG 21443) or short time work (DMG 21324 - 21325) and that restriction has been agreed with an employment officer **and**

**1.2** are available for employment on the days in that period when they are not treated as available under DMG 21313 - 21317 or DMG 21329 - 21368 and in accordance with

**1.2.a** their pattern of availability or the hours to which they have restricted their availability because of caring responsibilities, their child’s school hours, physical or mental disabilities or short time work **and**

**1.2.b** any other restrictions they have imposed on their availability that will apply in the first benefit week after the date of claim, provided those restrictions have been agreed with an employment officer **and**

**1.2.c** DMG 21265 - 21269 and DMG 21276 - 21298, if any of those paragraphs apply to them **or**

**2.** they3

**2.1** do not have a pattern of availability recorded in a jobseeker’s agreement **and**

**2.2** are available for employment for the days in that period when they are not treated as available under DMG 21313 - 21317 or DMG 21329 - 21368

**2.2.a** for eight hours a day **and**

**2.2.b** in accordance with any other restrictions they have imposed on their availability that will apply in the first benefit week after the date of claim, provided those restrictions have been agreed with an employment officer **and**

**2.2.c** in accordance with DMG 21265 - 21269 and DMG 21276 - 21298, if any of those paragraphs apply to them.

1 JSA Regs (NI), reg 14(1)(i); 2 reg 14(2A)(a); 3 reg 14(2A)(b)

21320 If claimants cannot be treated as available under DMG 21313 - 21317 and DMG 21319 and DMG 21329 - 21368, then they are not available.

**Example 1**

Rosie claims Jobseeker’s Allowance from and including Friday and has a Monday benefit week ending.

She is looking for work in an office working Monday to Friday 8.30am to 5.30pm.

The employment officer agrees the pattern of availability and the restriction on the type of employment to office work and records them in a jobseeker’s agreement that Rosie and the employment officer sign.

Rosie is treated as available for the first Friday, Saturday, Sunday and Monday of her claim for Jobseeker’s Allowance.

**Example 2**

Rick claims Jobseeker’s Allowance from and including Friday and has a Monday benefit week ending.

He is looking for work as a motor mechanic working Monday to Friday 8am to 6.30pm.

The employment officer agrees the pattern of availability and records them in a jobseeker’s agreement that Rick and the employment officer sign.

But Rick says that he will not be able to sign on Monday because he is going away with friends to Portrush for the day. He would not be willing to return for an interview or job, and anyway cannot be contacted.

Rick cannot be treated as available, and so is not available for the first Friday, Saturday, Sunday and Monday of his claim for Jobseeker’s Allowance.

**Example 3**

Hazel claims Jobseeker’s Allowance from and including Friday and has a Monday benefit week ending.

She is looking for work as a barmaid for £200 a week, working any days and hours.

The employment officer agrees the restriction on the type of work to bar work, but does not agree the restriction on pay of £200 a week.

If Hazel still insists that she will not take employment for less than £200 a week, then she cannot be treated as available, and so is not available for the first Friday, Saturday, Sunday and Monday from the date of claim.

Claimants who are laid off

21321 Claimants who are laid off can be treated as available1 if the only restrictions that they place on their availability are that they can and will

**1.** resume at once the employment that they have been laid off from **and**

**2.** take up any casual employment that is within daily travelling distance of their home

**2.1** at once **or**

**2.2** with 24 hours notice if the claimant is providing a service (see DMG 21276) **or**

**2.3** with 48 hours notice if the claimant has caring responsibilities (see DMG 21265) **or**

**2.4** with one week’s notice if the claimant is doing voluntary work (see DMG 21265)

**2.5** with 28 days notice if the claimant has caring responsibilities for a child **and**

 **2.5.a** is permitted to take up employment after being given 28 days notice **and**

 **2.5.b** is permitted to attend an interview in connection with employment after being given 7 days notice (see DMG 21271).

1 JSA Regs (NI), reg 17(1)

21322 Casual employment is any employment that the employee can be released from without having to give notice to leave that employment1.

1 JSA Regs (NI), reg 4

21323 Claimants can only be treated as available as in DMG 21323 for a maximum of 13 weeks. This period begins on the day after the day that they were first laid off1.

1 JSA Regs (NI), reg 17(3)

Claimants who are on short-time

21324 Claimants who are kept on short-time can be treated as available1 if the only restrictions that they place on their availability are that they can and will

**1.** resume the employment that they are on short-time from at once **and**

**2.** take up any casual employment, that is within daily travelling distance of their home

**2.1** at once **or**

**2.2** with 24 hours notice if the claimant is providing a service (see DMG 21276) **or**

**2.3** with 48 hours notice if the claimant has caring responsibilities (see DMG 21265) **or**

**2.4** with one week’s notice if the claimant is doing voluntary work (see DMG 21265)

 for the hours that they are not working short-time.

1 JSA Regs (NI), reg 17(2)

21325 Claimants on short-time can only be treated as available if the number of hours that they work on short-time and are available for casual employment is at least 40 hours in a benefit week1. But

**1.** if they restrict their availability as in DMG 21443 (physical or mental disabilities) and those restrictions are reasonable in light of their physical or mental condition, the hours that

**1.1** they work on short-time **and**

**1.2** are available for casual employment

may be less than 40 in a benefit week2 **and**

**2.** if they have caring responsibilities (DMG 21434-21439), the hours that they work on short time and are available for casual employment may be less than 40 in a benefit week as long as the total number of hours that they work and are available for casual employment3

**2.1** is as many as their caring responsibilities allow **and**

**2.2** are for the specific hours that their caring responsibilities allow **and**

**2.3** is at least 16 hours in a benefit week.

1 JSA Regs (NI), 17(2); 2 reg 17(2)(b); 3 reg 17(2)(c)

21326 Casual employment is any employment that the employee can be released from without having to give notice to leave that employment1.

1 JSA Regs (NI), reg 4

21327 Claimants can only be treated as available as in DMG 21324 for a maximum of 13 weeks. This period begins on the day after the day that they were first put on short-time1.

1 JSA Regs (NI), reg 17(3)

Claimants who have had limited capability for work or have been incapable of work

21328 Where claimants

1. have been receiving Employment and Support Allowance, Incapacity Benefit or Income Support on the grounds of incapacity prior to their claim for Jobseeker’s Allowance **and**
2. the Department has extended the time limit for claiming Jobseeker’s Allowance because notification of expiry of entitlement to Employment and Support Allowance, Incapacity Benefit or Income Support was not sent before the date that the claimant’s entitlement expired1

they can be treated as available for that period if, on the day they make their claim for Jobseeker’s Allowance, they are available or treated as available2.

1 C & P Regs (NI), reg 19(7)(d); 2 JSA Regs (NI), reg 14(1)(n)

Deaths, funerals and domestic emergencies

21329 Claimants can be treated as available1 if

**1.** there is a death or serious illness of a

**1.1** close relative **or**

**1.2** close friend

of the claimant **or**

**2.** there is a domestic emergency affecting

**2.1** the claimant **or**

**2.2** a close relative of the claimant **or**

**2.3** close friend of the claimant **or**

**3.** there is a funeral of a

**3.1** close relative **or**

**3.2** close friend

of the claimant **or**

**4.** the claimant has caring responsibilities and the person being cared for has died.

1 JSA Regs (NI), reg 14(2)

21330 Claimants can be treated as available

**1.** for the time that the claimant has to deal with those circumstances **and**

**2.** for a maximum of 1 week for each occurrence or combination of occurrences **and**

**3.** for a maximum of 4 periods in any period of 12 months1.

1 JSA Regs (NI), reg 14(2) & 14(6)

**Example**

In a period of 12 months a claimant may be treated as available on 4 separate occasions for

**1.** 1 week due to the sudden illness and death of a close relative **and**

**2.** another week a few months after **1.** due to the sudden illness and death of another close relative **and**

**3.** 2 days due to a domestic emergency affecting the claimant **and**

**4.** 1 day to attend the funeral of a close friend.

21331 A claimant with caring responsibilities for a child can be treated as available1 if

 **1.** there is a death or serious illness of a

 **1.1** close relative **or**

 **1.2** close friend

 of the claimant **or**

 **2.** there is a domestic emergency affecting

 **2.1** the claimant **or**

 **2.2** a close relative of the claimant **or**

 **2.3** a close friend of the claimant.

1 JSA Regs (NI), reg 14(2ZA)

 **Example**

 Judy is in receipt of Jobseeker’s Allowance and has a daughter called Sadie. Judy’s mother dies and Sadie is deeply affected by the death of her grandmother to such an extent that Judy has to spend much of her time caring for her and this calls Judy’s availability for employment into doubt.

 The decision maker decides that due to the death of her close relative, Judy can be treated as available for employment whilst she deals with the effects of the bereavement on both herself and her daughter.

21332 A claimant to whom DMG 21331 applies can be treated as available for

 **1.** a single period of more than 1 week but no more than 8 weeks for the occurrence or combination of occurrences of any of the circumstances in DMG 21331 **and**

 **2.** a maximum of 1 period in any period of 12 months and the period will count towards the 4 periods allowed under DMG 21330 **3.**1.

1 JSA Regs (NI), reg 14(2ZA)

Recently homeless

21333 A claimant who has recently become homeless, may as a result, suffer a domestic emergency. A claimant who has recently become homeless and suffers a domestic emergency as a result must be treated as available for employment. They are to be treated as available for as long as they take reasonable steps to find living accommodation and as long as is required to deal with the emergency1.

1 JSA Regs (NI), reg 14(2)(b) & (2ZC)

21334 What constitutes reasonable steps to find accommodation will depend on the facts of each case. A recently homeless claimant who has been granted the easement but who does not take reasonable steps to find living accommodation would, unless another deeming provision applies, have to show that they have actually been available for employment in order to be entitled to Jobseeker’s Allowance.

21335 Unlike with other instances of domestic emergencies, a claimant who has recently become homeless can be treated as available for employment for periods of longer than one week and on more than four occasions in any 12 months1.

1 JSA Regs (NI), reg 14(2ZD)

 **Example 1**

 Rowan is in receipt of Jobseeker’s Allowance. She attends the Jobs and Benefits Office every fortnight to make a declaration about her availability for employment and the steps that she has taken to find work. On her most recent attendance Rowan says she has just been evicted from her accommodation and, after a couple of nights staying with a friend, she has slept rough but tonight will be staying in a direct access hostel. Rowan doesn’t know how long it will be before she finds somewhere to stay but she is looking for accommodation with the help of a charity for the homeless and has contacted the Northern Ireland Housing Executive.

 As a consequence of having lost her accommodation and spending time finding somewhere else to live, Rowan has found it difficult to show that she is immediately available for employment.

 The decision maker determines that Rowan has become recently homeless, that this is a domestic emergency for her and that she is taking reasonable steps to find somewhere to live. The decision maker decides that Rowan doesn’t have to show that she is actually available for employment but can be treated as available for employment for as long as she is taking reasonable steps to find living accommodation.

 **Example 2**

 Chester has just claimed Jobseeker’s Allowance. He has no fixed address but moves around staying with friends, family and sometimes sleeps rough. Chester has been living like this for the past three months.

 The decision maker determines that Chester has not become recently homeless and that this is not a domestic emergency for him. Chester cannot be treated as available for employment and has to be actually available for employment in order to be entitled to Jobseeker’s Allowance.

Serious illness

21336 Whether an illness is a serious illness is for decision makers to determine based on all available evidence. If decision makers do not have sufficient evidence to decide this they may obtain evidence from the claimant’s General Practitioner. But this must only be done with the claimant’s permission.

Domestic emergencies

21337 In deciding whether the claimant has to deal with a domestic emergency the decision maker should consider

**1.** the nature of the emergency

**2.** when the emergency arose

**3.** any alternative arrangements the claimant has made for the emergency to be dealt with

**4.** any alternative arrangements the claimant could have made for the emergency to be dealt with.

Discharged from detention

21338 Claimants can be treated as available for 1 week at a time beginning with the date of discharge, if they have been discharged from detention in a

**1.** prison **or**

**2.** young offenders centre1.

1 JSA Regs (NI), reg 14(1)(h)

21339 A prison does not usually mean a police station. But a police station could be viewed as a prison when police cells are used because, for example, the prisons are overcrowded or the prison staff are taking industrial action.

 **Note :** Guidance about claimants who are detained in custody is at DMG 21311.

Employment related course

21340 Claimants can be treated as available, if they are taking part in an employment related course as a full-time student, for a maximum of

**1.** 2 weeks for each course **and**

**2.** one course in any period of 12 months.

Before claimants can be treated as available the Employment Officer has to have approved their training part in the employment-related course before the course starts1.

1 JSA Regs (NI), reg 14(1)(a)

21341 DMG 21257 does not apply if the claimant1

**1.** is only doing one course of study **and**

**2.** that course of study is an employment related course.

1 JSA Regs (NI), reg 14(1)(a) & 15(a)

21342 An employment related course1 is a course that helps the person to gain or enhance skills needed for

**1.** employment **or**

**2.** seeking employment **or**

**3.** a particular occupation.

1 JSA Regs (NI), reg 1(2)

21343 The decision maker needs to know what the programme requirement involves so that they can decide if it is an employment related course, and whether claimants can be treated as available for work for up to two weeks1.

1 JSA Regs (NI), reg 14(1)(a)

 21344

End of entitlement to Jobseeker’s Allowance

21345 If the last day that Jobseeker’s Allowance is paid for is not the last day of a benefit week claimants can be treated as available1

**1.** for the period beginning with the beginning of the benefit week in which the award of Jobseeker’s Allowance is terminated **and**

**2.** ending on the last day that Jobseeker’s Allowance is paid for.

1 JSA Regs (NI), reg 14(1)(j)

Engaged during an emergency

21346 Claimants can be treated as available for any period that they are engaged during an emergency in duties for the benefit of others1.

1 JSA Regs (NI), reg 14(1)(d)

21347 A person is engaged in duties for the benefit of others1 while

**1.** giving help to anyone

**1.1** whose life may be in danger **or**

**1.2** who may be exposed to the risk of serious bodily injury **or**

**1.3** whose health may be seriously damaged **or**

**2.** protecting property of substantial financial value from imminent risk of serious damage or destruction **or**

**3.** helping to prevent a serious threat to people’s health

 as a member of a group of people organised wholly or partly to provide such help or protection.

1 JSA Regs (NI), reg 14(5)(a)

21348 Events that may give rise to an emergency include1

**1.** a fire, flood or explosion

**2.** a natural catastrophe

**3.** a railway or other transport accident

**4.** a cave or mountain accident

**5.** an accident at sea

**6.** a person being reported missing and the organisation of a search for that person.

1 JSA Regs (NI), reg 14(5)(b)

Lifeboat crew

21349 Claimants can be treated as available for any period that they are engaged in the manning or launching of a lifeboat1.

1 JSA Regs (NI), reg 14(1)(d)

Looking after a child

One member of a couple is absent from the UK

21350 Claimants can be treated as available for a maximum of 8 weeks at a time if they are

**1.** a member of a couple **and**

**2.** looking after a member of their family (see DMG Chapter 22) who is a child, while the other member of the couple is temporarily absent from the UK1.

1 JSA Regs (NI), reg 14(1)(e)

Person who looks after a child cannot look after the child

21351 Claimants can be treated as available for a maximum of 8 weeks at a time if they are looking after a child full-time because the person who normally looks after the child is

**1.** ill **or**

**2.** temporarily absent from home **or**

**3.** looking after a member of the carer’s family who is ill1.

1 JSA Regs (NI), reg 14(1)(g)

Child away from education

21352 Claimants must be treated as available whilst looking after a child for whom they have caring responsibilities during the child’s

 **1.** school holidays **or**

 **2.** vacation similar to a school holiday

 where it would be unreasonable for the claimant to make other arrangements for the care of that child1.

1 JSA Regs (NI), reg 14(1)(t)

 **Example 1**

 Louise is in receipt of Jobseeker’s Allowance. Her son Robbie normally attends school 5 days a week. However, Louise has informed the Employment Officer that Robbie will be at home from school for 3 days in the coming week because the school is closed for a teacher training event. Whilst he is at home Louise will be looking after Robbie because she cannot make any other childcare arrangements due to the lack of childcare providers in the area. Louise is also new to the area and has no family or friends who can help.

 The decision maker decides that Louise can be treated as available for work for the period that Robbie is away from school.

 **Example 2**

 Geoff is in receipt of Jobseeker’s Allowance. His son Jack cannot attend nursery school due to it being closed for Easter. Geoff will have to look after Jack whilst the nursery is closed. Geoff provides reasons to the Employment Officer as to why he cannot arrange alternative childcare. Ordinarily, Geoff’s mother would look after Jack but she is in hospital and there is nobody else who can help.

 The decision maker accepts the reasons as being reasonable and decides that Geoff is available for work whilst Jack is away from nursery.

21353 Where a claimant is looking after a child for whom they have caring responsibilities at a time when

 **1.** the child is excluded from school or other educational establishment **and**

 **2.** the child is not receiving education arranged by a local education and library board **and**

 **3.** it is not reasonable for the claimant to make other arrangements to allow for the care of the child

 the claimant can be treated as available for employment1.

1 JSA Regs (NI), reg 14(1)(t)

 **Example**

 Clare is in receipt of Jobseeker’s Allowance. Her daughter Chloe has been excluded from school until further notice following an incident. Chloe is to remain away from school until the incident has been investigated. Despite every effort, Clare has been unable to sort out other arrangements to look after Chloe and so has to be at home with her.

 The decision maker treats Clare as being available for employment for the period of the exclusion.

Open University

21354 Claimants can be treated as available for a maximum of 1 week for each residential course if they are

**1.** doing an Open University course **and**

**2.** attending a residential course that is a requirement of the course1.

1 JSA Regs (NI), reg 14(1)(f)

Part-time member of a fire brigade

21355 Claimants can be treated as available for any period that they are performing their duties as a part-time member of a fire brigade1.

1 JSA Regs (NI), reg 14(1)(d)

21356 A part-time member of a fire brigade1 is a person who is a part-time member of a fire brigade maintained under relevant legislation2.

1 JSA Regs (NI), reg 4; 2 Fire Services (NI) Order 1984

Programmes provided by the Venture Trust

21357 Claimants can be treated as available, if they are taking part in a programme provided by the Venture Trust for a maximum of

1. 4 weeks for each programme **and**
2. 1 programme in any period of 12 months1.

1 JSA Regs (NI), reg 14(1)(ja)

21358 The programme provided by the Venture Trust must be provided under an agreement made by the Secretary of State for the Home Department with the Trust1.

 **Note :** There are now no programmes provided by the Venture Trust which are provided under an agreement made by the Secretary of State for the Home Department with the Venture Trust.

1 JSA Regs (NI), reg 14(1)(ja)

21359 DMG 21257 does not apply if1

1. the claimant is only doing one course of study **and**
2. the course of study is a programme provided by the Venture Trust.

1 JSA Regs (NI), Reg 15(a)

Reservists

21360 A claimant has to be treated as available for employment where they are a member of a reserve force either

 **1.** if engaged in their first year of training, for a maximum of 43 days in that year **or**

 **2.** if engaged in annual continuous training, for a maximum of 15 days in any calendar year.

This includes training outside of Northern Ireland.

 **Note :** Appendix 1 to DMG Chapter 26 lists the reserve forces.

Temporary absence from Northern Ireland for National Health Service treatment abroad

21361 Claimants can be treated as available for any period when they are temporarily absent from Northern Ireland for the purpose of receiving National Health Service treatment abroad1 (see DMG Chapter 7).

1 JSA Regs (NI), reg 14(1)(p)

Treated as capable of work or as not having limited capability for work

21362 Claimants can be treated as available for any period that they are treated as capable of work or as not having limited capability for work as in DMG Chapter 201.

1 JSA Regs (NI), reg 14(1)(k)

Work camp

21363 Claimants who are attending a residential work camp can be treated as available for a maximum of

**1.** 2 weeks at a time **and**

**2.** 1 period in any period of 12 months1.

1 JSA Regs (NI), reg 14(1)(b)

21364 A work camp is any place in Northern Ireland where people

**1.** provide a service to benefit the community or the environment **and**

**2.** are supported by a

**2.1** charity **or**

**2.2** district council **or**

**2.3** Health and Social Services Board **or**

**2.4** Health and Social Services trust **or**

**2.5** voluntary organisation1.

1 JSA Regs (NI), reg 4

Voluntary organisation

21365 A voluntary organisation1 is a body

**1.** whose activities are not carried out for a profit **and**

**2.** that is not a public authority or Health and Social Services Board.

1 JSA Regs (NI), reg 1(2)

In any period of 12 months

21366 In deciding whether a claimant can be treated as available for a period as in

**1.** DMG 21329 (deaths, funerals and domestic emergencies) **or**

**2.** DMG21340 (employment related courses) **or**

**3.** DMG 21357 (programme provided by the Venture Trust) **or**

**4.** DMG 21363 (work camps)

 the decision maker should look back over the 12 month period that ends with the last day of the event that is being considered for treating as available.

