

Chapter S4: JSA Sanctions – General principles

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Chapter S4: JSA Sanctions – General principles

Introduction

S4001 From 29.4.13, claims for and awards of JSA under the provisions as in force before amendments to remove JSA(IB) will gradually be phased out. Legislation¹ provides for a benefit to be known as JSA which replaces the existing benefit of the same name. This chapter gives guidance in respect of the general principles relating to sanctions in new style JSA (hereafter referred to as JSA).

Note: ADM Chapter M1 (UC Pathfinder) provides guidance on the meaning of new style JSA.

1 JSA Regs 13; 2 reg 1(3)

S4002 Where a claimant fails to meet their responsibilities without good reason, their JSA may be reduced. This is known as a sanction. Legislation contains provisions relating to sanctions¹.

Note: For guidance on sanctions for awards of JSA before 29.4.13 see DMG Chapter 34.

1 JSA Regs 13, Part 3

Dual entitlement to UC and JSA

S4003 Where

1. the claimant is entitled to both UC and JSA **and**
2. a sanction is appropriate

the sanction will be applied against UC only¹.

1 JSA Regs 13, reg 5(3)

Note: For guidance on sanctions in UC see ADM Chapters K1 – K9.

S4004 – S4005

Scope of chapter

S4006 This Chapter gives guidance on

1. terms that are used throughout the ADM Chapters on JSA sanctions (S4011 – S4020)
2. the general principles on JSA sanctionable failures (S4026 – S4031)

3. when a reduction is to have effect (S4036 – S4052)
4. the termination of a reduction (S4056 – S4058)
5. the amount of a reduction (S4061)
6. the daily reduction rate (S4062)
7. sanctions where UC ends and the person is entitled to JSA (S4066)

S4007 – S4010

Definitions

Meaning of higher-level sanction

- S4011 A higher-level sanction¹ is a sanctionable failure (see S4016) where a claimant
1. fails for no good reason to comply with a work preparation requirement to undertake a specified work placement (i.e. MWA)² **or**
 2. fails for no good reason to comply with a work search requirement to apply for a particular vacancy for paid work³ **or**
 3. fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work⁴ **or**
 4. by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay⁵.

Note: See ADM Chapter R4 for guidance on Claimant responsibilities: Work Requirements, Chapter K2 for guidance on good reason, and Chapter S5 (JSA Higher-level sanctions) for detailed guidance on failures to comply with MWA placements, failures to apply for or take up a vacancy and voluntarily or through misconduct ceases or loses paid work.

*1 WR Act 12, s 6J; JSA Regs 13, reg 19; 2 WR Act 12, s 6J(2)(a); JSA Regs 13, reg 29
3 WR Act 12, s 6J(2)(b); 4 s 6J(2)(c); 5 s 6J(2)(d)*

Meaning of low-level sanction

- S4012 A low-level sanction¹ is a sanctionable failure (see S4016) where a claimant fails to comply for no good reason with a
1. specified work preparation requirement² **or**
 2. work search requirement for the purpose of obtaining paid work, more paid work or better paid work³ **or**

3. requirement to participate in an interview for any purpose relating to a work-related requirement⁴.

Note: See ADM Chapter R4 for guidance on Claimant responsibilities: Work Requirements, ADM Chapter K2 for guidance on good reason and ADM Chapter S7 for detailed guidance on low-level sanctions.

1 JSA Regs 13, reg 17, WR Act 12, s 6K; 2 s 6K(a); 3 s 6K(a); 4 s 6K(b)

Meaning of medium-level sanction

S4013 A medium level sanction¹ is a sanctionable failure (see S4016) where a claimant fails to comply with a

1. work search requirement under relevant legislation² to take all reasonable action to obtain paid work **or**
2. requirement to be available for work under relevant legislation³.

Note: See ADM Chapter R4 for guidance on Claimant responsibilities: Work Requirements and ADM Chapter S6 for detailed guidance on medium-level sanctions.