Calculating the number of hours of availability in a week

21367 Claimants should be treated as available for 8 hours on any day that they are engaged in any of the following activities, if they are engaged in the activity for any part of the benefit week

**1.** DMG 21309 - 21311 (attending court or a tribunal, or detained in custody) **or**

**2.** DMG 21313 - 21317 (absent from Northern Ireland) **or**

**3.** DMG21329 - 21343 (deaths, funerals and domestic emergencies, discharge from detention, employment related courses) **or**

**4.** DMG 21346 - 21365 (engaged during an emergency, lifeboat crew, looking after a child, open university, part-time member of a fire brigade, programmes provided by Venture Trust, treated as capable of work, work camps).

 But see DMG 21368.

 **Note :** This only applies when calculating whether the claimant is available for 40 or more hours in a benefit week (see DMG 21424)1.

1 JSA Regs (NI), reg 14(3)

21368 If claimants in DMG 21367 restrict the total number of hours that they are available for, as in

**1.** DMG 21324 (claimants who are on short time) **or**

**2.** DMG 21424 (claimants who restrict availability to 40 hours or more in a week) **or**

**3.** DMG 21434 (claimants with caring responsibilities)

 they are treated as available for the number of hours that they are required to be available for on that day as in their pattern of availability recorded in their jobseeker’s agreement.

 **Note :** This only applies when calculating whether the claimant is available for the required number of hours1.

1 JSA Regs (NI), reg 14(3)

Domestic violence

General

21369 A victim of

 **1.** domestic violence **or**

 **2.** threatened domestic violence

 can be treated as available for an initial period of four weeks. This can then be extended so that the claimant is treated as available for up to 13 weeks.

Definitions

21370 With regards to Jobseeker’s Allowance, availability and domestic violence a number of terms are defined.

Domestic violence

21371 Domestic violence means1 any incident or pattern of incidents of controlling behaviour, violence or abuse including (but not limited to)

 **1.** psychological abuse

 **2.** physical abuse

 **3.** sexual abuse

 **4.** financial abuse

 **5.** emotional abuse

 regardless of the gender or sexuality of the victim. Appendix 2 provides examples of domestic abuse.

 **Note 1 :** Coercive behaviour means2 an act of assault, humiliation, intimidation or other abuse that is used to harm, punish or frighten the victim.

 **Note 2 :** Controlling behaviour means3 an act designed to make the victim subordinate or dependent by isolating them from the sources of support, exploiting their resources and capabilities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour.

1 JSA Regs (NI), reg 14A(10); 2 reg 14A(10); 3 14A(10)

 **Example 1**

 Adam and Gina are married. Gina threatens Adam with a kitchen knife during an argument after Adam tells her that he wishes to give up work and return to education. She doesn’t actually use the knife but it is intended to frighten Adam. This is an example of coercive behaviour.

 **Example 2**

 Susan is married to Jim. Jim does not allow Susan to contact her parents or other members of her family. Jim tells Susan that she cannot communicate with them in any way unless he gives her permission. This is an example of controlling behaviour because Jim is isolating Susan from a source of support.

Family member

21372 Family member means1 the following members of the victim’s family, victim’s partner’s family or victim’s former partner’s family

 **1.** grandparent

 **2.** grandchild

 **3.** parent

 **4.** parent-in-law

 **5.** son

 **6.** son-in-law

 **7.** daughter

 **8.** daughter-in-law

 **9.** step-parent

 **10.** step-son

 **11.** step-daughter

 **12.** brother

 **13.** brother-in-law

 **14.** sister

 **15.** sister-in-law.

 If any of the above is a member of a couple, the other member of that couple also is included within the meaning of “family member”.

 **Note :** For the purposes of this guidance, a step-sibling should also be treated as a “family member”.

1 JSA Regs (NI), reg 14A(10)

Health care professional

21373A health care professional in this guidance means1 a person who is a member of a profession regulated under relevant legislation2.

1 JSA Regs (NI), reg 14A(10); 2 National Health Service Reform and Health Care Professionals Act 2002, sec 25(3)

Person acting in an official capacity

21374 A person acting in an official capacity means1

 **1.** a health care professional

 **2.** a police officer

 **3.** a registered social worker

 **4.** the victim’s employer or representative of their trade union

 **5.** any public, voluntary or charitable body which has had direct contact with the victim in connection with domestic violence.

1 JSA Regs (NI), reg 14A(10)

Registered social worker

21375 Registered social worker means1 a person registered as a social worker on a register maintained by the

 **1.** Northern Ireland Social Care Council

 **2.** General Social Care Council

 **3.** Care Council for Wales

 **4.** Scottish Social Services Council.

1 JSA Regs (NI), reg 14A(10)

Relevant evidence

21376 Relevant evidence means1 written evidence from a person acting in an official capacity showing that

 **1.** the victim’s circumstances are consistent with having had domestic violence

 **1.1** inflicted on **or**

 **1.2** threatened against them

 during the period of 26 weeks ending on the date of notification **or**

 **2.** the victim has made contact with a person acting in an official capacity with regard to an incident of domestic violence which occurred during the period of 26 weeks ending on the date of the notification.

1 JSA Regs (NI), reg 14A(10)

 **Note :** The notification must be in the manner specified1. Procedural guidance provides advice on this.

1 JSA Regs (NI), reg 14A(1)

The four week period

21377 A claimant is to be treated as available for employment for a period of four weeks1 where2 they

 **1.** have notified the Department that domestic violence has been

 **1.1** inflicted on **or**

 **1.2** threatened against

 them by their partner, former partner or a family member in the previous 26 weeks **and**

 **2.** at the time of the notification, are not living at the same address as the person who inflicted or threatened the domestic violence.

1 JSA Regs (NI), reg 14A(2); 2 reg 14A(1)

21378 The four week exemption period where the claimant can be treated as available for employment begins on the date that the claimant notifies the Department in the manner specified that they have had domestic violence inflicted on them or threatened against them1.

1 JSA Regs (NI), reg 14A(2)

21379 The claimant is to be treated as available for four weeks

 **1.** whether or not they are entitled to Jobseeker’s Allowance for the whole or part of the four week period **and**

 **2.** on only one occasion in any 12 month period1.

1 JSA Regs (NI), reg 14A(3)

 **Example**

 Rebecca has made a claim for Jobseeker’s Allowance from 02.05.12. She has recently left the marital home following the breakdown of her marriage. Rebecca left her husband after a period of emotional abuse which culminated in her leaving on 06.04.12. Rebecca notifies the Department on 09.05.12 that she has been a victim of domestic abuse. The decision maker treats Rebecca as being available for work for four weeks beginning on 09.05.12. The last day of that period will be 05.06.12.

The 13 week period

21380 The four week exemption period can be extended by nine weeks to a 13 week exemption period1. The 13 week period applies where

 **1.** domestic violence has been

 **1.1** inflicted on **or**

 **1.2** threatened

 against the claimant by the claimant’s partner, former partner or a family member (defined above)2 **and**

 **2.** the claimant has provided relevant evidence during the four week period3.

1 JSA Regs (NI), reg 14A(6); 2 reg 14A(4); 3 reg 14A(5)

 **Example**

 Rebecca has been treated as available for employment for a four week period beginning on 09.05.12. On 30.05.12 Rebecca’s social worker phones the decision maker to verify Rebecca’s evidence that she has been the victim of domestic abuse. However, the decision maker cannot accept this evidence unless it is provided in writing before 06.06.12. Until the evidence is provided in writing then the four week period of treated availability cannot be extended.

 On 05.06.12 written evidence is received by the decision maker from Rebecca’s social worker. The decision maker extends the period for which Rebecca can be treated as available. Rebecca is now treated as available from 09.05.12 to 07.08.12 (both dates inclusive).

21381 The 13 week period begins on the date that the claimant first notified the Department that they had suffered or had been threatened with domestic violence1. This means that the start date of the 13 week period will be the same as the start date of the four week period.

1 JSA Regs (NI), reg 14A(6)

21382 Where the decision maker has treated the claimant as available for employment for a period of 13 weeks

 **1.** the 13 weeks must be consecutive weeks **and**

 **2.** the period applies regardless of whether the claimant is entitled to Jobseeker’s Allowance for the whole or part of that period1.

1 JSA Regs (NI), reg 14A(7)

21383 The 13 week period can be suspended where after the first four weeks the claimant notifies the Department that they no longer wish to be treated as available for employment on the grounds that they have suffered domestic violence or had it threatened against them1.

1 JSA Regs (NI), reg 14A(8) & (9)

21384 Where the claimant notifies the Department that they no longer wish to be treated as available after the first four weeks, the 13 week period

 **1.** has to be suspended from the date of that notification until the date that the claimant states again that they wish to be treated as available **and**

 **2.** cannot apply at any time after the expiry of 12 months from the date of the first notification which led to the claimant being treated as available under these rules1.

1 JSA Regs (NI), reg 14A(9)

21385 If the claimant wishes to make use of any balance of the 13 week period, it cannot apply beyond the expiry of 12 months from the date of the initial notification of domestic violence1.

1 JSA Regs (NI), reg 14A(9)(b)

 **Example**

 Freida has been treated as available for employment on the grounds of domestic violence since 30.04.12. She provided relevant evidence of the abuse within the initial four week exemption period and so the decision maker treated Freida as available from 30.04.12 to 29.07.12 (both dates inclusive).

 On 25.06.12 Freida told the decision maker that she wished to be subject to the requirement to be available for work again, so the Decision Maker suspended the 13 week period. This means that Freida was treated as available for a period of eight weeks.

 On 15.04.13 Freida tells the decision maker that she wishes again to be treated as available. The decision maker treats Freida as available for employment from 15.04.13 but only up to and including 29.04.13. This is because 12 months will have lapsed since the initial notification on 30.04.12.

Permitted period

General

21386 Claimants may be treated as available for a permitted period if they are only available for employment

**1.** in their usual occupation **or**

**2.** at a level of pay that they are used to receiving **or**

**3.** both **1.** and **2.**1.

1 JSA Regs (NI), reg 16(1)

Laid off and short-time workers

21387 Claimants who are laid off or on short-time cannot be treated as available for a permitted period unless1 they cease to be laid off or kept on short-time within 13 weeks of the day that they were laid off or first kept on short-time. If they do cease to be laid off or kept on short-time they may be treated as available for a permitted period. But that permitted period must end a maximum of 13 weeks after the date of claim.

1 JSA Regs (NI), reg 17(4)

Maximum length of a permitted period

21388 The permitted period1

**1.** starts on the date of claim **and**

**2.** is a minimum of 1 week **and**

**3.** is no more than 13 weeks.

1 JSA Regs (NI), reg 16(3)

Deciding if a claimant should have a permitted period

21389 When deciding whether the claimant should be treated as available for a permitted period and the length of that period the decision maker should take into account1

**1.** the claimant’s usual occupation **and**

**2.** any relevant skills or qualifications that the claimant has **and**

**3.** the length of any period of training that the claimant has done that is relevant to the claimant’s usual occupation **and**

**4.** the length of the period that the claimant was employed in that occupation **and**

**5.** the period since the claimant was last employed in that occupation **and**

**6.** the availability and location of employment in that occupation.

1 JSA Regs (NI), reg 16(2)

21390 DMG 21389 **1.** and **3.** to **6.** only apply where the claimant has a usual occupation. DMG 21389 **2.** applies where the claimant has a usual occupation or when considering the level of pay claimants are used to receiving.

21391 Guidance on how to take these factors into account is at DMG 21392 - 21393. The decision maker should note the following

 **1.** It is not possible to say that if particular factors exist the period should be of a particular length.

 **2.** Some factors may suggest that the period should be long.

 **3.** Others may suggest that it should be short.

 The decision maker must consider all the available evidence and all the factors listed in DMG 21389 and decide what period would be reasonable.

21392 Some of the factors that may suggest that a longer permitted period should apply to a claimant are

**1.** claimants may find it difficult to obtain future employment in their usual occupation if they have a spell of work in a different occupation

**2.** the usual occupation requires a high level of skill, or a skill obtained over a long period

**3.** the claimant has undergone a long period of

**3.1** training **or**

**3.2** apprenticeship

 for the usual occupation

**4.** the usual occupation requires a specialist qualification that the claimant has

**5.** the claimant has done that occupation

**5.1** regularly **or**

**5.2** continuously

 over a period of years

**6.** the claimant’s last spell of employment in the usual occupation was for a long period

**7.** the claimant’s last spell of employment in the usual occupation ended recently

**8.** the claimant is **particularly** skilled in or efficient at the usual occupation

**9.** there

**9.1** are **or**

**9.2** are soon likely to be

 a considerable number of vacancies in the claimant’s usual occupation in the location(s) that the claimant is prepared to work

**10.** the claimant has good prospects of obtaining further employment in the usual occupation.

21393 Factors that may suggest that a shorter permitted period should apply to a claimant are

**1.** a spell of working in a different type of employment would not reduce the claimant’s chances of obtaining future employment in the usual occupation

**2.** the skills, if any, that are needed for the usual occupation can be quickly and easily obtained

**3.** the training period, if any, in the usual occupation is short

**4.** no specialist qualifications are needed to do the usual occupation

**5.** the claimant has not followed the usual occupation regularly, particularly if regular spells of unemployment are

**5.1** expected **or**

**5.2** can be foreseen

**6.** a long time has passed since the claimant was last employed in the usual occupation

**7.** the claimant’s last spell of employment in the usual occupation was short

**8.** the claimant is not particularly suited to the usual occupation

**9.** vacancies in the usual occupation in the location(s) that the claimant is prepared to work in are or are likely to be rare

**10.** the claimant’s chances of returning to the usual occupation are not very good. But if the claimant has **little or no** chance of returning to it, it may no longer be the claimant’s usual occupation.

Claimant’s prospects of returning to the usual occupation

21394 When deciding the claimant’s chances of returning to the usual occupation as in DMG 21392 **10.** and DMG 21393 **10.**, the decision maker should remember that there is no burden of proof on the claimant. The decision maker should try to judge the extent of the claimant’s prospects in an objective way.

21395 The decision maker needs to determine whether or not the permitted period ended before the first day that is referred for a decision. The decision maker need not decide exactly how long it lasts in each case. But if the decision maker

**1.** accepts that the claimant is available only

**1.1** in their usual occupation **or**

**1.2** at a level of pay that they are used to receiving **or**

**1.3** both **1.1** and **1.2** **and**

**2.** determines that the claimant is not available before the end of the 13 weeks beginning with the date of claim, because the decision maker considers that the period which can be allowed1 has ended **and**

**3.** receives an appeal from the claimant against the Jobseeker’s Allowance decision

 the decision maker should make a submission as to what, in the decision maker’s opinion, was a reasonable period to allow in the circumstances of the case, and the reasons for that opinion.

1 JSA Regs (NI), reg 16(3)

21396 Factors that should be taken into account in deciding the extent of the claimant’s prospects of returning to the usual occupation include

**1.** the claimant’s age

**2.** the claimant’s experience

**3.** the claimant’s efficiency at the usual occupation

**4.** the number of vacancies in the usual occupation in the location(s) that the claimant is prepared to work in

**5.** the number of other persons seeking vacancies in the same occupation and location

**6.** whether the claimant’s previous employment in the usual occupation has been terminated or only suspended

**7.** whether there is any evidence that the claimant would be unlikely to obtain the usual occupation, for example where the claimant has been previously dismissed by a major employer.

Usual occupation

21397 To determine the claimant’s usual occupation the decision maker should consider the claimant’s previous types of employment and not just the last employment.

21398 Whether claimants have a usual occupation and if so what that occupation is, are questions of fact that should be decided by examining

**1.** their record of employment **and**

**2.** the occupation that they are seeking.

21399 If claimants have followed a particular occupation for a long time and are seeking further employment in that occupation, it is normally their usual occupation. But this may not be so clear if, for example, there

**1.** is a record of short-term employment in different occupations **or**

**2.** has been a recent change of occupation.

21400 Claimants do not have a usual occupation if they have never established themselves in an occupation. This may be the case if, for example, they have

**1.** never worked **or**

**2.** had only intermittent periods of employment **or**

**3.** followed a variety of occupations for short periods.

21401 An occupation that has previously been a person’s usual occupation ceases to be the usual occupation if they abandon it, for example

**1.** on health grounds **or**

**2.** as a matter of preference **or**

**3.** because industrial changes mean that it no longer exists.

21402 Where claimants have trained for an occupation but never worked in it, that occupation cannot be their usual occupation.

21403 Claimants who start a new occupation may be regarded as having a usual occupation after a reasonable period of employment in that new occupation if

**1.** they have never had a usual occupation **or**

**2.** they have abandoned a usual occupation.

21404 What is a reasonable period depends on all of the circumstances.

**1.** If the claimant intends to follow that occupation in the future, 2 or 3 weeks employment is normally enough.

**2.** But a longer period is required if there is a doubt about the claimant’s suitability for the occupation, for example where they have previously left that occupation because of alleged unsuitability.

21405 For claimants who leave their usual occupation temporarily, for example on health grounds or because of a temporary industrial recession

**1.** it remains their usual occupation if they have prospects of resuming it **but**

**2.** it ceases to be their usual occupation if DMG 21401 **3**. applies.

 **Note :** If they have followed another occupation meanwhile, that may become their usual occupation.

21406 Where claimants regularly followed more than one occupation for a substantial part of each week, each of those occupations is their usual occupation.

21407 Claimants lose their usual occupation if

**1.** they have

**1.1** retired from it (either voluntarily or compulsorily) **or**

**1.2** left for a reason that would suggest that the claimant cannot go back to it **and**

**2.** it was so specialised that they would be unable to obtain it elsewhere, for example, a senior

**2.1** bank official **or**

**2.2** civil servant.

21408 But if claimants retire from a situation in employment of a more general nature, for example, clerical work, typing, machine operating, it remains their usual occupation if they

**1.** are continuing to seek **and**

**2.** may be able to obtain

that employment from a different employer.

Level of pay

21409 Level of pay means the **gross** wage or salary - that is before any deductions for tax, National Insurance contributions etc. It means the **amount** of wages the claimant earns.

**Example 1**

Betty is used to receiving £250 for working 35 hours a week. A vacancy is available offering £250 for working 37 hours a week. This is at the same level of pay.

**Example 2**

Robert is used to receiving £250 for working 40 hours a week. A vacancy is available offering £9,500 a year for working 35 hours a week. This is at a lower level of pay.

Used to receiving

21410 If the claimant's last job lasted for a long period the decision maker can accept that the level of pay received in it is the level the claimant is used to receiving.

21411 The latest, or any other, level of pay is not relevant if it was only received for a few months and was clearly higher or lower than the level the claimant usually receives. But any pay rise or promotion would be relevant if it was in a job that had lasted for a long time.

**Example**

Frank has worked for a local supermarket for 2 years and 2 months. For the first 2 years he is paid annual salary of £12,000. At the beginning of his third year he is given a pay rise and gets an annual salary of £12,200. After 2 months, he loses his job and claims Jobseeker’s Allowance. He tells a personal adviser that he wants a wage of £12,200. Frank is used to receiving a level of pay of £12,200 per year.

21412 The decision maker should disregard any wage increase that has been awarded to employees in the claimant's last employment since the claimant became unemployed. The level of pay the claimant is used to receiving is the level in fact received in the past, not the level the claimant would probably be getting if still employed.

 21413 - 21416

Availability in term-time

21417 Claimants are treated as available for employment in any benefit week1 which is entirely or partly in term-time if2

 **1.** they are undertaking a qualifying course as full-time students **and**

 **2.** they provide within five calendar days of being asked to do so by an Employment Officer, a document signed by them and on behalf of the establishment at which they are undertaking the qualifying course in a form acceptable to an Employment Officer confirming that they are

 **2.1** attending the establishment when required to attend **and**

 **2.2** making satisfactory progress on the course.

 **Note :** The rules3 under which claimants are regarded as not available if they are full-time students do not apply in any benefit week which is entirely or partly in the period of study4.

1 JSA Regs (NI), reg 4; 2 reg 17A(3)(a); 3 reg 15(1)(a); 4 reg 17A(1)

Availability during examinations and vacation

21418 Claimants are treated as available for any benefit week1

 **1.** during any part of which they are taking examinations for their qualifying course2 **or**

 **2.** wholly in vacation from their qualifying course if they are willing and able to take up at once any casual employment3.

1 JSA Regs (NI), reg 4; 2 reg 17A(3)(b); 3 reg 17A(3)(c)

Lone parents

21419 A claimant who is a lone parent can be treated as available in any week where1

**1.** the claimant is responsible for, and a member of the same household as, a child who is aged 5 **and**

**2.** the child

**2.1** is not receiving full-time education by regular attendance at school or otherwise **and**

**2.2** is not required by law to receive full-time education **and**

**3.** it would not be reasonable for the claimant to make other arrangements for the care of the child.

1 JSA Regs (NI), reg 17B

Restricted availability

Introduction

21420 Claimants (other than those in DMG 21421) must be willing and able to take up employment of at least 40 hours in any benefit week1. If they are not they are not available.

1 JSA Regs (NI), reg 6(1)

21421 Claimants who restrict the hours for which they are available because1

**1.** they are on short-time (DMG 21324) **or**

**2.** they have caring responsibilities (DMG 21434) **or**

**3.** of their physical or mental disabilities (DMG 21443) **or**

**4.** of their child’s school hours (DMG 21454) **or**

**5.** of a combination of **1.** - **4.**

 must be willing and able to take up employment of less than 40 hours in any benefit week.

 **Note :** The claimant does not have to be willing and able to take up employment for a greater number of hours than they are available for.

1 JSA Regs (NI), reg 6(2)

21422 Specific guidance on

**1.** absences from home and restricted availability is at DMG 21230 - 21233

**2.** caring responsibilities including caring responsibilities for a child, voluntary work, providing a service and restricted availability is at DMG 21295 - 21296

**3.** claimants who are laid off and restricted availability is at DMG 21321 - 21325

**4.** claimants who are on short time and restricted availability is at DMG 21324 - 21330

**5.** permitted periods and restricted availability is at DMG 21386

**6.** part-time study and restricted availability is at DMG 21252

**7.** voluntary work and restricted availability is at DMG 21273 - 21275

**8.** lone parents and a child’s school hours is at DMG 21454.

These paragraphs should be considered when applying DMG 21423 - 21488.

Restricting availability to less than 40 hours in any benefit week

21423 Claimants (other than those in DMG 21324 - 21330, DMG 21434 - 21449 and DMG 21454) are not available if they restrict the total number of hours that they are available for employment, to less than 40 hours in any benefit week1 (but see DMG 21367 - 21368).

1 JSA Regs (NI), reg 7(1)

Restricting availability to 40 hours or more in any benefit week

21424 If claimants restrict the total number of hours of availability in any week to 40 hours or more1

**1.** their pattern of availability must give them reasonable prospects of securing employment **and**

**2.** their pattern of availability must be recorded in their jobseeker’s agreement **and**

**3.** any variations to **2**. must be recorded in a varied jobseeker’s agreement **and**

**4.** their prospects of securing employment must not be reduced considerably by the restriction imposed by their pattern of availability.

**Note :** Credits only claimants can only restrict their hours of availability if they have a jobseeker’s agreement (even though they are not required to have a jobseeker’s agreement in order to get a credit).

1 JSA Regs (NI), reg 7(2)

**Example**

Ryan is available from Thursdays to Saturdays and Mondays to Wednesdays in each benefit week, from midnight to 8.00am on each of those days. These hours are recorded in his jobseeker’s agreement.

He has restricted the type of employment that he is available for to that of a bank clerk.

As there are jobs in telephone banking that are staffed 24 hours a day in the area that Ryan is seeking employment and because jobs occur often, he may have reasonable prospects of securing employment.

But as there is only one employer in the area that offers this type of employment Ryan’s prospects of securing employment are considerably reduced by the restrictions that he has imposed on the hours that he is available.

Ryan is not available.

21425 Claimants are not available for any benefit week during which they

**1.** have, during the benefit week, restricted their availability as in DMG 21424 **and**

**2.** are not available for employment for some part of the benefit week during their pattern of availability **and**

**3.** cannot be treated as available for the benefit week in **1.**

even if they are available for 40 hours or more in that benefit week1.

1 JSA Regs (NI), reg 7(3)

 21426

Nature, rate of pay, locality, terms or conditions of employment

21427 Unless DMG 21428 applies, claimants are not available if they place restrictions, in any week, on the

**1.** nature **or**

**2.** rate of pay **or**

**3.** locality **or**

**4.** conditions, other than in **1.** - **3.**

 of employment that they are available for1.

1 JSA Regs (NI), reg 8

21428 Claimants who place restrictions on their availability as in DMG 21427 are available

**1.** if the claimant shows reasonable prospects of securing employment despite the restrictions1 **or**

**2.** where the restrictions are reasonable in view of the claimant’s physical or mental condition2 **or**

**3.** for up to 13 weeks (DMG 21386 - 21412) where the claimant is available only

**3.1** in the claimant’s usual occupation **or**

**3.2** at a level of pay not lower than that which the claimant is used to receiving **or**

**3.3** both **3.1** and **3.2**3.

1 JSA Regs (NI), reg 8 & 13(2); 2 reg 13(3); 3 reg 16

21429 It is for the decision maker to prove that claimants have placed restrictions. It is then for claimants to prove that one of the conditions in DMG 21428 is satisfied.

Restrictions on pay

21430  Claimants cannot restrict their availability by placing restrictions on the level of pay they are prepared to accept after the end of the 6 month period beginning with their date of claim1. If claimants do restrict their availability in this way after the 6 month period they are not available unless the restriction relates to pay that is not higher than the national minimum wage that applies to them.

 **Note 1 :** A claimant can impose restrictions on pay beyond a period of 6 months if those restrictions are reasonable in light of the claimant's physical or mental condition.

 **Note 2 :** Claimants for whom the National Minimum Wage applies can restrict their availability on pay by insisting that they will only accept the minimum wage that applies to them.

1 JSA Regs (NI), reg 13(3)

**Example**

Susan suffers from multiple sclerosis and rents a bungalow from the local council which has been specifically adapted for her. She uses a wheelchair and can only travel by taxi.

She was made redundant from her job as a wages clerk 7 months ago and claimed Jobseeker’s Allowance.

She asked for a wage of £200 per week, explaining that she got this amount in her last job and needs at least that to pay her rent for her specially adapted bungalow and taxi fares to and from work in the area she had agreed she was looking for work in.

Even though she claimed Jobseeker’s Allowance more than 6 months ago, Susan is allowed to restrict her availability to jobs paying £200 a week or more than that because that amount is reasonable in view of her physical condition.

Nature, rate of pay, locality, terms or conditions of employment and other restrictions

21431 Where a claimant wishes to apply more than one restriction of the kind listed in DMG 21427 (which is not health related - in relation to which see DMG 21443 and DMG 21449), they must show that they have reasonable prospects of obtaining employment with **all** of their restrictions1.

1 JSA Regs (NI), reg 8

Claimants available at certain times

21432 Where claimants are only available for employment at certain times, they do not have to be able to take up employment at a time outside their pattern of availability. But they must be willing and able to take up any employment as soon as they are available1.

1 JSA Regs (NI), reg 5(4)

**Example**

Anna is available for employment from Thursdays to Saturdays and Mondays to Wednesdays in each benefit week and from 8.00am to 5.00pm each of those days. These hours are recorded in her jobseeker’s agreement.

Anna does not have to be able to take up employment

**1.** before 8.00am on each of those days **or**

**2.** after 5.00pm on each of those days **or**

**3.** on Sundays.

But Anna must be willing and able to take up any employment during the hours she is available.

21433 Where claimants are not required to be able to take up any employment at once the periods of time referred to in DMG 21265, 21270 and 21276 include periods when they are not available in accordance with their pattern of availability1.

1 JSA Regs (NI), reg 5(5)

**Example**

Helen is available for employment from Thursdays to Mondays in each benefit week and for 8 hours on each of those days, as agreed in her pattern of availability. She does not have to be able and willing to take up employment on Tuesdays and Wednesdays.

Helen also does voluntary work on Tuesdays.

On a Tuesday she is notified of an interview for employment on Thursday.

Tuesday and Wednesday is included when deciding whether Helen is available on being given 48 hours notice.

Claimants with caring responsibilities

21434 Claimants who have caring responsibilities can restrict the number of hours that they are available to less than 40 hours in any benefit week1 if

**1.** they are available for

**1.1** employment, for as many hours as their caring responsibilities allow **and**

**1.2** the specific hours that their caring responsibilities allow **and**

**2.** they have reasonable prospects of securing employment despite that restriction (but see DMG 21437 where the claimant is caring for a child) **and**

**3.** they are available for employment for at least 16 hours per benefit week.

 Also see DMG 21368.

1 JSA Regs (NI), reg 13(4)

21435 In deciding whether or not claimants satisfy DMG 21434 **1.** the decision maker should consider all available evidence. But the decision maker should give more weight to

**1.** the hours and days spent in caring **and**

**2.** whether the caring responsibilities are shared with another person **and**

**3.** the age, and physical and mental condition of the person being cared for1.

1 JSA Regs (NI), reg 13(5)

21436 Claimants with caring responsibilities should ask about and make use of any facilities such as

**1.** day nurseries **or**

**2.** child care schemes **or**

**3.** home helps **or**

**4.** school meals **or**

**5.** help of friends or relatives.

Caring responsibilities for a child

21437 A claimant who has caring responsibilities for a child does not have to have reasonable prospects of securing employment if an Employment Officer decides that due to the

 **1.** type of employment vacancies **and**

 **2.** number of employment vacancies

 within daily travelling distance of the claimant’s home, the claimant would not satisfy the requirement to have reasonable prospects1.

1 JSA Regs (NI), reg 13(4), (6) & (7)

21438 Where the Employment Officer decides that a claimant who has caring responsibilities for a child does not have to satisfy the requirement to have reasonable prospects of securing employment the claimant must1 still be

 **1.** available for

 **1.1** employment, for as many hours as their caring responsibilities allow **and**

 **1.2** the specific hours that their caring responsibilities allow **and**

 **2.** available for employment for at least 16 hours per benefit week.

1 JSA Regs (NI), reg 13(4)(a), (c), (6) & (7)

 **Example**

 Sharon has a son and lives in a remote rural area. She doesn’t drive and the number of employment vacancies available locally is extremely limited for a person of her skills and experience. The Employment Officer agrees that Sharon does not need to show that she has reasonable prospects of securing employment. However, Sharon still has to satisfy the Employment Officer that she is available for employment of at least 16 hours a week where her caring responsibilities allow. If Sharon cannot show this then she will not satisfy the condition of entitlement for Jobseeker’s Allowance to be available for employment.

Caring responsibilities and other restrictions

21439 If claimants place restrictions on their availability

**1.** some of which are connected to their caring responsibilities under DMG 21434 **and**

**2.** some of which are not connected to those responsibilities

 they must show that they have reasonable prospects of obtaining employment with **all** of their restrictions1.

1 JSA Regs (NI), reg 8

**Example**

A woman is only available on Fridays and from Mondays to Thursdays in each benefit week and from 10.00am to 12.00pm and 1.00pm to 3.30pm on each of those days. This is because she has to care for a child.

She also says the she will only work for £250 a week. She has no child care costs because her mother will care for the child for free. The restriction on wages is not connected to her caring responsibilities.

The decision maker should decide whether she has reasonable prospects of obtaining employment

**1.** working those hours **and**

**2.** for that wage.

21440

Community orders, fine payment work, supervised activity orders and anti-social behaviour orders

21441 For claimants with community orders, fine payment work, supervised activity orders or anti-social behaviour orders the decision maker must consider restricted availability as with any case. The restriction may be on the type of jobs and pay they want, the area they are willing to work in, and the day and time they are prepared to work. In addition the decision maker should have regard to the hours and days the orders etc would allow claimants to work outside their homes and any possibility of homeworking. See also DMG 21198 - 21207.

 **Example**

 John is sentenced by the courts and given a curfew order that requires him to stay in his house between the hours of 0700 to 1000 and 1500 to 1800 Monday to Friday school term-time only. He fills in his availability form to say that he is available for all hours and all days. The decision maker applies the restricted availability rules noting that the claimant is not available for the times in his curfew order for anything other than homeworking.

21442 The decision maker should consider any evidence available about the possibility of being able to vary orders etc. and how quickly this could happen.

 **Example**

 Helen is released from prison early subject to a home detention curfew. Under the curfew she has to be home between 7pm and 7am every day. Helen says that she is looking for any unskilled factory, hotel or bar work in her local area. The Employment Officer discusses her availability with her and points out she would not be able to get hotel or bar work if she is not able to work evenings, and that local factories mainly require workers to work a shift system which would require her to work certain nights until 8pm.

 Helen says that she can contact the prison and ask them to vary the curfew times, but that she does not know how quickly they will reply.

 She is treated as available for one week starting with the date of discharge. The decision maker makes a decision on restricted availability on the terms of the curfew as they are.

Physical or mental condition

21443 Claimants may restrict their availability in any way if the restrictions are reasonable in light of their physical or mental condition1. Claimants who restrict their availability in this way do not have to show that they have reasonable prospects of obtaining employment with the restriction. Physical or mental condition means some personal disability2.

 **Note :** Being in prison or police custody is not a physical or mental condition2.

1 JSA Regs (NI), reg 13(3); 2 R(JSA) 3/01

Evidence

21444 Decision makers can obtain medical evidence if they do not have enough evidence to decide if the restrictions are reasonable because of the claimant’s physical or mental condition.

21445 Decision makers may obtain evidence from the claimant's General Practitioner if they have the claimant's permission. But as claimants may have to pay for their General Practitioner to give a statement this should be considered only if sufficient evidence cannot be obtained from other sources.

 **Note :** A General Practitioner’s evidence is likely to be about the precise medical nature of the claimant’s condition. As the decision maker is considering how the disability affects the claimant’s ability to work the General Practitioner should be asked for an opinion on this as well.

21446 If a claimant has been assessed by a Medical Support Services doctor for Incapacity Benefit or Employment and Support Allowance purposes the decision maker may consider any reports produced by the Medical Support Services doctor. But the decision maker should have the claimant’s permission before approaching the doctor.

21447 Decision makers may request the views of the Disability Employment Advisors within the Department for Employment and Learning. If a request is made the decision maker should be provided with as much information about the claimant’s condition as possible.

 21448

Disabilities and other restrictions

21449 If claimants place restrictions on their availability

**1.** some of which are connected with their physical or mental disabilities under DMG 21443 **and**

**2.** some of which are not connected with those disabilities

 they must show that they have reasonable prospects of obtaining employment with **all** of their restrictions1.

1 JSA Regs (NI), reg 8

**Example 1**

Frank says that due to his disability he can only work for 2 days in each benefit week. He also says that he will not work for a wage of less than £300 a week.

Frank’s restriction on wages is not connected to his disability.

The decision maker should decide whether Frank has reasonable prospects of obtaining employment

**1.** for 2 days in each benefit week **and**

**2.** that pays £300 a week.

**Example 2**

Edith says that her disability limits the types of work that she can do.

She also says that she needs a high wage to pay for the medical treatment (lotions and bandages) that she needs because of her disability.

Edith also places restrictions on the areas that she will work in. As she is able to travel this restriction is not connected with her disability.

The decision maker should decide whether Edith has reasonable prospects of obtaining employment

**1.** of the type that she can do **and**

**2.** that pays the wage that she needs **and**

**3.** in the locations that she is willing to work in.

 21450

Religious beliefs and conscientious objections

21451 Claimants can place restrictions on the nature of the employment that they are available for because of a sincerely held

**1.** religious belief **or**

**2.** conscientious objection

 if they can show that they have reasonable prospects of obtaining employment with those restrictions1.

1 JSA Regs (NI), reg 13(2)

**Example 1**

Miriam may restrict her availability to exclude the Jewish Sabbath (or Shabhat) due to her sincerely held religious beliefs. This means that she is not required to be available for employment from sunset on Friday and all day Saturday.

Miriam is available for the purposes of Jobseeker’s Allowance if she can show that she has reasonable prospects of obtaining employment with that restriction.

**Example 2**

Claimants who have a conscientious objection against live animal exports, may restrict the type of employment that they are available for to exclude

**1.** types of employment **or**

**2.** companies

that are associated with live animal exports. They are available if they can show that they have reasonable prospects of obtaining employment with that restriction.

21452 DMG 21475 et seq provides guidance on the factors that have to be taken into account when deciding if a claimant has reasonable prospects of obtaining employment.

Religious beliefs, conscientious objections and other restrictions

21453 If claimants place restrictions on their availability

**1.** some of which are connected to their religious beliefs or conscientious objections under DMG 21451 **and**

**2.** some of which are not connected to those beliefs or objections

 they must show that they have reasonable prospects of obtaining employment with **all** of their restrictions1.

1 JSA Regs (NI), reg 8 & 13(2)

**Example**

Linda has a conscientious objection against live animal exports.

She will not work in any type of employment or for any company that is connected to live animal exports.

Linda also says that she will only work in one location. This restriction is not connected to her conscientious objection.

The decision maker should determine whether Linda has reasonable prospects of obtaining employment with the restrictions on the

**1.** type of employment she will accept **and**

**2.** companies she will work for **and**

**3.** location that she is willing to work in.

Lone parents and school hours

21454 A lone parent who in any week is

 **1.** responsible for a child aged under 13 **and**

 **2.** a member of the same household as the child

 may restrict their availability for employment to the child’s normal school hours1. The right to restrict availability in this way only applies whilst the child is at school and does not carry over into the school holidays.

 **Note :** DMG Chapter 22 provides guidance on when a person is regarded as being responsible for a child and on membership of the household.

1 JSA Regs (NI), reg 13A

21455 Where the claimant is only available for employment for the child’s normal school hours, they do not have to be able to take up employment at a time outside of their pattern of availability. However they must be willing and able to take up any employment as soon as they are available1.

1 JSA Regs (NI), reg 5(4)

 **Example**

 Debbie is a lone parent with a son called William who is 9 years old. She has told the Employment Officer that she is available for employment on Mondays to Fridays from 9.00 am to 4.00 pm on each of those days during William’s school terms. These hours are recorded on her jobseeker’s agreement.

 Debbie does not have to be available to take up employment

 **1.** before 9.00 am on each of those days **or**

 **2.** after 4.00 pm on each of those days **or**

 **3.** at weekends

 during William’s school terms. But she must be willing and able to take up any employment during the hours she is available.

21456 DMG 21352 provides guidance on when a claimant can be treated as available whilst looking after a child for whom they are responsible for during the child’s school holidays or a vacation similar to a school holiday1. Decision makers should consider this rule when considering a claimant’s availability outside of term-time where restrictions have been placed on the claimant’s availability in accordance with DMG 21454.

1 JSA Regs (NI), reg 14(1)(t)

Lone parents and other restrictions on availability

21457 If claimants place restrictions on their availability

 **1.** some of which are connected to their caring responsibilities for a child **and**

 **2.** some of which are not connected to those responsibilities

 they must show that they have reasonable prospects of obtaining employment with all of their restrictions1.

1 JSA Regs (NI), reg 8

 21458 - 21459

Young people

21460 A young person is required to be available as in DMG 21180 - 21453 and DMG 21467 - 21488. But young people may restrict their availability for employment to employment where suitable training is provided by the employer1, if

**1.** they are not laid off or on short-time2 **and**

**2.** they have not accepted a firm offer of enlistment in the armed forces to start within 8 weeks as in DMG Chapter 303 **and**

**3.** their Jobseeker’s Allowance has not been reduced by the Department under a severe hardship direction4 or by the decision maker because of a sanction5 because the young person has

**3.1** given up a place on a training scheme or employment programme without good cause6 **or**

**3.2** failed to attend a place on a training scheme or employment programme without good cause7 **or**

**3.3** refused a place on a training scheme or employment programme without good cause8 **or**

**3.4** neglected a reasonable opportunity of a place on a training scheme or employment programme without good cause9 **or**

**3.5** lost a place on a training scheme or employment programme through misconduct10 **or**

**3.6** refused employment without good cause11 **or**

**3.7** neglected a reasonable opportunity of employment without good cause12 **and**

**4.** they have not been sanctioned for

**4.1** leaving employment voluntarily13 **or**

**4.2** losing employment through misconduct14.

1 JSA Regs (NI), reg 64(2); 2 reg 61(1)(a); 3 reg 61(1)(f); 4 reg 63;
5 reg 68; 6 JS (NI) Order 95, art 21(5)(b)(iii); 7 art 21(5)(b)(iv); 8 art 21(5)(b)(ii);
9 art 21(5)(b)(i); 10 art 21(5)(c); 11 art 21(6)(c); 12 art 21(6)(d);
13 art 21(6)(b); 14 art 21(6)(a)

21461 Young people who satisfy DMG 21460 do not have to show that they have reasonable prospects of securing employment with those restrictions1.