1 JSA Regs 13, reg 17, WR Act 12, s 6K; 2 s 6D(1)(a); 3 s 6E(1)

Meaning of pre-claim failure

S4014 A pre-claim failure means a sanctionable failure (see S4016) where a claimant fails

1. without good reason to take up an offer of paid work **or**
2. by reason of misconduct or voluntarily and for no good reason ceases or loses paid work¹.

Note: For detailed guidance on pre-claim failures see ADM Chapter S5 (JSA Higher-level sanctions).

1 WR Act 12, s 6J(3)

Meaning of reduction period

S4015 The reduction period is the number of days for which an award of JSA is reduced for each sanctionable failure¹ (see S4016).

Note: For detailed guidance on reduction periods see S4026 et seq.

1 JSA Regs 13, reg 17

Meaning of sanctionable failure

S4016 A sanctionable failure is a failure that has incurred a sanction under relevant legislation¹.

Note: See S4021 for the meaning of current sanctionable failure.

1 WR Act 12, s 6J & 6K

S4017 Sanctionable failures can result in a reduction of JSA at the higher, medium or low-level¹. In some cases no reduction is applied² (see ADM Chapter S5 - JSA Higher-level sanctions).

1 JSA Regs 13, reg 17; 2 reg 28

S4018 Where a failure is a sanctionable failure, the claimant's award of JSA is normally reduced. The period and amount of reduction depends on¹

1. which work-related requirement the claimant failed to comply with **and**
2. the number of sanctionable failures **and**
3. the period between failures.

Note: See ADM Chapter S5 for detailed guidance on JSA Higher-level sanctions, ADM Chapter S6 for JSA Medium-level sanctions and ADM Chapter S7 for JSA Low-level sanctions.

1 WR Act 12, s 6J & 6K

Meaning of total outstanding reduction period

S4019 The total outstanding reduction period is the total number of days of a reduction period for which an award of JSA has not yet been reduced¹. This includes all sanctions that have not yet been applied, i.e. higher-level, medium-level, low-level and reductions transferred from UC (see S4026 et seq for guidance on calculating reduction periods).

1 JSA Regs 13, reg 17

Meaning of UC sanctionable failure

S4020 A UC sanctionable failure means a failure by a claimant which is sanctionable under UC legislation¹.

Note: For guidance on Sanctions on an award of UC see ADM Chapters K1 – K9.

1 JSA Regs 13, reg 17; WR Act 12, s 26 & 27

Meaning of current sanctionable failure

S4021 Current sanctionable failure¹ means a failure which the Secretary of State has not yet determined is to be reduced under relevant legislation².

1 JSA Regs 13, reg 17; 2 JS Act, s 6J & 6K

General principles for calculating reduction periods

Reduction period

S4026 The reduction period is the number of days for which an award of JSA is reduced for each sanctionable failure¹ (see also S4015).

Note 1: Depending on the circumstances in which the failure occurs the reduction period that applies is provided for in a table for each level of sanctions². The circumstances of the failure are described in the first column of each table and has effect for the period set out in the second column.

Note 2: It is the date of the failures that determines which reduction period applies, i.e. the period between the date of the current sanctionable failure and the most recent previous sanctionable failure, not the dates of the DMs decisions. (For definitions of sanctionable failure see S4016 and for current sanctionable failure see S4021).

1 JSA Regs 13, reg 18 (1); 2 JS Act, s 6J & 6K; JSA Regs 2013, reg 19, reg 20 & reg 21

S4027 Reduction periods run consecutively¹, i.e. one sanction period follows immediately after the other. If it is determined that an award of JSA should be reduced as a result of a sanctionable failure, and a reduction has already been imposed for a previous sanctionable failure, the later reduction is added to the total outstanding reduction period, and takes effect once the previous reduction has ended.