1 JSA Regs (NI), reg 64(3)

21462 Suitable training1 is training that is suitable for young people taking into account

**1.** their personal capacity, for example, to learn, to concentrate **and**

**2.** their ability or potential to acquire particular skills **and**

**3.** their preference **and**

**4.** the preference of the training provider **and**

**5.** the level of approved qualification aimed for **and**

**6.** duration of the training **and**

**7.** how near the training is to the claimant’s home **and**

**8.** whether training can be made available to the claimant quickly.

1 JSA Regs (NI), reg 57(1)

 21463 - 21466

Whether restrictions imposed

21467 The decision maker must show that claimants are placing restrictions on the

**1.** nature **or**

**2.** conditions

 of employment they are prepared to accept. Restrictions are the conditions claimants insist on, not their preferences or desires.

21468 Before deciding that claimants are not available the decision maker should be satisfied that

**1.** they have been advised that they are placing restrictions **and**

**2.** they have been advised of the possible consequences of placing those restrictions **and**

**3.** the evidence of the claimant’s restrictions is up to date.

21469 If claimants have not placed any restrictions but are unlikely to find employment due to some personal factor their lack of prospects is not due to a restriction imposed by them.

**Example**

Claimants may be unlikely to find employment due to illiteracy or a criminal record.

21470 Claimants falling under DMG 21469 may also place restrictions on the nature and conditions of employment that they are willing to accept. If this is the case the decision maker should take into account any personal factors when deciding

**1.** whether they have a reasonable prospect of employment **and**

**2.** if not, whether they fall within DMG 21428 **2.** and **3.**.

 21471 - 21474

Reasonable prospects of securing employment

21475 It is for claimants who have placed restrictions to show that they have reasonable prospects of securing employment1. Claimants who cannot show that they have reasonable prospects of securing employment, are only available if they fall under DMG 21386, 21443 or 21460.

1 JSA Regs (NI), reg 10(2)

21476 Securing employment means obtaining a reasonable amount of regular employment. What is reasonable will differ from claimant to claimant depending on their restrictions and circumstances.

21477 Many claimants are only willing to accept employment within daily travelling distance of their home. Claimants who cannot show that they have reasonable prospects of obtaining employment with this restriction on the location in which they will work must be willing to consider jobs outside their home area. If not the decision maker should decide that the claimant

**1.** does not have reasonable prospects of securing employment **and**

**2.** is not available.

 21478

Factors to take into account

21479 The decision maker should consider all available evidence. But the decision maker should give more weight to1

**1.** the claimants skills, qualifications and experience **and**

**2.** the type and number of vacancies within daily travelling distance of the claimant’s home **and**

**3.** the length of time that the claimant has been unemployed **and**

**4.** the job applications that the claimant has made and the outcome **and**

**5.** whether the claimant is able and willing to

 **5.1** move home to take up employment **or**

 **5.2** work from home **or**

 **5.3** live at home but work away during the week.

**Note :** Homeworking has to be employed earner’s employment.

1 JSA Regs (NI), reg 10(1)

21480 DMG 21479 **5.** only applies where claimants are placing restrictions on the nature of the employment that they are willing to accept (but see DMG 21477)1.

1 JSA Regs (NI), reg 10(1)(e)

21481 Claimants will have difficulty showing that they have reasonable prospects of securing employment if they

**1.** have been unemployed for several months **and**

**2.** have not found employment in that time within their restrictions.

 The fact that they have not found such employment is strong evidence that they do not have reasonable prospects of obtaining it. However this is only one factor and is not determinative on its own. It has to be considered along with other factors.

21482 Examples of situations where a long period of unemployment does not necessarily show that claimants do not have reasonable prospects are

**1.** where they have only just claimed Jobseeker’s Allowance and started looking for work **or**

**2.** where there has been a recent increase in the number of vacancies within their restrictions due to a large employer moving into the area.

 21483

Evidence

21484 Evidence of claimants’ prospects of employment will usually be provided by

**1.** officers of the Jobs and Benefits Office, based on their knowledge of the labour market **and**

**2.** claimants themselves.

21485 As the Jobs and Benefits Office are not told of most jobs the decision maker cannot decide against claimants only on the number of vacancies that

**1.** fit their restrictions **and**

**2.** are notified to the Jobs and Benefits Office.

21486 If the decision maker knows of evidence as to claimants' prospects other than evidence provided by

**1.** the Jobs and Benefits Office **or**

**2.** claimants themselves

 the decision maker should take it into account. If the decision maker does this, a note of the evidence should be attached to the papers. This should include any relevant documents, if the evidence was in writing, so that it is clear where it came from.

21487 Any available evidence that suggests that a claimant’s prospects are better or worse than those of others who are seeking employment is relevant.

21488 Evidence that claimants have reasonable prospects can include the fact that they have been employed, in the past, with the same restrictions, unless there is other evidence to the contrary. Evidence to the contrary may exist if, for example

**1.** the labour market situation has changed so that employment within those restrictions is less widely available **or**

**2.** where previous spells of employment with those restrictions were with the only employer who provides that type of employment **or**

**3.** it is so long since they were last employed with those restrictions that their ability to do that work has been, or may be, impaired.

 21489 - 21519

Actively seeking employment

21520 The guidance on actively seeking employment in DMG 21522 - 21791 applies only to Jobseeker’s Allowance and not Income Support. See DMG Chapter 14 for guidance on actively seeking employment in relation to New Deal.

 21521

Definitions

21522 The definitions in DMG 21523 - 21561 apply whenever the words or phrases are used in DMG 21523 - 21785.

Charity

21523 A charity is an organisation set up for charitable purposes for the good of the general public that helps and is available to a large enough section of the community.

Child

21524 A child is a person under the age of 161.

1 JS (NI) Order 95, art 2(2)

Couple

21525 A couple means two people who are1

 **1.** married and are members of the same household (this includes each of the couples in a polygamous marriage) **or**

 **2.** living together as husband and wife (see DMG Chapter 11) **or**

 **3.** civil partners of each other and are members of the same household **or**

 **4.** not civil partners of each other but are living together as civil partners.

 **Note :** Two people should be regarded as living together as civil partners if they would be regarded as living together as husband and wife if they were two people of the opposite sex2.

1 JS (NI) Order 95, art 2(2); JSA Regs (NI), reg 1(2); 2 JSA Regs (NI), reg 1(2)

Date of claim

21526 The date of claim is the date that the claimant

**1.** makes **or**

**2.** is treated as making (see DMG Chapter 2)

 a claim for Jobseeker’s Allowance1.

1 JSA Regs (NI), reg 1(2); SS (C&P) Regs (NI), reg 6

 21527

Employment

21528 Employment is employed earner’s (see DMG Chapter 26) employment1.

1 JSA Regs (NI), reg 4

Employment agency

21529 An employment agency1 is an agency that provides a service of

 **1.** finding workers employment with employers **or**

 **2.** supplying employers with workers.

These workers are employed by the employers2.

1 JSA Regs (NI), reg 18(5); 2 E & T Act (NI) 50, sec 1; Dis P (E) Act (NI) 45, sec 2&3

21530 The decision maker should ask the employment agency for confirmation if there is doubt as to whether an agency is an employment agency.

Employment business

21531 An employment business1 is a business that supplies people, who are employed by the business to act for, work for and are under the control of the people they are supplied to2.

1 JSA Regs (NI), reg 18(5); 2 E & T Act (NI) 50, sec 1; Dis P (E) Act (NI) 45, sec 2&3

21532 The decision maker should ask the employment business for confirmation if there is doubt as to whether a business is an employment business.

 21533 - 21534

Employment officer

21535 An employment officer is an officer of the Department. Officers of the Department for Employment and Learning have also been designated as employment officers1.

1 JSA Regs (NI), reg 4; JS (NI) Order 95, art 11(13)

Employment or training programme

21536 Employment or training programme means1 a course or programme where the person attends under arrangements set up under certain legislation by the Department2. The course or programme must be to help people to select, train for, obtain or retain employment.

1 JSA Regs (NI), reg 18(5); reg 19(3); 2 E & T Act (NI) 50, sec 1 & Dis P (E) Act (NI) 45

Employment related course

21537 An employment-related course is1 a course to assist the person to gain or enhance skills needed for

**1.** employment **or**

**2.** seeking employment **or**

**3.** a particular occupation.

1 JSA Regs (NI), reg 1(2)

Engaged in emergency duties

21538 A person is engaged in emergency duties for the benefit of others1 while

**1.** giving help to anyone

**1.1** whose life may be in danger **or**

**1.2** who may be exposed to the risk of serious injury **or**

**1.3** whose health may be seriously damaged **or**

**2.** protecting property of substantial value from imminent risk of serious damage or destruction **or**

**3.** helping to prevent a serious threat to people’s health

 as a member of a group of people organised wholly or partly to provide such help or protection.

1 JSA Regs (NI), reg 22(a)

21539 Events that may give rise to an emergency include1

**1.** a fire, flood or explosion

**2.** a natural catastrophe

**3.** a railway or other transport accident

**4.** a cave or mountain accident

**5.** an accident at sea

**6.** a person being reported missing and the organisation of a search for that person.

1 JSA Regs (NI), reg 22(b)

 21540 - 21542

Outward Bound course

21543 An Outward Bound course is1 any course or programme for personal development that is made available

**1.** by the Outward Bound Trust Limited **and**

**2.** to people who are not in employment.

1 JSA Regs (NI), reg 4

Partner

21544 A partner is1

 **1.** the other member of a couple **or**

 **2.** if the claimant is married polygamously to

 **2.1**  two **or**

 **2.2**  more than two

 members of the claimant's household (see DMG Chapter 22) any such member.

1 JSA (Regs (NI) reg 1(3)

Part-time member of a fire brigade

21545 A part-time member of a fire brigade is1 a person who is a part-time member of a fire brigade maintained under relevant legislation2.

1 JSA Regs (NI), reg 4; 2 Fire Services (NI) Order, 84

Person who is kept on short-time

21546 A person who is kept on short-time is a person whose hours of employment have been reduced due to temporary adverse industrial conditions1.

1 JSA (NI) Regs, reg 4

Person who is laid off

21547 A person who is laid off is a person whose employment has been suspended due to temporary adverse industrial conditions1.

1 JSA (NI) Regs, reg 4

Temporary

21548 The principles in DMG 070853 et seq should be applied when deciding if something is temporary.

Temporary adverse industrial conditions

21549 Temporary adverse industrial conditions only apply if claimants' employers

 **1.** have recently

 **1.1**  reduced working **or**

 **1.2**  closed down and

 **2.** are expected to resume working at some point in the foreseeable future.

21550 Decision makers should not accept temporary adverse industrial conditions as the reasons for claimants being laid off or on short-time if their employer has permanently

 **1.** reduced working **or**

 **2.** closed down.

21551 Customary slackness at particular times of the year is not temporary adverse industrial conditions1.

1 R(U) 3/59

Temporarily absent from Northern Ireland

21552 Guidance on temporary absence from Northern Ireland is at DMG 070853 et seq.

Temporarily absent from UK

21553 The principles in DMG 070853 et seq should be applied when deciding if someone is temporarily absent from the UK.

Training allowance

21554 A training allowance is1 an allowance payable

**1.** out of public funds by

**1.1** a government department **or**

**1.2** by or on behalf of the Department for Employment and Learning

**2.** to people for

**2.1** their maintenance **or**

**2.2** a member of their family (see DMG Chapter 22) **and**

**3.** for the period, or part of the period, that they are taking part in a course of training or instruction

**3.1** provided by, or under arrangements made with, that department **or**

**3.2** approved by that department in relation to the person **or**

**3.3** so provided or approved by or on behalf of the Department for Employment and Learning.

 But it does not include an allowance paid by any government department to, or for, people that are following a course of full-time education, which is not arranged under relevant legislation2 or who are training as a teacher.

1 JSA Regs (NI), reg 1(2); 2 E & T Act (NI) 50, sec 1(1) & Dis P (E) Act (NI) 45, sec 2&3

 21555 - 21556

Voluntary work

21557 Voluntary work is1

**1.** work

**1.1** for an organisation whose activities are not carried out for profit **or**

**1.2** other than for a member of the claimant's family (see DMG Chapter 22) **and**

**2.** work for which the claimant gets

**2.1** no payment **or**

**2.2** only a payment for expenses that were reasonable for doing the voluntary work.

1 JSA Regs (NI), reg 4

21558 Voluntary work may include work experience as long as DMG 21557 is satisfied.

Week

21559 A week1 is a period of 7 days ending with the day determined by the last 2 digits of the claimant’s National Insurance number as shown in the following table unless the Department arranges otherwise.

 National Insurance number Pay day

 00 - 19 Monday

 20 - 39 Tuesday

 40 - 59 Wednesday

 60 - 79 Thursday

 80 - 99 Friday

1 JSA Regs (NI), reg 1(2)

 21560

Young person

21561 Young person has the same meaning as in DMG Chapter 221 except in DMG 21680 - 21689 when a young person2 is a person

**1.** who has reached the age of 16 but not the age of 18 **and**

**2.** who

**2.1** does not satisfy the contribution conditions for contribution-based Jobseeker’s Allowance (DMG 21060 - 21082) **or**

**2.2** has had their full entitlement to contribution-based Jobseeker’s Allowance (DMG 21088 - 21106) **and**

**3.** who is not a person leaving care (see DMG 30517 et seq).

1 JSA Regs (NI), reg 1(2) & 76; 2 reg 57(1)

 21562 - 21570

Actively seeking employment

General

21571 Claimants are not entitled to Jobseeker’s Allowance unless in any week

 **1.** they are or can be treated as actively seeking employment1 **or**

 **2.** they are the member of a joint claim to Jobseeker’s Allowance couple exempt from having to actively seek employment2.

 Hardship payments may be made in certain circumstances.

1 JS (NI) Order 95, art 3(2)(c) and 3(2B)(b); 2 JSA (Joint Claims) Regs (NI), reg 3D(I)(c)(iii) & Sch A1

21572 To be actively seeking employment claimants must, in that week, take those steps that they can reasonably be expected to take to give them the best chance of getting employment1. (DMG 21616 - 21628)

1 JS (NI) Order 95, art 9(1)

21573 Details of what the claimant has agreed to do to satisfy the actively seeking employment test will be in the claimant’s jobseeker’s agreement. But claimants must in each week take the steps that give them their best chance of getting employment and this might not always be the same as the steps agreed in the jobseeker’s agreement.

21574 Decision makers should decide

**1.** what steps it is reasonable for claimants to be expected to take that offer them their best chance of getting employment **and**

**2.** whether the claimant took those steps **and**

**3.** whether the claimant is to be treated as actively seeking employment.

Period from the date of claim

21575 Where the date of claim is not the first day of a week, claimants are actively seeking employment for the period from the date of claim to the end of the first week if they take, in that period, those steps that they can reasonably be expected to take to give them the best chance of getting employment (DMG 21616 - 21628)1. This does not apply where claimants were previously incapable of work and are treated as actively seeking employment in accordance with DMG 21714, or are persons recently discharged from detention and treated as actively seeking employment in accordance with DMG 21722.

1 JSA Regs (NI), reg 18A(1) & (2)

21576 The steps it is reasonable for a claimant to take include those listed at DMG 216061. The decision maker should follow the guidance at DMG 21607 - 21611. The decision maker should consider all the circumstances of the case, including the points at DMG 216342, and follow the guidance at DMG 21638 - 21666.

1 JSA Regs (NI), reg 18A(2)(a); 2 reg 18A(2)(b)

 21577

Extent of decision maker’s determination where other issues arise

21578 A decision maker may be asked to determine

**1.** whether a claimant is actively seeking employment **and**

**2.** another question, normally availability.

 The decision maker should determine both issues.

 21579 - 21583

Relationship to availability and capability

21584 Actively seeking employment depends on claimants’ activity in looking for work. Availability for employment depends largely on claimants’ intentions and attitude towards taking work. Claimants may be able to satisfy one of these but not the other. For example

**1.** there may be no doubt that claimants are able and willing to take employment at once if they

**1.1** are offered work **and**

**1.2** have taken some steps to draw their availability to the attention of those who may be able to help them find employment.

But the extent of their efforts to find work may not satisfy the actively seeking employment test

**2.** although claimants are taking the steps that are reasonable for a person to be expected to take and satisfy the actively seeking employment test it may be clear that they are not available to start work

**2.1** at once **or**

**2.2** with 24 hours notice if DMG 21276 applies **or**

**2.3** with 48 hours notice if DMG 21273 applies

 for example due to some short-term commitment they are unable or unwilling to leave.

21585 Claimants may be treated, for a particular set of circumstances, as

**1.** actively seeking employment but not available for employment **or**

**2.** available for employment but not actively seeking employment.

21586 Exceptionally when considering actively seeking employment a doubt may arise as to whether the claimant is capable of work.

21587 - 21589

Evidence

21590 Where there is a doubt about whether claimants are actively seeking employment, the case will usually be referred to the decision maker with

**1.** a copy of the jobseeker’s agreement **and**

**2.** details of any other steps to seek work that an Employment Officer suggested the claimant take in the week or weeks in question **and**

**3.** a copy of any direction on a jobseeker’s agreement that has been given by the decision maker **and**

**4.** evidence of what steps the claimant took to seek work in those weeks **and**

**5.** evidence of what steps the claimant took in previous weeks **and**

**6.** evidence of any advice about seeking work that the employment officer had previously given the claimant.

21591 The decision maker does not have to accept that the steps suggested by the employment officer are those that claimants can reasonably be expected to take to give them their best chance of getting employment. For example, the decision maker may have, or obtain, other evidence that suggests

**1.** it was not reasonable to expect the claimant to take the steps listed by the employment officer and that those steps did not offer the claimant their best chance of getting employment **or**

**2.** it would have been reasonable to expect the claimant to take other steps (whether or not claimants took them) and that they offered the claimant their best chance of getting employment.

 But in the absence of such evidence, the decision maker should accept that the steps suggested by the employment officer were reasonable and offered claimants their best chance of getting employment.

21592 Evidence of job search includes

**1.** evidence in writing from employers, employment agencies or other bodies that the claimant has contacted **or**

**2.** copies of letters that the claimant has sent to employers **or**

**3.** the claimant’s uncorroborated written evidence (claimants are advised to keep a record of their job search and other efforts to find work) **or**

**4.** the claimant’s own verbal evidence, recorded by an officer of the Department.

21593 Corroboration of claimants evidence is not essential (Chapter 3). Decision makers should note that

**1.** claimants will not always be able to obtain corroborative evidence if they state that they have

**1.1** “asked around” **or**

**1.2** applied for jobs that are normally advertised and filled by word of mouth **and**

**2.** employers do not always reply to written enquiries.

21594 If the decision maker has reason to doubt whether claimants contacted certain employers or agencies those employers or agencies may be asked whether they

**1.** keep a record of enquiries by jobseekers **and**

**2.** are able to confirm that a particular person approached them for employment.

 But such enquiries should only be necessary if the evidence before the decision maker is inconsistent or seems unlikely.

 21595

Proof

21596 Before deciding whether the claimant was actively seeking employment in any week the decision maker

**1.** must decide what the claimant did in that week to seek work **and**

**2.** may also have to decide what they did to seek work in previous weeks (DMG 21644 - 21646).

 The onus is on the claimant to show what steps have been taken1.

1 JSA Regs (NI), reg 24(1)

21597 Deciding whether claimants were actively seeking employment in any week requires a comparison between

**1.** what they in fact did to seek work in that week **and**

**2.** what the law required them to do.

21598 - 21599

Steps to seek employment

21600 The steps claimants are expected to take in any week are those steps that

**1.** they can **reasonably** be expected to have to take **and**

**2.** offer them their **best chance** of getting employment1.

1 JS (NI) Order 95, art 9(1)

21601 In order to have the best chance of getting employment claimants are expected to have to take more than two steps in any week unless taking one or two steps is all that it is reasonable for them to do in that week1.

1 JSA Regs (NI), reg 18(1)

21602 There is no “magic number” of steps which would insulate a claimant from an argument that they are not actively seeking employment. The overriding test is whether the claimant, in the week in question, took such steps as could be reasonably be expected to be taken in order to have the best prospects of securing employment. A claimant can be held to have failed that test even if they took three steps in any given week.

21603 Legislation provides

**1.** examples of steps to seek employment1 **and**

**2.** circumstances that the decision maker should take into account in deciding whether claimants have taken the steps that they can reasonably be expected to take to give them their best chance of getting employment2.

1 JS (NI) Order 95, art 9(2)(a); JSA Regs (NI), reg 18(2)
2 JS (NI) Order 95, art 9(2)(b); JSA Regs (NI), reg 18(3)

 21604 - 21605

Steps

21606 Steps include1

**1.** verbal or written applications for employment to persons who

**1.1** have advertised job vacancies **or**

**1.2** who appear to be able to offer employment **and**

**2.** looking for information on job vacancies

**2.1** in advertisements **or**

**2.2** from people who have placed advertisements indicating employment is available **or**

**2.3** from employment agencies and employment businesses **or**

**2.4** from employers **and**

**3.** registering with an employment agency or employment business **and**

**4.** appointing someone else to help the claimant find employment **and**

**5.** seeking specialist advice, having been referred by an employment officer, on how to improve the claimant’s chances of getting employment, taking into account the claimant’s

**5.1** needs **and**

**5.2** mental or physical limitations **and**

**6.** drawing up a curriculum vitae **and**

**7.** seeking a reference or testimonial from a previous employer **and**

**8.** drawing up a list of employers who may be able to offer employment with a view to seeking information from them on possible job vacancies **and**

**9.** seeking information about employers who may be able to offer employment to the claimant **and**

**10.** seeking information on an occupation with a view to getting employment in that occupation.

1 JS (NI) Order 95, art 9(2)(a); JSA Regs (NI), reg 18(2)

21607 Any other steps can be taken into account providing they give claimants their best chance of getting offers of employment.

21608 Steps that could give rise to offers only of self-employment cannot be regarded as steps to seek employment, unless the claimant is within the permitted period.

21609 Steps that could give rise to offers only of training cannot be regarded as steps to seek employment. But taking steps to join certain courses or programmes should be taken into account when deciding what steps to seek employment it was reasonable to expect the claimant to take (DMG 21634 **9**).

21610 A step that would otherwise count as a step does not count if, in taking the step

 **1.** the claimant acts in a violent or abusive manner **or**

**2.**the act is the completion of an application for an employment and the claimant spoils the application **or**

**3.** the claimant's behaviour or appearance undermines their chances of getting the employment in question

 unless this was due to circumstances beyond their control1.

1 JS (NI) Order 95, art 9(3); JSA Regs (NI), reg 18(4)

21611 A step such as

**1.** reading the situations vacant pages in newspapers or magazines **or**

**2.** visiting the local Jobs and Benefits Office and reading the advertisements displayed there **or**

**3.** registering with an employment agency **or**

**4.** writing to an employer **or**

**5.** applying for a particular vacancy

 all amount individually to a single step to seek employment. For example, writing to three employers, or applying for three vacancies, on the same day is taking three steps to seek employment.

 21612 - 21615

Best chance of getting employment

21616 Claimants best chance of getting employment will vary from claimant to claimant. Claimants must take such steps as offer them their best chance of getting employment.

21617 Claimants who have a good chance of getting employment may have many steps open to them that may lead to offers of employment. But they need not take all those steps as long as they take those steps that they can reasonably be expected to take to offer them their best chance of getting employment.

21618 Claimants who have a poor chance of getting employment may only have a few steps open to them that may offer any chance of getting offers of employment. But taking those steps offer them their best prospects of employment. In these cases it may be reasonable to expect them to take all of the steps.

21619 Claimants are not required to take any steps that do not offer them any chance of getting an offer of employment (unless it is a step listed in DMG 21606). If they do take such a step it cannot help them satisfy the actively seeking employment test.

21620 The decision maker should take into account the type of employment claimants are or should be seeking (DMG 21664 - 21666) when deciding which steps would give them their best chance of getting employment.

**Example 1**

**Highly skilled/qualified people seeking work requiring those skills**

Consulting job advertisements in professional magazines or registering with a specialist employment agency may be steps that would give these people their best chance of getting employment. Visiting their local Jobs and Benefits Office / Jobcentre may not give these people their best chance of getting offers of employment.

**Example 2**

**Semi-skilled/unskilled people**

Activities such as regularly visiting their local Jobs and Benefits Office / Jobcentre, or reading and applying for jobs advertised in the situations vacant pages of local newspapers may be steps that would give these people their best chance of getting employment.

Community order or anti-social behaviour orders

21621 If claimants are subject to community orders or anti-social behaviour orders that require them to be at home during the day, the decision maker should consider whether seeking work from home (for example by reading newspapers or teletext, using the phone and writing to companies) gives them their best prospects of finding the type of work they are looking for.

 21622 - 21625

Appointing someone else to help in finding employment

21626 If claimants are seeking employment where recruitment is usually by personal application, appointing someone else to help them find employment may not be a step that gives the claimant their best chance of getting offers of employment.

21627 If claimants are seeking work where employment is often obtained through someone else (for example actors often use agents), appointing such a person may give the claimant their best chance of getting offers of employment.

21628 Where someone else has been appointed, claimants should still take such other steps as they can reasonably be expected to take to have the best chance of getting employment.

 21629 - 21631

Reasonably be expected to have to take

21632 What claimants can reasonably be expected to do varies from claimant to claimant, and often varies from week to week. When deciding whether claimants have taken steps that it is reasonable to expect them to take the decision maker should consider the

**1.** nature and conditions of employment that it is reasonable to expect them to seek **and**

**2.** steps that are reasonable to expect a claimant to take to seek that employment.

21633 What can reasonably be expected of a claimant may change during their claim to Jobseeker’s Allowance. For example, a claimant who visits the local Jobs and Benefits Office / Jobcentre every week for four months to read the advertised display may be unsuccessful in getting employment. Eventually the decision maker may decide that

**1.** in the claimant’s case it is no longer reasonable for the claimant to continue to seek employment in this way **and**

**2.** it would be reasonable to expect the claimant to take other steps to seek employment.

21634 When deciding whether claimants have taken the steps that they can reasonably be expected to take, the decision maker should consider all the circumstances of the case1. Matters that must be taken into account are

**1.** the claimant’s skills, qualifications and abilities **and**

**2.** the claimant’s physical or mental limitations **and**

**3.** the time that has passed since the claimant was last in employment **and**

**4.** the claimant’s work experience **and**

**5.** the steps that the claimant has taken in previous weeks and the effectiveness of those steps in improving their chance of getting employment **and**

**6.** the availability and location of vacancies in employment **and**

**7.** any time during which the claimant was

**7.1** engaged

**7.1.a** in the crewing or launching of a lifeboat **or**

**7.1.b** in the performance of duty as a part-time member of a fire brigade **or**

**7.1.c** during an emergency in duties for the benefit of others **and**

**7.1.d** in duties as a member of any territorial or reserve force as in Appendix 1 to DMG Chapter 26 **and**

**7.2** attending an Outward Bound course **and**

**7.3** in the case of a blind person, taking part in a course of training in the use of guide dogs **and**

**7.4** taking part in training in the use of aids to overcome any physical or mental limitations that will improve their chances of getting employment **and**

**7.5** taking part in an employment related course as a part-time student (DMG 21238) **and**

**7.6** doing voluntary work and the extent that it has improved their chances of getting employment **and**

**7.7** taking part in an employment or training programme, for less than 3 days in that week, where a training allowance is not payable **and**

**8.** whether the claimant is treated as available as in DMG 21310 - 21322 and DMG 21332 - 21368 **and**

**9.** whether the claimant has applied for a place or accepted a place on or participated in a course or programme **and**

**9.1** the course or programme is paid for wholly or partly out of central funds or by the European Community **and**

**9.2** the purpose of the course or programme is to assist people to

**9.2.a** select **or**

**9.2.b** train for **or**

**9.2.c** obtain **or**

**9.2.d** retain

employed earner’s employment or self-employed earner’s employment  **and**

**10.** where the claimant had nowhere to live in that week

**10.1** the fact that the claimant had nowhere to live **and**

**10.2** the steps that the claimant

**10.2.a** needed to take **and**

**10.2.b** has in fact taken

to find somewhere to live.

1 JS (NI) Order 95, art 9(2)(b); JSA Regs (NI), reg 18(3)

 21635 - 21637

Skills, qualifications, abilities and limitations

21638 Claimants’

**1.** skills **and**

**2.** qualifications **and**

**3.** abilities **and**

**4.** limitations

 may affect both the type and number of steps to seek employment that they can reasonably be expected to take.

21639 Claimants with

 **1.** mental disabilities **or**

 **2.** physical disabilities **or**

 **3.** communication difficulties **or**

 **4.** learning difficulties

 may not be able to cope with the amount or type of job search that could reasonably be expected of a claimant without these disabilities or difficulties.

21640 Some may not be able to make many personal visits to employers or employment agencies because

**1.** of travelling difficulties **or**

**2.** they may need to make travelling arrangements well in advance.

 But they should still take whatever steps they can reasonably be expected to take, allowing for their disabilities and the facilities available to them.

21641 If claimants are illiterate they cannot reasonably be expected to write to employers or read advertisements. But they could

**1.** arrange for someone else to help them seek work, for example by passing on information about suitable job advertisements **and**

**2.** take other steps that they can reasonably be expected to take, for example visiting or telephoning employers’ premises or sites.

 21642 - 21643

Steps taken in previous weeks

21644 The steps that claimants took in previous weeks to seek work often affect what they can reasonably be expected to do in the week in question. For example, if claimants have already written to employers enquiring about vacancies, and they

**1.** are still awaiting a reply **or**

**2.** have been told that no work is available

 they cannot reasonably be expected to write to that employer again until a reasonable time has passed.

21645 If claimants

**1.** have already registered with an employment agency or business **and**

**2.** they have promised to let them know of any suitable vacancies

 it is reasonable for claimants to wait, for a time, for the agency to contact them. But there will usually be other steps that they could reasonably be expected to take.

21646 As vacancies are constantly being filled and new vacancies advertised, it may be reasonable to expect claimants to

**1.** visit the local Jobs and Benefits Office / Jobcentre in the week in question to check whether any new vacancies have been advertised, even if they visited in previous weeks **or**

**2.** apply for a vacancy newly advertised by an employer, even if they are waiting for the result of other applications they have made to that employer.

 21647

Time engaged in other activities

21648 Claimants who take part in one or more of the activities in DMG 21634 **7.** do not have as much time available to them to seek employment as other claimants. Claimants are not expected to give up these activities so that they can devote more time to seeking employment. The time they spend engaged in these activities should be taken into account when deciding what steps they could reasonably be expected to take in that week.

21649 The decision maker should find out the precise times that the claimant was engaged in the activities in DMG 21634. Those activities may affect the claimant’s ability to take those steps that can usually only be taken during normal office hours, for example visiting employment agencies, the local Jobs and Benefits Office / Jobcentre or prospective employers.

 21650 - 21654

Course or programme which helps employment prospects

21655 If decision makers are in any doubt about whether the conditions in DMG 21634 **9.1.** or **9.2.** are satisfied, they should arrange for enquiries to be made of the course organiser to establish

**1.** how the course or programme is funded **and**

**2.** the purpose of the course.

21656 DMG 21634 **9.** includes courses covered by a wide variety of government departments. Claimants generally undertake them to

**1.** acquire or improve skills that may be useful to an employer **or**

**2.** improve their job seeking skills **or**

**3.** help them become self-employed.

21657 It may be reasonable to expect claimants, who have applied for or accepted a place on such a course or programme, to restrict their job search to

**1.** temporary **or**

**2.** casual employment

 that they will be able to give up without difficulty when the course starts. If they have participated in the course in the week in question DMG 21648 - 21649 should be followed.

 21658

Claimant with nowhere to live

21659 If claimants have nowhere to live

**1.** it may be difficult for them to be contacted by

**1.1** employers **or**

**1.2** employment agencies **or**

**1.3** those who may be able to help them find employment **and**

**2.** they may have to spend much of their time in the week in question looking for somewhere to live.

 Both these factors should be taken into account in deciding what it was reasonable to expect them to do in any week.

21660 Being homeless may limit the steps claimants can take. For example, if mail cannot reach claimants

**1.** reading advertisements **and**

**2.** making personal calls on

**2.1** employers **and**

**2.2** employment agencies

may be the only steps that are reasonably open to them.

21661 Some homeless claimants may be able to arrange for friends or relatives to receive their mail. But all the facts must be taken into account when deciding whether this is reasonable in the claimant’s case.

21662 If the claimant spent time looking for somewhere to live during the week in question, the principles in DMG 21648 - 21649 should be followed.

 21663

Nature and conditions of employment

21664 It is not reasonable to expect claimants to take steps that could result in an offer of employment

**1.** in a job outside the restrictions they have placed on the

**1.1** hours **or**

**1.2** nature **or**

**1.3** conditions

 of employment that they are available for (DMG 21420 - 21488), if they can show that they satisfy the availability conditions **or**

**2.** in a situation vacant because of a trade dispute stoppage **or**

**3.** in a vacancy that is

**3.1** not in their usual occupation **or**

**3.2** at a level of earnings lower than they are accustomed to receive

unless the permitted period has ended **or**

**4.** that they would have good cause for refusing if it was notified to them by an employment officer.

21665 Claimants should be taking steps to seek any employment

**1.** within reasonable daily travelling time of their home **and**

**2.** of which they are capable.

 Employment should be regarded as within reasonable daily travelling time of claimants’ homes if they would not have good cause for refusing employment on this ground (DMG 34441 - 34453).

21666 Some claimants may choose to look for work further afield. But it is not reasonable to expect claimants to look for work further afield to satisfy the actively seeking employment test, even if their prospects of obtaining employment in their home area are poor. But it would be reasonable to expect them to look further afield to satisfy the actively seeking employment test if they

**1.** are restricting the nature or conditions of employment they are prepared to accept **and**

**2.** cannot satisfy any of the conditions in DMG 21428 **2.** and **3.** **and**

**3.** cannot show that they have reasonable prospects of obtaining the employment, that they are restricting themselves to, within daily travelling distance of their homes.

 21667 - 21679

Young people

General

21680 A young person is required to be actively seeking employment as in DMG 21571 - 21600, DMG 21602 - 21666 and DMG 21695 - 21785. But young people except those who1

**1.** are laid off or kept on short-time2 **or**

**2.** have accepted a firm offer of enlistment in the armed forces to start within eight weeks as in Chapter 303

 also have to satisfy DMG 21681 - 21689.

1 JSA Regs (NI), reg 65(5); 2 reg 61(1)(a); 3 reg 61(1)(f)

21681 Young people

**1.** whose Jobseeker’s Allowance has not been reduced by the Department under a severe hardship direction1 **or**

**2.** whose Jobseeker’s Allowance has not been reduced by the decision maker because of a sanction2 because they have

**2.1** given up a place on a training scheme or employment programme without good cause3 **or**

**2.2** failed to attend a place on a training scheme or employment programme without good cause4 **or**

**2.3** refused a place on a training scheme or employment programme without good cause5 **or**

**2.4** neglected a reasonable opportunity of a place on a training scheme or employment programme without good cause6 **or**

**2.5** lost a place on a training scheme or employment programme through misconduct7 **or**

**2.6** refused employment without good cause8 **or**

**2.7** neglected a reasonable opportunity of employment without good cause9 **or**

**3.** who have not been sanctioned for

**3.1** leaving employment voluntarily10 **or**

**3.2** losing employment through misconduct11

**3.3** failing to attend without good cause

 **3.3.a** on the correct day and place **or**

 **3.3.b** at the correct time12

should actively seek employment and training13.

 1 JSA Regs (NI), reg 63; 2 reg 68; 3 JS (NI) Order 95, art 21(5)(b)(iii) & 22A(2)(b)(iii);
4 art 21(5)(b)(iv) & 22A(2)(b)(iv); 5 art 21(5)(b)(ii) & 22A(2)(b)(ii) ;
6 art 21(5)(b)(i) & 22A(2)(b)(i); 7 art 21(5)(c) & 22A(2)(c);
8 art 21(6)(c) & 22A(2)(f); 9 art 21(6)(d) & 22A(2)(g);
10 art 21(6)(b) &22A(2)(e); 11 art 21(6)(a)& 22A(2)(d);
12 JSA Regs (NI), reg 27A; 13 JS (NI) Order, art 9(6); JSA Regs (NI), reg 65(1)&(5)

 21682

Steps to seek employment

21683 Steps that are reasonable for a young person (other than those in DMG 21680 and 21681) to be expected to take in any week include1

**1.** seeking training **and**

**2.** seeking full-time education **and**

**3.** those steps in DMG 21606.

Note : Where claimants follow DMG 21606 the term employment in that paragraph includes training2.

1 (JSA) Regs (NI), reg 65(3); 2 JS (NI) Order 95, art 9(6);
JSA Regs (NI), reg 65(1)

Training

21684 Training for a young person only is1 training that is suitable for young people, taking into account

**1.** their personal capacity for example, to learn, to concentrate **and**

**2.** their ability or potential to acquire particular skills **and**

**3.** their preference **and**

**4.** the preference of the training provider **and**

**5.** the level of approved qualification aimed for **and**

**6.** the duration of the training **and**

**7.** how near the training is to the claimant’s home **and**

**8.** whether training can be made available to the claimant quickly.

1 JSA Regs (NI), reg 57(1) & 65(6)

Full-time education

21685 Full-time education is1

**1.** full-time education by attendance at a recognised educational establishment (see DMG Chapter 20) **or**

**2.** full-time education elsewhere than under **1.**, where the education is recognised by the Department (see DMG Chapter 20)2 **or**

**3.** education that is treated as full-time (see DMG Chapter 20)3.

1 JSA Regs (NI), reg 57(1); 2 SS C&B (NI) Act 92, sec 138;
CB (Gen) Regs (NI), reg 1(2); 3 CB (Gen) Regs (NI), reg 1(2) & 5

 21686

Number of steps to take

21687 To have the best chance of getting employment, young people who1

 **1.** are laid off or kept on short time2 **or**

 **2.** have accepted a firm offer of enlistment in the armed forces to start within eight weeks as in DMG Chapter 303 **or**

 **3.** do not fall within DMG 216814

are expected to have to take more than two steps in any week **unless** taking one or two steps is all that is reasonable for them to do in that week.

1 JSA Regs (NI), reg 18(1) & 65; 2 reg 61(1)(a); 3 reg 61(1)(f); 4 reg 63 & 68

21688 To have the best chance of getting employment and training, all young people other than those described in DMG 216871 can be expected to have to take more than one step on one occasion in any week. This is unless taking only one step on one occasion is all that it is reasonable for them to do in that week2.

1 JSA Regs (NI), reg 65(4) & (5); 2 reg 65(2)

21689 If claimants in DMG 21688 take

 **1.** more than one step on one occasion in any week they can be expected to take at least one step to seek employment and one step to seek training1 **or**

 **2.** only one step on one occasion in any week because that is all that it is reasonable for them to do, they can seek employment or training.

1 JSA Regs (NI), reg 65(2)

Treated as actively seeking employment

General

21690 Claimants can be treated as actively seeking employment under certain circumstances. DMG 21699 - 21778 explains when claimants can be treated as actively seeking employment. Claimants are treated as actively seeking employment

**1.** in specified circumstances **and**

**2.** up to the maximum period mentioned in the relevant paragraph1.

1 JSA Regs (NI), reg 19(1)

21691 Where claimants can be treated as actively seeking employment they are treated for whole weeks except in DMG 21697, 21707 and 21731.

Definitions

21692 The following definitions are relevant to guidance in DMG 21695 to 21697 below.

Tribunal

21693 Tribunal means1 any tribunal listed in specific legislation2.

1 JSA Regs (NI), reg 19(3); 2 Tribunals and Inquiries Act 1992, Sch 1

Prisoner

21694 Prisoner means1 a person who is

 **1.** detained in custody pending trial or sentence upon conviction or under a sentence imposed by the court **or**

 **2.** is on temporary release in accordance with the provisions of specified prison legislation2

but not a person who is detained in hospital under the provisions of specific mental health legislation3.

1 JSA Regs (NI), reg 85(4); 2 Prison (NI) Act 1953; 3 Mental Health (NI) Order 1986

Claimants attending a court or tribunal

21695 Subject to DMG 21696 below, claimants can be treated as actively seeking employment1 if they are required to attend a court or tribunal as a

 **1.** Justice of the Peace **or**

 **2.** party to any proceedings **or**

 **3.** witness **or**

 **4.** juror.

1 JSA Regs (NI), reg 19(1)(u)

21696 A claimant required to attend a court or tribunal as in DMG 21695 above, is **not** to be treated as actively seeking employment

 **1.** for more than eight weeks **and**

 **2.** where he does not, before the date he is required to attend a court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is required to attend **or**

 **3.** where he is a prisoner.

1 JSA Regs (NI), reg 19(2A)

Detained in custody

21697 A claimant can be treated as actively seeking employment1 if held in police detention under specified legislation2 for a maximum of **96 hours** before being released.