1 JSA Regs 13, reg 18(2)

Example

Sue has had several different sanctions imposed for failure to comply with work-related requirements since her entitlement to JSA began on 15.8.13. She had a higher-level sanction of 91 days imposed on 9.10.13, because she left her part-time job voluntarily for no good reason. Sue later refused to apply for a job vacancy on 19.12.13, and a further higher-level sanction of 182 days was imposed. The reduction period for the failures began on 15.9.13, and is due to end on 14.6.14.

After Sue failed to attend a MWA work placement which started on 12.5.14, the DM decides on 20.5.14 to impose a further higher-level sanction. This ought to be for 1095 days, as there was a previous 182 day higher-level sanctionable failure within 365 days. However, as at 20.5.14 the total outstanding reduction period is 25 days, that is the number of days for which Sue's award of JSA has not yet been reduced. The DM therefore imposes a reduction period of 1070 days, effective from 15.6.14.

S4028 The reduction period depends on whether the sanctionable failure results in a

1. higher-level sanction¹ (see ADM Chapter S5) **or**
2. medium-level sanction² (see ADM Chapter S6) **or**
3. low-level sanction³ (see ADM Chapter S7).

1 JSA Regs 13, reg 19; 2 reg 20; 3 reg 21

S4029 Reduction periods can be for

1. an open period until the claimant meets a compliance condition **or**
2. a fixed period **or**
3. a combination of both.

Higher and medium-level sanctions are for a fixed period, low-level sanctions have a combination of an open period until compliance, followed by a fixed period.

Note: See ADM Chapters S5 – S7 for further specific examples in relation to higher, medium and low-level sanctions.

Maximum reduction period

S4030 Where imposing a reduction period for a sanctionable failure would mean that the total outstanding reduction period (see S4019) would exceed 1095 days, the number of days in the reduction period is adjusted to ensure that this limit is not exceeded¹. The calculation of the total outstanding reduction period is made at the date when the DM makes the determination of the reduction period.

1 JSA Regs 13, reg 18(3)

Example

See the example at S4027. On 1.9.14 Sue refuses without good reason to apply for an advertised vacancy and on 5.9.14 the DM decides a further higher-level sanction should be applied. This ought to be for 1095 days as there was a previous 182 day higher-level sanctionable failure within 365 days. However as at 5.9.14 when the DM makes the determination the total outstanding reduction period is 988 days (this is the number of days for which Sue's award of JSA has not yet been reduced, i.e. the 1070 total reduction period outstanding at 15.6.14 minus 82 days for the period served from 15.6.14 to 5.9.14). The DM therefore imposes a reduction period of 107 days. The total outstanding reduction period will be 1095 days effective from 6.9.14.

Previous failure within 14 days

S4031 When calculating which reduction period applies, a previous sanctionable failure is disregarded for the purposes of escalation if it is within 14 days of the current sanctionable failure in question¹

Note 1: See ADM Chapters S5 – S7 for further specific examples in relation to higher, medium and low-level sanctions.

Note 2: Where a failure occurs within 14 days of a previous sanctionable failure the reduction period for the subsequent failure is for the same duration as the previous reduction period and does not escalate to the next penalty.

1 JSA Regs 13, reg 18(4)(a)

Example

On 3.9.13 Kyle fails to attend his fortnightly interview and give evidence of compliance with work search and work availability requirements. He fails to participate in an interview again on 17.9.13. The DM determines that both are sanctionable failures for which a low-level sanction should be imposed. As the failure on 3.9.13 is within 14 days of the failure on 17.9.13, it is disregarded when considering what fixed reduction period to apply for the second failure.

S4032 – S4035

When a reduction is to have effect

Start of the reduction period

S4036 The reduction period takes effect from the first day of the

1. benefit week in which the sanctionable failure occurred where the claimant has not been paid JSA¹ **or**
2. first benefit week for which the claimant has not been paid JSA² **or**
3. first benefit week in which the award is no longer subject to a reduction¹ if the JSA award is already subject to a reduction as in **1.** or **2.**³.

The reduction period determination is incorporated in a supersession decision which takes effect from the same date. See also ADM Chapter A4 (Supersession) for guidance on the supersession effective date rules.