 **Note :** This only treats the claimants as actively seeking employment for the actual period he is in custody.

1 JSA Regs (NI), reg 19(1)(v); 2 Police and Criminal Evidence (NI) Order 1989, art 2(3)

 21698

Absent from Northern Ireland

Interview for employment

21699 Claimants can be treated as actively seeking employment in any week that they

**1.** are temporarily absent from Northern Ireland to attend an interview for employment **and**

**2.** have given notice to an employment officer that they will be absent.

 Claimants can only be treated as actively seeking employment for this reason for 1 week at a time. But they must be temporarily absent from Northern Ireland for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(l)

21700 The notice given to the employment officer must be in writing if the employment officer wants it in writing1.

1 JSA Regs (NI), reg 19(1)(l)

 21701

Taking a member of the family abroad for treatment

21702 Claimants can be treated as actively seeking employment in any week that they are temporarily absent from Northern Ireland because they are taking a member of their family (see DMG Chapter 22) who is a child or young person abroad for treatment.

 Claimants can only be treated as actively seeking employment for this reason for a maximum of 8 weeks at a time. But they must be temporarily absent from Northern Ireland for 3 days or more in each week1.

1 JSA Regs (NI), reg 19(1)(c)

21703 “Treatment” is1 treatment for a disease or bodily or mental disablement by or under the supervision of a person qualified to provide

**1.** medical treatment **or**

**2.** physiotherapy **or**

**3.** a form of treatment that is similar or related to either **1.** or **2.**.

1 JSA Regs (NI), reg 19(3)

 21704

Member of a couple - both absent

21705 Claimants can be treated as actively seeking employment in any week, if

**1.** the claimant is a member of a couple **and**

**2.** in that week they and their partner are both absent from Northern Ireland **and**

**3.** any of the following are payable to the claimant's partner

**3.1** pensioner premium1 **or**

**3.2** enhanced pensioner premium (Jobseeker’s Allowance only)2 **or**

**3.3** higher pensioner premium3 **or**

**3.4** disability premium4 **or**

**3.5** severe disability premium5

 Claimants can only be treated as actively seeking employment for this reason for a maximum of 4 weeks at a time. But they must be absent from Northern Ireland for 3 days or more in each week6.

1 JSA Regs (NI), sch 1 para 10; 2 sch 1 para 11; 3 sch 1 para 12; 4 sch 1 para 13;
5 sch 1 para 15; 6 reg 19(1)(m)

**Example**

Joe tells the Jobs and Benefits Office that he and his wife are going abroad for a 6 week holiday to Spain. Joe gets disability premium for his wife. Joe is treated as actively seeking employment for the first 4 weeks of the 6 weeks holiday.

 21706

Mariners and share fishermen

21707 Mariners and share fishermen who are employed on board any ship or vessel can be treated as actively seeking employment during any period when they are absent from Northern Ireland. But this only applies if they would be actively seeking employment but for the fact that they are absent from Northern Ireland1.

1 SS (Mariners Benefits) Regs (NI), reg 6(1); JSA Regs (NI), reg 165(4)

 21708 - 21709

Claimants who are laid off

21710 Claimants can be treated as actively seeking employment in any week that

**1.** they are laid off **and**

**2.** restrict their availability as in DMG 21321 for 3 days or more in that week.

 But this only applies if they take the steps in that week that they can reasonably be expected to have to take to give them their best chance of getting employment that they are available for as in DMG 213211.

1 JS (NI) Order 95, art (9)(4); JSA Regs (NI), reg 21

 21711 - 21712

Claimants on short-time

21713 Claimants can be treated as actively seeking employment in any week that

**1.** they are working short-time **and**

**2.** restrict their availability as in DMG 21324 for 3 days or more in that week.

But this only applies if they take the steps in that week that they can reasonably be expected to have to take to give them their best chance of getting employment that they are available for as in DMG 213241.

1 JS(NI) Order 95, art 9(4); JSA Regs (NI), reg 21

Claimants who have had limited capability for work or have been incapable of work

21714 Where claimants

1. have been receiving Employment and Support Allowance, Incapacity Benefit or Income Support on the grounds of incapacity prior to their claim for Jobseeker’s Allowance, **and**
2. the Department has extended the time for claiming Jobseeker’s Allowance, because notification of expiry of entitlement to Employment and Support Allowance, Incapacity Benefit or Income Support was not sent before the date that the claimants entitlement expired1, **and**
3. are treated as available in accordance with DMG 213282

they can be treated as actively seeking employment for the period for which they are treated as available.

1 SS (C&P) Regs (NI), reg 19(7)(d); 2 JSA Regs (NI), reg 19(1)(r)

 21715

Deaths, funerals and domestic emergencies

21716 Claimants can be treated as actively seeking employment if1

**1.** there is a death or serious illness of a

**1.1** close relative **or**

**1.2** close friend

of the claimant **or**

**2.** there is a domestic emergency affecting

**2.1** the claimant **or**

**2.2** a close relative of the claimant **or**

**2.3** close friend of the claimant **or**

**3.** there is a funeral of a

**3.1** close relative **or**

**3.2** close friend

of the claimant **or**

**4.** the claimant has

**4.1** caring responsibilities **and**

**4.2** the person being cared for has died.

1 JSA Regs (NI), reg 14(2) & 19(1)(n)

21717 Claimants can only be treated as actively seeking employment in a benefit week if they have been treated as available1

**1.** for the same reason (see DMG 21329 - 21335) **and**

**2.** for three days or more in the benefit week.

1 JSA Regs (NI), reg 14(2) & 19(1)(n)

Domestic emergencies

21718 In deciding whether the claimant has to deal with a domestic emergency the decision maker should consider

**1.** the nature of the emergency **and**

**2.** when the emergency arose **and**

**3.** any alternative arrangement the claimant has made for the emergency to be dealt with **and**

**4.** any alternative arrangements the claimant could have made for the emergency to be dealt with.

Serious illness

21719 Whether an illness is a serious illness is for decision makers to decide based on all available evidence. If decision makers do not have sufficient evidence to decide this they may obtain evidence from the claimant's General Practitioner. But this must only be done with the claimant's permission.

21720 - 21721

Discharged from detention

21722 Claimants can be treated as actively seeking employment for the first week after the date of claim1 and for any period between the date of claim and the beginning of the benefit week2 if they are treated as available, for at least one day in that week, because they have been discharged from detention in a

 **1.** prison **or**

 **2.** remand centre **or**

 **3.** youth custody institution3.

1 JSA Regs (NI), reg 19(1)(h); 2 Reg 19(1)(I); 3 Reg 14(1)(h)

**Example**

A man is discharged from detention in a prison on 4 November.

On 4 November he makes a claim to Jobseeker’s Allowance.

The Department notifies him that he is to attend to give declarations every two weeks on a Thursday. The first attendance is on 7 November.

The claimant is treated as available from 4 November - 10 November due to his discharge from detention in prison.

The claimant can be treated as actively seeking employment

**1.** from 5 November-7 November because it is the period between the date of claim and the beginning of the first benefit week and he is treated as available during this period due to his discharge from detention in a prison, **and**

**2.** from 8 November-14 November because he is treated as available for three days in that week (8 November-10 November) due to his discharge from detention in a prison.

21723 Claimants released from prison to serve home detention curfew can be treated as actively seeking employment for the first full benefit week **after** the date of claim where they have been treated as available for any day in that week1.

1 JSA Regs (NI), reg 19(1)(h)

Domestic violence

21724 A claimant has to be treated as actively seeking employment for any period for which they are treated as available on the grounds that domestic violence has been inflicted on them or has been threatened to them1. DMG 21369 et seq provides guidance on availability and domestic violence.

1 JSA Regs (NI), reg 19(1)(w)

Employment or training programmes

21725 Claimants can be treated as actively seeking employment in any week they are taking part in an employment or training programme for which a training allowance is not payable (DMG 21651). But they must be taking part in the employment or training programme for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(p)

21726 DMG 21725 does not apply to the employment programme known as “Work Experience”. Claimants on this programme must be actively seeking employment1.

1 JSA Regs (NI), reg 19(1)(p)

Employment-related course

21727 Claimants can be treated as actively seeking employment for any week that they are taking part in an employment-related course as a full-time student (see DMG Chapter 30). But claimants can only be treated as actively seeking employment for this reason for a maximum of

**1.** 2 weeks for each course **and**

**2.** one course in any period of 12 months1.

1 JSA Regs (NI), reg 19(1)(a)

21728 To be treated as actively seeking employment they must be taking part in the employment-related course for 3 days or more in each week1.

1 JSA Regs (NI), reg 19(1)(a)

21729 Before claimants can be treated as actively seeking employment the employment officer has to have approved their taking part in the employment-related course before the course starts1.

1 JSA Regs (NI), reg 19(1)(a)

21730 Where a claimant declares they attend a mandatory probation service programme, the decision maker should decide if the programme is an employment-related course, and whether claimants can be treated as actively seeking employment for up to 2 weeks1.

1 JSA Regs (NI), reg 19(1)(a)

End of claim to Jobseeker’s Allowance

21731 If the last day that Jobseeker’s Allowance is paid for is not the last day of a week claimants can be treated as actively seeking employment for the period

**1.** beginning with the beginning of the week in which the award of Jobseeker’s Allowance is terminated **and**

**2.** ending on the last day that Jobseeker’s Allowance is paid for1.

1 JSA Regs (NI), reg 19(1)(j)

 21732

Engaged during an emergency

21733 Claimants can be treated as actively seeking employment in any week they are engaged during an emergency in duties for the benefit of others. But they must be engaged during an emergency in duties for the benefit of others for 3 or more days in that week1.

1 JSA Regs (NI), reg 19(1)(d)

 21734 - 21735

Lifeboat crew

21736 Claimants can be treated as actively seeking employment for any week that they are engaged in the manning or launching of a lifeboat. But they must be engaged in the manning or launching of a lifeboat for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(d)

Looking after a child

One member of a couple is absent from the UK

21737 Claimants can be treated as actively seeking employment in any week that they are

**1.** a member of a couple **and**

**2.** looking after a member of their family (see DMG Chapter 22) who is a child, while the other member of the couple is temporarily absent from the UK.

 Claimants can only be treated as actively seeking employment for this reason for a maximum of 8 weeks at a time. But they must be looking after the child for 3 days or more in each week1.

1 JSA Regs (NI), reg 19(1)(e)

Person who looks after a child cannot look after the child

21738 Claimants can be treated as actively seeking employment in any week that they are looking after a child full-time because the person who normally looks after the child is

**1.** ill **or**

**2.** temporarily absent from home **or**

**3.** looking after a member of the carer's family who is ill.

 Claimants can only be treated actively seeking employment for this reason for a maximum of 8 weeks at a time and they must be looking after a child full-time for 3 days or more in each week1.

1 JSA Regs (NI), reg 19(1)(g)

 21739 - 21740

No intention to actively seek employment

21741 Claimants can be treated as actively seeking employment in any week where they have given notice to an employment officer that they

**1.** do not intend to be actively seeking employment **and**

**2.** intend to reside at a place other than their usual place of residence for at least one day.

 The claimants notice to the employment officer must be in writing if the employment officer asks for written notice1.

1 JSA Regs (NI), reg 19(1)(o)

21742 Claimants who do not intend to be actively seeking employment and intend to reside at a place other than their normal place of residence can only be treated as actively seeking employment for a maximum of1

**1.** 2 weeks, for any reason **or**

**2.** 3 weeks if they are attending an Outward Bound course for 3 days or more in each week **or**

**3.** 6 weeks

**3.1** if they are a blind person **and**

**3.2** apart from the 2 weeks when they can be treated as actively seeking employment for any reason, they undertake a course of training, for a maximum of 4 weeks, in the use of guide dogs, of which 3 or more days in each week is spent training

in any period of 12 months1.

1 JS (NI) Order 95, art 9(4); JSA Regs (NI), reg 19(2)

21743 Although claimants can be treated as actively seeking employment for the maximum number of weeks specified in DMG 21742, those weeks do not have to be consecutive weeks.

 21744 - 21745

Open University

21746 Claimants can be treated as actively seeking employment in any week that they are

**1.** on an Open University course **and**

**2.** attending a residential course that is a requirement of the course.

 Claimants can only be treated as actively seeking employment for this reason for a maximum of one week for each residential course and they must be attending the residential course for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(f)

 21747

Part-time member of a fire brigade

21748 Claimants can be treated as actively seeking employment for any week that they are performing their duties as a part-time member of a fire brigade. But they must be performing those duties for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(d)

 21749

Permitted period

21750 Claimants can be treated as actively seeking employment for a permitted period if they are people

**1.** who1

**1.1** were, at anytime during the period of 12 calendar months immediately before their date of claim, engaged in their usual occupation in self-employment earner’s employment **and**

**1.2** are actively seeking employment, self-employment earner’s employment or employment and self-employed earner’s employment in that week

**1.2.a** only in their usual occupation **or**

**1.2.b** only at a level of pay that they are used to receiving **or**

**1.2.c** both **1.2.a** and **1.2.b** **or**

**2.** who2

**2.1** do not fall under **1.** **and**

**2.2** are actively seeking employment in that week

**2.2.a** only in their usual occupation **or**

**2.2.b** only at a level of pay that they are used to receiving **or**

**2.2.c** both **2.2.a** and **2.2.b**.

1 JS (NI) Order 95, art 9(5); JSA Regs (NI), reg 20(2) & (3);
2 JS (NI) Order 95, art 9(5); JSA Regs (NI), reg 20(1)

21751 Claimants are only entitled to a permitted period for actively seeking employment if they are treated as available for a permitted period. If they1

**1.** are treated as available for a permitted period they are treated as actively seeking employment for the same permitted period that they are treated as available **or**

**2.** are not treated as available for a permitted period they cannot be treated as actively seeking employment for a permitted period.

1 JSA Regs (NI), reg 20

 21752 - 21753

Programmes provided by Venture Trust

21754 Claimants can be treated as actively seeking employment for any week that they are taking part in a programme provided by the Venture Trust. Claimants must be taking part in the programme for three days or more in that week. Claimants can only be treated as actively seeking employment for this reason for a maximum of

 **1.** four weeks for each programme **and**

 **2.** one programme in any period of twelve months1.

1 JSA Regs (NI), reg 19(1)(ja)

21755 The programme provided by the Venture Trust must be provided under an agreement made by the Scottish Ministers1.

 **Note :** For England, Wales and Northern Ireland there are now no programmes provided by the Venture Trust. In Scotland Venture Trust programmes continue to operate.

1 JSA Regs (NI), reg 19(1)(ja)

 21756 - 21758

Reservists

21759 A claimant taking part in training for three days or more in a week as a member of a reserve force is to be treated as actively seeking employment either

 **1.** if engaged in their first year of training for a maximum of 43 days in that year **or**

 **2.** if engaged in annual continuous training for a maximum of 15 days in any calendar year.

 This includes training outside of Northern Ireland.

 **Note :** Appendix 1 to DMG Chapter 26 lists the reserve forces.

Taking steps to become self-employed

21760 Claimants can be treated as actively seeking employment in any week during which they are taking active steps to establish themselves in self-employed earner’s employment. But it must be under a scheme for helping people to become self-employed1.

1 JSA Regs (NI), reg 19(1)(q)

 21761 - 21767

Maximum period

21768 People can only be treated as actively seeking employment under DMG 21760 for any week that falls in an 8 week period1. If they do not claim for all or any of those weeks or are not entitled to Jobseeker’s Allowance, they cannot be treated for different weeks instead.

1 JSA Regs (NI), reg 19(1)(q)

21769 The provision only applies to a single period of 8 weeks for each period of continuous entitlement to Jobseeker’s Allowance1. If claimants have already been treated under this provision in the same period of continuous entitlement to Jobseeker’s Allowance and they make another attempt to establish themselves in self-employment, they cannot be treated as actively seeking employment again.

1 JSA Regs (NI), reg 19(1)(q)

21770 Claimants who fall under DMG 21760 can be treated as actively seeking employment for the period beginning with the week in which they are accepted on a place on the scheme1.

1 JSA Regs (NI), reg 19(1)(q)

Active steps

21771 Whether claimants are taking active steps to establish themselves in self-employment is a question of fact. Steps to establish claimants in self-employment include taking steps directed by the scheme, for example, going on courses, learning book-keeping. Proof that they are taking such steps may consist of evidence that they have, for example

**1.** applied to banks or other institutions for a business loan **or**

**2.** bought equipment for use in the business **or**

**3.** looked for, rented or bought business premises **or**

**4.** advertised their services **or**

**5.** consulted an Enterprise Agency.

Temporary absence from Northern Ireland for National Health Service treatment abroad

21772 Claimants can be treated as actively seeking employment for any period when they are temporarily absent from Northern Ireland for the purpose of receiving National Health Service treatment abroad1 (see DMG Chapter 7).

 **Note :** If claimants are treated as actively seeking employment for only part of the week, the steps they need to take on the other days in that week should be reduced in proportion to the amount of the week for which they are treated as actively seeking employment.

1 JSA Regs (NI), reg 19(1)(t)

 21773

Treated as capable of work or not having limited capability for work

21774 Claimants not in an extended period of sickness (see DMG 27155 for claimants in an extended period of sickness) can be treated as actively seeking employment in any week that they are treated as capable of work or as not having limited capability for work as in DMG Chapter 20. But they must be treated as capable for 3 days or more in that week1.

1 JSA Regs (NI), reg 19(1)(k)

21775 A claimant making use of the extended period of sickness provision has to be treated as actively seeking employment if there are no steps in that week for which it would be reasonable for them to take to seek employment. A claimant in an extended period of sickness who, notwithstanding their illness, could be reasonably expected to take steps to seek employment should have their actively seeking employment determined with regard to the steps that they actually take to seek employment1.

1 JSA Regs (NI), reg 19(1)(kzk)

 **Example 1**

 Tony is in receipt of Jobseeker’s Allowance following an injury playing football. Tony has an operation on his legs and requires crutches. He is likely to be like this for 10-12 weeks. Rather than make a claim to Employment and Support Allowance, Tony decides to stay on Jobseeker’s Allowance. Following a discussion with his advisor, Tony agrees that he can still take steps of work search activity by searching for work on-line at home.

 **Example 2**

 Kathy is in receipt of Jobseeker’s Allowance. She has had to go into hospital for an operation and has been advised by her doctor to have complete rest for four weeks once she has been discharged. Kathy has decided to remain on Jobseeker’s Allowance. Her advisor agrees that it is reasonable for Kathy not to take any steps to seek employment whilst she is resting.

Work camp

21776 Claimants can be treated as actively seeking employment in any week that they are attending a residential work camp. But they must be attending the residential work camp for 3 days or more in that week. They can only be treated as actively seeking employment for a maximum of

**1.** 2 weeks at a time **and**

**2.** 1 period in any period of 12 months1.

1 JSA Regs (NI), reg 19(1)(b)

21777 A work camp is any place in Northern Ireland where people

**1.** provide a service to benefit the community or the environment **and**

**2.** are supported by a

**2.1** charity **or**

**2.2** District Council **or**

**2.3** Health and Social Services Board **or**

**2.4** Health and Social Services trust **or**

**2.5** voluntary organisation1.

1 JSA Regs (NI), reg 4

**Voluntary organisation**

21778 A voluntary organisation1 is a body

**1.** whose activities are not carried out for profit **and**

**2.** that is not a public authority or Health and Social Services Board.

1 JSA Regs (NI), reg 1(2)

 21779 - 21784

In any period of 12 months

21785 In deciding whether a claimant can be treated as actively seeking employment for a period as in

**1.** DMG 21727 - 21729 (employment-related courses) **or**

**2.** DMG 21741 - 21743 (no intention to seek employment) **or**

**3.** DMG 21754 - 21755 (programmes provided by Venture Trust) **or**

**4.** DMG 21776 - 21777 (work camps)

 the decision maker should look back over the 12 month period that ends with the week being considered.

 21786 - 21789

Actively seeking employment during examinations and vacations

21790 Claimants are treated as actively seeking employment for any benefit week1

 **1.** in which they are taking examinations as in DMG 21418 **1.** **or**

 **2.** wholly in a vacation from a qualifying course if2

 **2.1** they are treated as available in accordance with DMG 21418 **2.** **and**

 **2.2** they take such steps as they can reasonably be expected to take to have the best prospects of getting employment for which they are available under DMG 21418 **2.**.

1 JSA Regs (NI), reg 4; 2 reg 21A(b) & (c)

Lone parents

21791 Where a claimant is treated as available as in DMG 21419, they must also be treated as actively seeking employment for that same period of time1.

1 JSA Regs (NI), reg 21B

 21792 - 21809

The jobseeker’s agreement

Introduction

21810 The guidance on the jobseeker’s agreement in DMG 21812 - 21981 applies only to Jobseeker’s Allowance and not to Income Support. See DMG 20007 for guidance on persons in receipt of a training allowance.

 21811

Definitions

21812 The definitions in DMG 21818 - 21821 apply whenever the words or phrases are used in DMG 21824 - 21981.

 21813 - 21817

Date of claim

21818 The date of claim is the date that the claimant

**1.** makes **or**

**2.** is treated as making (see DMG Chapter 2)

 a claim for Jobseeker’s Allowance1.

1 JSA Regs (NI), reg 1(2); SS (C&P) Regs (NI), reg 6

Employment

21819 Employment means employed earner’s (see DMG Chapter 26) employment1.

1 JSA Regs (NI), reg 4

Employment officer

21820 An employment officer is an officer of the Department, or another person whom the Department has designated for this purpose1.

1 JS (NI) Order 95, art 11(13); JSA Regs (NI), reg 4

Young person

21821 A young person is a person1

**1.** who has reached the age of 16 but not the age of 18 **and**

**2.** who

**2.1** does not satisfy the contribution conditions for contribution-based Jobseeker’s Allowance (DMG 21060 - 21082) **or**

**2.2** has had their full entitlement to contribution-based Jobseeker’s Allowance (DMG 21088 - 21106).

1 JSA Regs (NI), reg 57(1)

 21822 - 21823

Entitlement

21824 Claimants are not entitled to Jobseeker’s Allowance1 if they

**1.** have

**1.1** not entered into a jobseeker’s agreement **or**

**1.2** entered into a jobseeker’s agreement but it has ended **and**

**2.** cannot be treated as having a jobseeker’s agreement **and**

**3.** are not a member of a joint claim couple exempt from having to have a jobseeker’s agreement2.

**Note :** Hardship payments may be made in certain circumstances.

1 JS (NI) Order 95, art 3(2)(b) & 3(2B)(b); 2 JSA Regs (NI), reg 3D(1)(c) & Sch A1

 21825

What is a jobseeker’s agreement

21826 A jobseeker’s agreement is an agreement that1

**1.** is entered into by a claimant and an employment officer **and**

**2.** contains

**2.1** the claimant’s name **and**

**2.2** the total number and any agreed pattern of hours that claimants are available for if they restrict their hours of availability **and**

**2.3** any restrictions on claimants availability including

**2.3.a** not being available at once because they have caring responsibilities (DMG 21265)

**2.3.b** not being available at once because they do voluntary work (DMG 21265)

**2.3.c** not being available at once because they are providing a service (DMG 21276)

**2.3.d** not being available at once because the claimant is required to give notice to terminate employment (DMG 21298 - 21299)

**2.3.e** restrictions due to being laid off or on short-time (DMG 21321 - 21330)

**2.3.f** restrictions on nature, rate of pay, locality, terms or conditions of employment (DMG 21427 - 21429)

**2.3.g** restrictions because they are only available at certain times (DMG 21432 - 21433)

**2.3.h** restrictions due to caring responsibilities (DMG 21434 - 21439)

**2.3.i** restrictions due to physical or mental disabilities (DMG 21443 - 21449)

**2.3.j** restrictions due to religious beliefs or conscientious objections (DMG 21451 - 21453)

**2.3.k** restrictions due to being a lone parent with a child aged under 13 (see DMG 21454) **and**

**2.4** a description of the type of employment that claimants are seeking **and**

**2.5** the action claimants will take to

**2.5.a** seek employment **and**

**2.5.b** improve their chances of finding employment **and**

**2.6** the dates of the start and end of any permitted period as in DMG 21386 - 21408 **and**

**2.7** a statement of the claimant’s right to

**2.7.a** have a proposed jobseeker’s agreement referred to a decision maker **and**

**2.7.b** seek the revision or supersession of any decision given by a decision maker in respect of the jobseeker’s agreement **and**

**2.7.c** appeal to a tribunal against a decision by a decision maker **and**

**2.8** the date of the agreement.

1 JS (NI) Order 95, art 11; JSA Regs (NI), reg 31

21827 The jobseeker’s agreement should be

**1.** in writing **and**

**2.** signed by the employment officer and claimant1 **and**

**3.** copied to the claimant2.

1 JS (NI) Order 95, art 11(3); 2 art 11(4)

21828 An employment officer should not enter into a jobseeker’s agreement with a claimant unless in the employment officer’s opinion claimants would satisfy the availability and actively seeking employment conditions if they comply with or are treated as complying with the jobseeker’s agreement1.

1 JS (NI) Order 95, art 11(5)

Young people

21829 For a young person1 the jobseeker’s agreement must also contain a broad description of the circumstances when the amount of the claimant’s Jobseeker’s Allowance

**1.** may be reduced by the Department under a severe hardship direction2 **or**

**2.** may be reduced by the decision maker because of a sanction3 because the claimant has

**2.1** given up a place on a training scheme or employment programme without good cause4 **or**

**2.2** failed to attend a place on a training scheme or employment programme without good cause5 **or**

**2.3** refused a place on a training scheme or employment programme without good cause6 **or**

**2.4** neglected a reasonable opportunity of a place on a training scheme or employment programme without good cause7 **or**

**2.5** lost a place on a training scheme or employment programme through misconduct8 **or**

**2.6** refused employment without good cause9 **or**

**2.7** neglected a reasonable opportunity of employment without good cause10 **or**

**2.8** failed to attend without good cause

 **2.8.a** on the correct day and place **or**

 **2.8.b** at the correct time11

**3.** may not be payable because the claimant has been sanctioned for

**3.1** leaving employment voluntarily12 **or**

**3.2** losing employment through misconduct13.

**3.3** failing to attend without good cause

 **3.3.a** on the correct day and place **or**

 **3.3.b** at the correct time14.

1 JSA Regs (NI), reg 66(1); 2 JS (NI) Order 95, art 19 & JSA Regs (NI), reg 63; 3 reg 68;
4 JS (NI) Order 95, art 21(5)(b)(iii) & 22A(2)(b)(iii); 5 art 21(5)(b)(iv) & 22A(2)(b)(iv);
6 art 21(5)(b)(ii) & 22A(2)(b)(ii); 7 art 21(5)(b)(i) & 22A (2)(b)(i);
8 art 21(5)(c) & 22A (2)(c); 9 art 21(6)(c) & 22A(2)(f); 10 art 21(6)(d) & 22A(2)(g);
11 JS (NI) Order 95, art 10; 12 art 21(6)(b) & 22A(2)(e); 13 art 21(6)(a) & 22A(2)(d)
14 JSA Regs (NI), reg 27A

21830 The additional item in DMG 21829 does not apply to young people1

**1.** who are laid off or kept on short-time and are available for employment as in2 DMG 21321 - 21330 **or**

**2.** who have accepted a firm offer of enlistment in the armed forces to start within 8 weeks (a week is a period of 7 consecutive days3) as in DMG 30754 - 307564.

1 JSA Regs (NI), reg 66(1); 2 reg 61(a); 3 reg 61(3); 4 reg 61(f)

 21831 - 21839

Decision maker's consideration of a proposed jobseeker’s agreement

When and why a Jobseeker’s Agreement is referred to a decision maker

21840 Employment officers **may** refer a proposed jobseeker’s agreement to a decision maker to decide whether1

**1.** if claimants were to do what is in the proposed jobseeker’s agreement, they would satisfy

**1.1** the availability condition **or**

**1.2** the actively seeking employment condition **and**

**2.** it is reasonable to expect the claimant to have to do what is in the proposed jobseeker’s agreement (DMG 21850-21851).

1 JS (NI) Order 95, art 11(6)

21841 The claimant can ask the employment officer to refer a proposed jobseeker’s agreement to a decision maker to decide whether

**1.** if the conditions were complied with, the claimant would satisfy the

**1.1** availability condition **or**

**1.2** actively seeking employment condition **and**

**2.** it is reasonable to expect the claimant to have to do what is in the proposed jobseeker’s agreement (DMG 21850 - 21851).

 If the claimant does ask the employment officer to refer a proposed jobseeker’s agreement to a decision maker, the employment officer must refer the jobseeker’s agreement straightaway1.

1 JS (NI) Order 95, art 11(6)

21842 Any referral to the decision maker should, where practicable, be disposed of within 14 days of the date of referral1.

1 JS (NI) Order 95, art 11(7)

21843 The decision maker1

**1.** can give a decision on the terms on which the employment officer is to enter into a jobseeker’s agreement with the claimant (see DMG 21855 - 21858) **or**

**2.** may direct that the proposed jobseeker’s agreement is to be treated as having effect on a specific date earlier than it would otherwise have effect (see DMG 21865 - 21894)

**2.1** if entered into **and**

**2.2** providing any appropriate conditions are satisfied.

1 JS (NI) Order 95, art 11(7)(b) & (c)

 21844 - 21846

Availability and actively seeking employment

21847 In determining whether, if complied with, the jobseeker’s agreement would enable the claimant to satisfy the

**1.** availability conditions, the decision maker should follow the guidance on availability in DMG 21120 - 21488

**2.** actively seeking employment conditions, the decision maker should follow the guidance on actively seeking employment in DMG 21520 - 21790.

 21848 - 21849

Is the jobseeker’s agreement reasonable

21850 It is not reasonable to expect the claimant to do what is in the proposed jobseeker’s agreement if in doing so, the claimant is unable to satisfy the

**1.** availability condition **or**

 **2.** actively seeking employment condition **or**

 **3.** both the availability and actively seeking employment conditions.

**Example**

A man is a highly skilled person seeking work that requires the skills that he possesses.

The action that he will take to seek employment is stated in the proposed jobseeker’s agreement as only visiting the local Jobs and Benefits Office / Jobcentre.

The decision maker decides that only visiting the local Jobs and Benefits Office / Jobcentre does not give him his best chance of getting employment.

So the decision maker decides that

**1.** the proposed jobseeker’s agreement would not satisfy the actively seeking employment conditions if the claimant complied with it **and**

**2.** it is not reasonable to expect him to have to do what is in the jobseeker’s agreement.

21851 The decision maker should not expect the claimant to do what is in the proposed jobseeker’s agreement if the terms of the jobseeker’s agreement are not reasonable. The decision maker should consider the impact of any relevant mental or physical health conditions that the claimant suffers from in reaching a decision1 (see also DMG 21443). This is the case even if the proposed jobseeker’s agreement enables the claimant to satisfy the availability and actively seeking employment conditions.

1 CH v SSWP (JSA) [2015] UKUT 0373 (AAC)

**Example 1**

Phil is seeking work as a bricklayer. The proposed jobseeker’s agreement specifies that he should visit the local Jobs and Benefits Office / Jobcentre twice every day as well as visiting 5 building sites daily.

The decision maker decides that, although the proposed jobseeker’s agreement, if met, would enable Phil to satisfy the actively seeking employment condition it is not reasonable to expect him to take this number of steps on a daily basis, in order to satisfy the jobseeker’s agreement conditions.

**Example 2**

The proposed jobseeker’s agreement specifies that Fiona will take certain steps to seek employment paying a minimum of £120 a week.

She is entitled to a permitted period and earned £300 a week in her last employment.

The decision maker decides that, although the proposed jobseeker’s agreement would satisfy the availability and actively seeking employment conditions if met, it is not reasonable to expect Fiona to accept a reduction in wages of £180 a week during the permitted period.

 21852 - 21854

Decision maker's determinations and directions on a proposed jobseeker’s agreement

21855 If the decision maker decides that it would be reasonable to expect the claimant to do what is in the proposed jobseeker’s agreement, the decision maker should give a decision to that effect.

21856 If the decision maker decides that it would not be reasonable to expect the claimant to have to do what is in the proposed jobseeker’s agreement the decision maker

**1.** should determine that it was not reasonable **and**

**2.** may give directions on the terms that the employment officer is to enter into a jobseeker’s agreement with the claimant1.

1 JS (NI) Order 95, art 11(7)(b)

21857 If the decision maker gives a direction, as in DMG 21856 **2.**, the specified terms in that direction should

**1.** mean that if the direction is complied with, the claimant will satisfy the availability and actively seeking employment conditions **and**

 **2.** be reasonable.

21858 In determining what directions to give the decision maker should consider

 **1.** where the proposed jobseeker’s agreement is made by the employment officer

**1.1** why the claimant refused to accept the jobseeker’s agreement proposed by the employment officer **and**

**1.2** whether the claimant was reasonable in refusing to accept the proposed jobseeker’s agreement **and**

**1.3** what terms the claimant proposes **and**

**1.4** why the employment officer considers that the proposed jobseeker’s agreement is reasonable **and**

**1.5** the claimant’s availability, including any restrictions on availability **and**

**1.6** the

**1.6.a** types of employment that the claimant is seeking **and**

**1.6.b** rate of pay that the claimant is seeking **and**

**1.6.c** localities in which the claimant is seeking employment **and**

**1.6.d** hours that the claimant is prepared to work **and**

**1.7** the guidance at DMG 21600 - 21666 on steps to seek employment and whether they are reasonable **or**

**2.** where the proposed jobseeker’s agreement is made by the claimant

**2.1** why the employment officer refused to accept the jobseeker’s agreement proposed by the claimant **and**

**2.2** what terms the employment officer proposes **and**

**2.3** why the claimant considers that the proposed jobseeker’s agreement is reasonable **and**

**2.4** the claimant’s availability, including any restrictions on availability **and**

**2.5** the

**2.5.a** types of employment that the claimant is seeking **and**

**2.5.b** rate of pay that the claimant is seeking **and**

**2.5.c** localities in which the claimant is seeking employment **and**

**2.5.d** hours that the claimant is prepared to work **and**

**2.6** the guidance at DMG 21600 - 21666 on steps to seek employment and whether they are reasonable.

 21859 - 21864

Backdating a jobseeker’s agreement

21865 Any proposed jobseeker’s agreement referred to the decision maker will not have been agreed by the employment officer and claimant. So the claimant will not have a current jobseeker’s agreement for the purposes of satisfying entitlement to Jobseeker’s Allowance1.

1 JS (NI) Order 95, art 3(2)(b) & 3(2B)(b)

21866 In any case that is referred, the decision maker may decide that the proposed jobseeker’s agreement should be treated as having effect from a date earlier than the date that it would normally have effect from. This applies as long as1

**1.** the claimant and employment officer subsequently enter into the proposed jobseeker’s agreement **and**

**2.** any conditions that the decision maker considers appropriate are satisfied.

1 JSA (NI) Order 95, art 11(7)(c)

21867 The proposed jobseeker’s agreement referred to in 21866 includes

**1.** any proposed jobseeker’s agreement referred to the decision maker **or**

**2.** any directions that the decision maker gives concerning the terms on which the employment officer was to enter into a jobseeker’s agreement with the claimant.

21868 The decision maker should take into account all the circumstances of the case including1

**1.** where claimants refuse to accept the jobseeker’s agreement proposed by the employment officer, whether they are reasonable in refusing to accept it **and**

**2.** where claimants have shown to the employment officer or decision maker that they are prepared to accept

**2.1** a jobseeker’s agreement that differs from the one proposed by the employment officer, whether the terms of the jobseeker’s agreement that they are prepared to accept are reasonable **or**

**2.2** the original jobseeker’s agreement proposed by the employment officer, that fact **and**

**3.** the date that the decision maker considers the claimant was first prepared to enter into a reasonable jobseeker’s agreement **and**

**4.** where the date the claimant first had an opportunity to sign a jobseeker’s agreement was later than the date of claim, that fact.

1 JSA Regs (NI), reg 32

 21869 - 21874

Reasonable in refusing to accept the jobseeker’s agreement

21875 If the decision maker considers that the claimant was reasonable in refusing to accept the proposed jobseeker’s agreement the decision maker can specify in a direction given under DMG 21855 - 21858, the date on which the jobseeker’s agreement should be treated as having effect from, if

**1.** it is accepted and entered into **and**

**2.** the decision maker considers that the claimant would have been prepared to enter into the jobseeker’s agreement given in the direction.

21876 The decision maker can treat the jobseeker’s agreement, as given in the direction, as having effect from the date that the claimant would have been prepared to enter into that jobseeker’s agreement.

21877 If

**1.** 21868 **4.** also applies **and**

**2.** the claimant was prepared to enter into the jobseeker’s agreement, as given in the direction from the date that he was first given the opportunity to sign a jobseeker’s agreement

 the decision maker can treat the jobseeker’s agreement, as given in the direction, as having effect from the date of claim.

 21878 - 21879

Prepared to accept a different jobseeker’s agreement

21880 If claimants say that they are prepared to accept a jobseeker’s agreement that differs from the one proposed by the employment officer, the decision maker can treat the one proposed by the claimant as having effect from

**1.** the date that the claimant was first prepared to enter into that jobseeker’s agreement **or**

**2.** the date of claim if 21868 **4.** also applies.

21881 But this only applies if

**1.** the proposed jobseeker’s agreement will enable the claimant to satisfy the availability and actively seeking employment conditions **and**

**2.** the decision maker considers that the terms of the proposed jobseeker’s agreement are reasonable.

 21882 - 21884

Prepared to accept the employment officer’s jobseeker’s agreement

21885 If claimants say that they are prepared to accept the jobseeker’s agreement proposed by the employment officer after the decision maker has given a determination or direction, the decision maker’s determination or direction is binding on the employment officer and the claimant1. But the decision maker’s determination or direction should have taken into account DMG 21875 - 21877.

1 JS (NI) Order 95, art 11(9)

21886 If claimants say that they are prepared to accept the jobseeker’s agreement proposed by the employment officer before the decision maker gives a determination or direction the decision maker can treat the proposed jobseeker’s agreement as having effect from the date that the decision maker considers the claimant was first prepared to accept that jobseeker’s agreement.

21887 This will rarely apply from the date of claim. This is because a referral to the decision maker would not have been made unless the claimant disputed the terms of the jobseeker’s agreement. So it is likely that the date on which the claimant was first prepared to accept the jobseeker’s agreement will be after the date of claim.

21888 But if the decision maker considers that claimants

**1.** genuinely misunderstood the proposed jobseeker’s agreement **and**

**2.** were willing to accept it once they understood the terms of the jobseeker’s agreement

 the decision maker can treat the jobseeker’s agreement as having effect from the date of claim.

 21889 - 21892

First opportunity to sign a jobseeker’s agreement was later than the date of claim

21893 If a claimant did not get an opportunity to sign a jobseeker’s agreement until a date later than the date of claim, for example the claim was treated as made from a date earlier than the one on which it was actually made, the decision maker can treat the jobseeker’s agreement as having effect from the date of claim.

21894 But this only applies if the decision maker considers that the claimant would have entered into the jobseeker’s agreement on the earlier date if it had been proposed to them.

 21895 - 21897

Automatic backdating of jobseeker’s agreement

21898 The jobseeker’s agreement should be treated as having effect from the date of claim if1

**1.** the jobseeker’s agreement is signed on a date later than the date of claim **and**

**2.** there is no reference to the decision maker as in DMG 21840 - 21841.

1 JS (NI) Order 95, art 11(11); JSA Regs (NI), reg 35

 21899

End of jobseeker’s agreement

21900 A jobseeker’s agreement entered into by a claimant and an employment officer should usually cease to have effect when an award of Jobseeker’s Allowance ends1.

1 JS (NI) Order 95, art 11(12)

21901 This may occur because the

**1.** claimant’s award of Jobseeker’s Allowance is terminated **or**

**2.** claimant’s definite award of contribution-based Jobseeker’s Allowance ends. But see 21905, if the claimant claims income-based Jobseeker’s Allowance within 14 days.

 21902 - 21904

When jobseeker’s agreement stays in force

21905 A jobseeker’s agreement entered into by a claimant stays in force1

**1.** if a further claim to Jobseeker’s Allowance is made within 14 days of the award ending **or**

**2.** for any part of a period of suspension where

**2.1** payment under an award of Jobseeker’s Allowance has been suspended by the Department2 for a definite or indefinite period because a question has arisen as to whether

**2.1.a** the conditions for entitlement to Jobseeker’s Allowance are or were fulfilled **or**

**2.1.b** the award of Jobseeker’s Allowance should be revised or superseded **and**

**2.2** after the question in **2.1** has arisen, the suspension expires or is cancelled for a part only of the period for which it has been in force **and**

**2.3** the award of Jobseeker’s Allowance is revised because the claimant had no entitlement to Jobseeker’s Allowance for all or any part of the period between

**2.3.a** the start of the period that the award was suspended **and**

**2.3.b** the date when the suspension expired or was cancelled **or**

**3.** for as long as the claimant satisfies the other conditions of entitlement to National Insurance credits3.

1 JS (NI) Order 95, art 11(12); JSA Regs (NI), reg 36; 2 SS (C&P) Regs (NI), reg 36(1A);
3 Social Security (Credits) Regulations (NI) 75

**Example**

Fergus claims Jobseeker’s Allowance from 04.11.11.