Note: The definition of benefit week⁴ can be found in ADM Chapter S2.

1 JSA Regs 13, reg 22(a); 2 reg 22(b); 3 reg 22(c); 4 reg 2(2)

Example 1

On 15.7.13 Jamil fails to attend an interview with a Work Programme provider as required. On 31.7.13 the DM determines Jamil failed without good reason to participate with a work-related requirement and imposes a sanction. Jamil's benefit week ends on a Thursday and he was last paid JSA to 18.7.13. The reduction period begins on 19.7.13.

Example 2

On 10.6.13 Anila fails to comply with a requirement to join a job club. On 3.7.13 the

DM determines that Anila failed without good reason to comply with a work-related requirement and imposes a low-level sanction. Anila joined the job club on 21.6.13 and a reduction period of 19 days is appropriate (12 days of non-compliance plus 7 days for a first lower level failure). Anila's benefit week ends on a Monday. On checking Anila's records a higher-level sanction of 91 days is already imposed on her JSA from 28.5.13 – 26.8.13. The reduction period for the failure in question will begin on 27.8.13. The total outstanding reduction period on 3.7.13 is 73 days.

S4037 – S4040

Reduction period to continue where JSA award terminates

S4041 If an award of JSA terminates while there is an outstanding reduction period, the reduction period continues to run as if a daily reduction were being applied¹. If the claimant becomes entitled to a new award of JSA before the period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period².

Note 1: All sanctions run consecutively, see the guidance at S4027.

Note 2: See S4046 where the award of JSA terminates before a determination to sanction is made.

1 JSA Regs 13, reg 23(1)(a); 2 reg 23(1)(b)

Example

Jonathan is entitled to JSA and has a 91day reduction period imposed on his JSA award from 12.5.14 – 10.8.14.

On 2.6.14 Jonathan starts a 2 month temporary work contract. His award of JSA terminates from 2.6.14.

He finishes work on 1.8.14 and re-claims JSA on 4.8.14.

A 7 day reduction period will be imposed on his new award for the balance of the outstanding reduction period as follows:

1. sanctionable days already served 12.5.14 – 2.6.14 = 21 days.

70 days in total outstanding reduction period **minus**

2. period off JSA 2.6.14 – 3.8.14 = 63 days

7 days balance in the total outstanding reduction period will be imposed on the new award of JSA.

S4042 – S4045

Award terminates before determination made

S4046 If an award of JSA terminates

1. before the DM determines that the award will be subject to a reduction **and**
2. that determination is made **after** the claimant becomes entitled to a new award of JSA

the reduction period in relation to that failure is to have effect as if the determination had been made on the day **before** the previous award of JSA terminated¹.

Note 1: In effect the decision to sanction is delayed or 'reserved' because the claimant does not have a current claim to JSA, but anytime away from benefit is treated as served towards the reduction period if when the claimant re claims JSA a sanction is appropriate.

Note 2: The date the reduction period starts will depend on whether the claimant has already been paid².

1 JSA Regs 13, reg 23(2); 2 reg 23(3)

Example

Josie makes a new claim to JSA on 16.10.14. Her previous award of JSA terminated on 30.7.14. When her previous award terminated there was an outstanding determination for a failure to apply for an advertised vacancy. The DM determines that a 91 day reduction period would have been appropriate. The 91 day reduction period is calculated from 29.7.14 – 27.10.14. Josie will serve a 12 day reduction period on her new claim to JSA.

S4047 – S4050

Suspension of a reduction where a fraud penalty applies

S4051 A reduction period for a sanctionable failure is suspended for any period during which a fraud penalty also applies to that award of JSA¹.

Note: For detailed guidance on fraud penalties see ADM Chapter B2 Restrictions on payment of benefit - benefit offences.

1 JSA Regs 13, reg 24(1)

S4052 The reduction

1. ceases to have effect on the day on which the period of the fraud penalty begins **and**
2. begins again on the day after that period ends¹.