On 18.11.11 he goes away from home and cannot be contacted whilst away. He is due to return on 08.12.11.

As a doubt has arisen on his availability for the period 18.11.11 - 08.12.11 the Department suspends the award of Jobseeker’s Allowance for that period.

On 25.11.11 Fergus returns home and is available again from that date.

The Department cancels the suspension from 25.11.11 - 08.12.11.

The decision maker supersedes the award of Jobseeker’s Allowance and decides that Fergus was not entitled to Jobseeker’s Allowance for the period 18.11.11 - 24.11.11.

The jobseeker’s agreement remains in force.

 21906 - 21909

Jobseeker’s agreement treated as having been made

General

21910 Claimants are treated as having entered into a jobseeker’s agreement that remains in force1

**1.** for the period

**1.1** starting with the date of claim **and**

**1.2** ending on the date that they have an interview with an employment officer to draw up a jobseeker’s agreement

 if they are allowed to make a claim for Jobseeker’s Allowance without attending an office of the Department **or**

**2.** where

**2.1** they have made a claim to Jobseeker’s Allowance **and**

**2.2** their claim to Jobseeker’s Allowance terminates before they have an interview with an employment officer to agree a jobseeker’s agreement **or**

**3.** for any period that they are treated as available as in DMG 21309 - 21365 where those circumstances arise

**3.1** after the date of claim **and**

**3.2** before they have an interview with an employment officer to agree a jobseeker’s agreement **or**

**4.** for any period that there are circumstances, not peculiar to the claimant, that make impracticable or unduly difficult the normal operation of claiming, awarding or making payments of Jobseeker’s Allowance (DMG 21911) **or**

**5.** where they were in receipt of a training allowance and were entitled to income-based Jobseeker’s Allowance as in DMG Chapter 20, without being available for employment, having entered into a jobseeker’s agreement or actively seeking employment for the period

**5.1** starting with the date that they ceased to be entitled to income-based Jobseeker’s Allowance as in DMG Chapter 20 **and**

**5.2** ending on the date that they have an interview with an employment officer to draw up a jobseeker’s agreement.

**6.** for any period for which they are treated as available on the grounds that domestic violence has been inflicted on them or has been threatened to them if they have not yet entered into a jobseeker’s agreement before that period began.

1 JS (NI) Order 95, art 11(10) & JSA Regs (NI), reg 34

21911 DMG 21910 **4.** would apply to situations where the office of the Department were unable to carry out their normal business, for example due to a fire or flood or strike.

 But it would not apply where claimants are unable to attend for an interview, to draw up a jobseeker’s agreement, for a reason that only affects that claimant.

 21912 - 21919

Young people

21920 A young person should be treated as having entered into a jobseeker’s agreement that remains in force if they register with the Department for both employment and training because they are1

**1.** unable to register with the Career’s Officer because of an emergency affecting the Department for Employment and Learning, for example due to a strike or fire2 **or**

**2.** they are a young person who would suffer hardship because of the extra time it would take them to register with the Career’s Officer3.

1 JSA Regs (NI), reg 66(2); 2 reg 62(2); 3 reg 62(3)

21921 Young people can only be treated as having entered into jobseeker’s agreement that remains in force while the circumstances in DMG 21920 apply. Once these circumstances have ended the young person should enter into a jobseeker’s agreement.

21922 The Career’s Service is defined at DMG Chapter 30.

 21923 - 21924

Variation of jobseeker’s agreement

General

21925 A jobseeker’s agreement may be varied at any time on the proposal of either the claimant or employment officer1.

1 JSA Regs (NI), reg 37

21926 Any variation to the jobseeker’s agreement must

**1.** be in writing1 **and**

**2.** have the agreement of the claimant and employment officer2 **and**

**3.** be signed by the claimant and employment officer3 **and**

**4.** be copied to the claimant4.

1 JS (NI) Order 95, art 12(2); JSA Regs (NI), reg 37, 2 JS (NI) Order 95, art 12(1); 3 art 12(2);
JSA Regs (NI), reg 37; 4 JS (NI) Order 95, art 12(3)

21927 An employment officer should not agree to a variation of a jobseeker’s agreement unless in the employment officer’s opinion the claimant would, if they complied with or were treated as complying with the proposed variation to the jobseeker’s agreement, satisfy the availability and actively seeking employment conditions1.

1 JS (NI) Order 95, art 12(4)

 21928 - 21929

Decision maker's consideration of proposed variation to jobseeker’s agreement

When and why a variation to a jobseeker’s agreement is referred to a decision maker

21930 An employment officer **may** refer a proposed variation to the jobseeker’s agreement to a decision maker to determine whether1

**1.** if claimants did what was in the proposal to vary the jobseeker’s agreement, they would satisfy the

**1.1** availability condition **or**

**1.2** actively seeking employment conditions **and**

**2.** it is reasonable to expect the claimant to have to do what is in the proposed varied jobseeker’s agreement (DMG 21940 - 21941).

1 JS (NI) Order 95, art 12(5)

21931 The claimant can ask the employment officer to refer a proposed variation to a decision maker to determine whether

**1.** if the conditions were complied with, the claimant would satisfy the

**1.1** availability conditions **or**

**1.2** actively seeking employment condition **and**

**2.** it is reasonable to expect the claimant to have to do what is in the proposed variation to the jobseeker’s agreement (DMG 21940 - 21941).

 If the claimant does ask the employment officer to refer a proposed variation to the jobseeker’s agreement to a decision maker, the employment officer must refer the jobseeker’s agreement straightaway1.

1 JS (NI) Order 95, art 12(5)

21932 Any referral to the decision maker should, where practicable, be disposed of within 14 days of the date of referral1.

1 JS (NI) Order 95, art 12(6)(a)

21933 The decision maker1

**1.** should decide

**1.1** whether the jobseeker’s agreement should be varied **and**

**1.2** if so, the terms on which the claimant and employment officer are to enter into an agreement to vary the jobseeker’s agreement (DMG 21945 - 21951) **or**

**2.** may bring the jobseeker’s agreement to an end where the claimant fails to comply, within a certain time (DMG 21980 - 21981), with a direction as in **1.1** **or**

**3.** may direct that

**3.1** if the jobseeker’s agreement is varied **and**

**3.2** providing such conditions as the decision maker considers appropriate are satisfied

 the jobseeker’s agreement is to be treated as having effect from a date earlier than it would otherwise have effect (DMG 21955 - 21974).

1 JS (NI) Order 95, art 12(6)(b), (c) & (d)

 21934 - 21936

Availability and actively seeking employment

21937 In determining whether, if complied with, the proposed variation to the jobseeker’s agreement would enable the claimant to continue to satisfy the

**1.** availability conditions, the decision maker should follow the guidance on availability in DMG 21120 - 21488

**2.** actively seeking employment conditions, the decision maker should follow the guidance on actively seeking employment in DMG 21520 - 21785.

 21938 - 21939

Is the proposed variation to the jobseeker’s agreement reasonable

21940 It is not reasonable to expect the claimant to do what is in the proposed variation to the jobseeker’s agreement if in doing so the claimant is unable to satisfy

**1.** the availability condition **or**

**2.** the actively seeking employment condition **or**

**3.** both the availability and actively seeking employment condition.

**Example**

A man has been claiming Jobseeker’s Allowance for several months. The employment officer proposes a variation to the jobseeker’s agreement.

The variation involves him in consulting professional magazines and registering with a specialist employment agency.

He is unskilled. The case is referred to the decision maker.

The decision maker determines that regularly visiting his local Jobs and Benefits Office / Jobcentre and applying for jobs advertised in the local newspaper would offer him his best chance of getting employment.

The decision maker decides that

**1.** the employment officer’s proposal to vary the jobseeker’s agreement is not reasonable **and**

**2.** the original jobseeker’s agreement was still reasonable **and**

**3.** the jobseeker’s agreement should not be varied.

21941 The decision maker should not expect the claimant to do what is in the proposed variation to the jobseeker’s agreement if the terms of the variation are not reasonable. This is the case even if it enables the claimant to satisfy the availability and actively seeking employment conditions.

**Example**

A woman has been entitled to a permitted period.

As that period has now ended the employment officer proposes a variation to the jobseeker’s agreement.

The variation involves her in sending job applications to 150 employers a week. She asks for the variation to the jobseeker’s agreement to be referred to the decision maker.

She explains to the decision maker that she was a marketing graduate and had found that there were few advertised jobs in the type of employment that she was looking for.

She feels that it would be wise to concentrate on speculative job applications and that eight applications a week would be enough.

She also proposes that she will continue to visit the local jobcentre and read the job sections in newspapers.

The decision maker decides that

**1.** the jobseeker’s agreement should be varied **and**

**2.** the terms proposed by the employment officer were not reasonable **and**

**3.** the terms proposed by the claimant were reasonable **and**

**4.** the terms on which the claimant and employment officer were to enter into an agreement to vary the jobseeker’s agreement were those proposed by the claimant.

 21942 - 21944

Decision maker's decisions on directions on a proposed variation to a jobseeker’s agreement

21945 If the decision maker determines that it would be reasonable to expect the claimant to do what is in the proposed variation to the jobseeker’s agreement, the decision maker should give a

**1.** decision to that effect **and**

**2.** direction that the

**2.1** jobseeker’s agreement should be varied **and**

**2.2** terms of the varied jobseeker’s agreement should be those that were proposed.

21946 If the decision maker determines that it would not be reasonable to expect the claimant to have to do what is in the proposed variation to the jobseeker’s agreement the decision maker should give a

**1.** decision to that effect1 **and**

**2.** direction that the jobseeker’s agreement should or should not be varied2.

1 JS (NI) Order 95, art 12(5); 2 art 12(6)(b)

21947 The current jobseeker’s agreement will remain in effect if the decision maker gives

**1.** a decision that it would not be reasonable to expect the claimant to have to do what is in the proposed variation to the jobseeker’s agreement **and**

**2.** a direction that the jobseeker’s agreement should not be varied.

21948 If the decision maker gives

**1.** a decision that it would not be reasonable to expect the claimant to have to do what is in the proposed variation to the jobseeker’s agreement **and**

**2.** a direction that the jobseeker’s agreement should be varied

 the decision maker should give directions on the terms on which the claimant and employment officer are to enter into an agreement to vary the jobseeker’s agreement1.

1 JS (NI) Order 95, art 12(6)(b)

21949 The terms specified in a decision maker's direction should be those that

**1.** mean that if the direction is complied with the claimant will satisfy the availability and actively seeking employment conditions **and**

**2.** are reasonable.

21950 In determining what directions to give the decision maker should consider

**1.** where the proposal to vary the jobseeker’s agreement is made by the employment officer

**1.1** why the claimant refused to accept the varied jobseeker’s agreement proposed by the employment officer **and**

**1.2** whether the claimant was reasonable in refusing to accept the proposed variation to the jobseeker’s agreement **and**

**1.3** what terms the claimant proposes **and**

**1.4** why the employment officer considers that the proposed variation to the jobseeker’s agreement is reasonable **and**

**1.5** the claimant's availability, including any restrictions on availability **and**

**1.6** the

**1.6.a** types of employment that the claimant is seeking **and**

**1.6.b** rate of pay that the claimant is seeking **and**

**1.6.c** localities in which the claimant is seeking employment **and**

**1.6.d** hours that the claimant is prepared to work **and**

**1.7** the guidance at DMG 21600 - 21666 on steps to seek employment and whether they are reasonable **or**

**2.** where the proposal to vary the jobseeker’s agreement is made by the claimant

**2.1** why the employment officer refused to accept the varied jobseeker’s agreement proposed by the claimant **and**

**2.2** what terms the employment officer proposes **and**

**2.3** why the claimant considers that the proposed variation to the jobseeker’s agreement is reasonable **and**

**2.4** the claimant's availability, including any restrictions on availability **and**

**2.5** the

**2.5.a** types of employment that the claimant is seeking **and**

**2.5.b** rate of pay that the claimant is seeking **and**

**2.5.c** localities in which the claimant is seeking employment **and**

**2.5.d** hours that the claimant is prepared to work **and**

**2.6** the guidance at DMG 21600 - 21666 on steps to seek employment and whether they are reasonable.

21951 If the decision maker considers that

**1.** both the claimant's and the employment officer's proposals to vary the jobseeker’s agreement satisfy the

**1.1** availability condition **and**

**1.2** actively seeking employment condition **and**

**2.** it would be reasonable, in respect of either the claimant's or the employment officer's proposed variation to the jobseeker’s agreement, to expect the claimant to have to do what is in the proposed variation to the agreement.

 the decision maker should direct that the jobseeker’s agreement should be varied along the lines proposed by the claimant1.

1 JSA Regs (NI), reg 39

 21952 - 21954

Backdating a variation to jobseeker's agreement

21955 Any proposed variation to a jobseeker’s agreement referred to the decision maker will not have been agreed by the employment officer and claimant. So the jobseeker’s agreement that was current before the variation was proposed will remain in force.

21956 In any case that is referred the decision maker may direct that the proposed variation to the jobseeker’s agreement should be treated as having effect from an earlier date as long as1

**1.** the jobseeker’s agreement is varied **and**

**2.** any conditions that the decision maker considers appropriate are satisfied.

1 JS (NI) Order 95, art 12(6)(d)

21957 The proposed agreement referred to in DMG 21956 includes

**1.** any proposed variation referred to the decision maker **or**

**2.** any directions that the decision maker gives concerning the terms on which the employment officer and claimant were to enter into an agreement to vary the jobseeker’s agreement.

21958 Legislation does not restrict the circumstances the decision maker can take into account. The decision maker should take into account all the circumstances of the case including

**1.** where claimants refuse to accept the variation to the jobseeker’s agreement proposed by the employment officer, whether they are reasonable in refusing to accept it **and**

**2.** where claimants have shown that they are prepared to accept

**2.1** a variation to the jobseeker’s agreement that differs from the one proposed by the employment officer, whether the terms of the jobseeker’s agreement that they are prepared to accept are reasonable **or**

**2.2** the variation to the jobseeker’s agreement proposed by the employment officer, that fact **and**

**3.** the date that the decision maker considers the claimant was first prepared to enter into a reasonable varied jobseeker’s agreement **and**

**4.** the claimant's and employment officer preferences.

21959 The decision maker should prefer the claimant's proposed variation where1

**1.** both the claimant's and the employment officer's proposals to vary the jobseeker’s agreement satisfy the availability and actively seeking employment conditions **and**

**2.** in considering both the employment officer's and the claimant's proposed variations to the jobseeker’s agreement, the decision maker considers that in both proposals it would be reasonable to expect the claimant to have to do what is in the proposed variations to the agreement.

1 JSA Regs (NI), reg 39

 21960 - 21964

Reasonable in refusing to accept a variation to the jobseeker's agreement

21965 If the decision maker considers that the claimant was reasonable in refusing to accept the proposed variation to the jobseeker’s agreement the decision maker should consider specifying in any direction given under DMG 21945-21951, the date on which the jobseeker’s agreement should be treated as having effect from, if

**1.** it is accepted and entered into **and**

**2.** the decision maker considers that the claimant would have been prepared to enter into the proposed variation to the jobseeker’s agreement given in the direction.

21966 The decision maker should consider treating the proposed variation to the jobseeker’s agreement, as given in the direction, as having effect from the date that the claimant would have been prepared to enter into that varied jobseeker’s agreement.

 21967 - 21968

Prepared to accept a different variation to the jobseeker's agreement

21969 If claimants say that they are prepared to accept a variation to the jobseeker’s agreement that differs from the one proposed by the employment officer, the decision maker can treat the one proposed by the claimant as having effect from the date that the claimant was first prepared to enter into that varied jobseeker’s agreement.

21970 But this only applies if

**1.** the proposed variation to the jobseeker’s agreement will enable the claimant to satisfy the availability and actively seeking employment conditions **and**

**2.** the decision maker considers that the terms of the proposed variation to the jobseeker’s agreement are reasonable.

 21971 - 21972

Prepared to accept the employment officer's variation to the jobseeker's agreement

21973 If claimants say that they are prepared to accept the variation to the jobseeker’s agreement proposed by the employment officer after the decision maker has given a determination or direction, the decision maker's determination or direction is binding on the employment officer and the claimant1. But the decision maker's determination or direction should have taken into account DMG 21965-21966.

1 JS (NI) Order 95, art 12(8)

21974 If claimants say that they are prepared to accept the variation to the jobseeker’s agreement proposed by the employment officer before the decision maker gives a determination or direction the decision maker should consider treating the proposed jobseeker’s agreement as having effect from the date that the decision maker considers the claimant was first prepared to accept that varied jobseeker’s agreement.

 21975 - 21979

Decision maker ends jobseeker's agreement

Decisions and directions by a decision maker on how a jobseeker's agreement is to be varied

21980 Any decision maker may bring the jobseeker’s agreement to an end where the claimant does not comply with the decision maker's direction on how the jobseeker’s agreement is to be varied within 21 days1. But this can only be done after

**1.** the direction has been issued to the claimant **and**

**2.** the claimant has had the 21 days to comply with the direction.

1 JS (NI) Order 95, art 12(6)(c); JSA Regs (NI), reg 38

21981 The 21 day period begins on the date that the direction was issued to the claimant1. If the claimant does not comply with the direction within 21 days, the jobseeker’s agreement comes to an end on the date that the decision maker decides to end the jobseeker’s agreement.

1 JSA Regs (NI), reg 38

**Example**

On 02.12.10 the decision maker issues a direction to Jackie saying how her jobseeker’s agreement should be varied. On 24.12.10 the Department refers the agreement to the decision maker to terminate it as Jackie has not complied with the direction within the 21 days allowed (the 21 days ran out at the end of 22.12.10). The decision maker makes a decision to end the agreement on 30.12.10. The jobseeker’s agreement comes to an end on 30.12.10.

 21982 - 21999

Appendix 1

Lower earnings limit

 **From To Amount (£)**

 06.04.89 05.04.90 43

 06.04.90 05.04.91 46

 06.04.91 05.04.92 52

 06.04.92 05.04.93 54

 06.04.93 05.04.94 56

 06.04.94 05.04.95 57

 06.04.95 05.04.96 58

 06.04.96 05.04.97 61

 06.04.97 05.04.98 62

 06.04.98 05.04.99 64

 06.04.99 05.04.00 66

 06.04.00 05.04.01 67

 06.04.01 05.04.02 72

 06.04.02 05.04.03 75

 06.04.03 05.04.04 77

 06.04.04 05.04.05 79

 06.04.05 05.04.06 82

 06.04.06 05.04.07 84

 06.04.07 05.04.08 87

 06.04.08 05.04.09 90

 06.04.09 05.04.10 95

 06.04.10 05.04.11 97

 06.04.11 05.04.12 102

 06.04.12 05.04.13 107

 06.04.13 05.04.14 109

 06.04.14 05.04.15 111

 06.04.15 05.04.16 112

Appendix 2

Examples of domestic abuse

 Victims of domestic violence are not confined to one gender or ethnic group. Domestic violence can encompass, but is not limited to the following types of abuse.

 **Psychological** Includes intimidation, insulting, isolating a person from friends and family, criticising, denying the abuse, treating a person as an inferior, threatening to harm children or take them away, forced marriage.

 **Physical** Includes shaking, smacking, punching, kicking, presence of finger or bite marks, starving, tying up, stabbing, suffocation, throwing things, using objects as weapons, female genital mutilation, “honour violence”.

 Physical effects are often in areas of the body that are covered and hidden (i.e. breasts and stomach).

 **Sexual** Includes forced sex, forced prostitution, ignoring religious prohibitions about sex, refusal to practise safe sex, sexual insults, sexually transmitted diseases, preventing breastfeeding.

 **Financial** Includes not letting a person work, undermining efforts to find work or study, refusing to give money, asking for an explanation of how every penny is spent, making a person beg for money, gambling, not paying bills.

 **Emotional** Includes swearing, undermining confidence, making racist remarks, making a person feel unattractive, calling a person stupid or useless, eroding a person’s independence.