1 JSA Regs 13, reg 24(2)

Example 1

On 8.12.14 Mo fails without good reason to comply with a work preparation requirement and the DM decides to impose a low-level sanction for a reduction period of 9 days (2 days non-compliance, followed by a 7 day fixed period) for a first low-level failure.

Mo already has a fraud penalty imposed on his JSA of 26 weeks which is due to expire on 4.3.15. The reduction period is suspended and can be imposed from 5.3.15.

Example 2

Mary has a 182 day reduction period imposed on her JSA from 6.1.15. On 15.4.15 a fraud penalty of 26 weeks is imposed on her award of JSA. The reduction period is suspended from 15.4.15 – 13.10.15. An 83 day reduction period will be imposed, which is the balance of the reduction period still to be served, from 14.10.15, the day after the fraud penalty ends.

S4053 – S4055

When a reduction is to be terminated

S4056 A reduction imposed for a sanctionable failure will be terminated where, since the date of the most recent sanctionable failure which resulted in a reduction being imposed, the

1. claimant has been in paid work for
 - 1.1 a period of at least 26 weeks **or**
 - 1.2 at least one period of employment where the total of those periods amounts to more than 26 weeks¹ **and**
2. claimant's weekly earnings are at least equal to their expected number of hours per week multiplied by the national minimum wage which would apply for a person of the claimant's age² (see ADM Chapter R4 for guidance on expected hours).

1 JSA Regs 13, reg 25(1); 2 reg 25(3)

S4057 The termination of the reduction has effect from the beginning of the

1. benefit week in which the conditions in S4056 fall **or**
2. first benefit week in relation to any subsequent award where the conditions in S4056 fall outside a period of entitlement to JSA¹.

1 JSA Regs 13, reg 25(2)

Example

On 18.11.14 Adok fails without good reason to comply with a requirement to attend his MWA placement and on 26.11.14 the DM determines a 1095 day reduction period is to be imposed on his award of JSA as this is Adok's third higher level failure. Adok's benefit week ends on a Monday and he was last paid JSA to 17.11.14. The reduction period is imposed from 18.11.14.

On 2.1.15 Adok starts work. His award of JSA terminates 2.1.15.

On 1.10.15 Adok makes a further claim to JSA. His contract of employment ended on 30.9.15.

The balance of the previous sanctionable failure outstanding on the previous award of JSA cannot be applied to his new award as Adok has been in employment for more than 26 weeks and his earnings meet the conditions in S4056 **2.**

S4059 – S4060

Amount of the reduction for each benefit week

S4061 Where it is determined that an award of JSA is to be reduced because of a sanctionable failure, the amount of the reduction for each benefit week in respect of which a reduction has effect is calculated as follows¹

1. take the number of days in
 - 1.1 the benefit week **or**
 - 1.2 if lower, in the total outstanding reduction period (see S4019)deducting any days in that benefit week for which the reduction is suspended (see S4051)
2. multiply the number of days at **1.** by the daily reduction rate (see S4062) **and**
3. deduct the amount produced from **2.** **and** **3.** from the amount of the award for the benefit week.

1 JSA Regs 13, reg 26

Daily reduction rate

S4062 The daily reduction rate is the applicable amount appropriate to the claimant¹

1. multiplied by 52 **and**
2. divided by 365².

Note 1: The daily amount calculated is rounded down to the nearest 10 pence³.

Note 2: See ADM Chapter S1 (Amounts of JSA and part weeks) for guidance on applicable amounts.

1 JSA Regs 13, reg 49; 2 reg 27(1); 3 reg 27(2)

Example 1

Brad, who is aged 23, is awarded JSA. On 26.3.14 the DM determines that Brad had no good reason for not complying with a work search requirement and a 28 day reduction of JSA is imposed for a first medium-level sanctionable failure.

The daily rate of reduction is £8.00 ($£56.80 \times 52 \div 365$).

Brad's benefit week ends on a Tuesday and he was last paid JSA to 18.3.14. The first benefit week for which a reduction can be imposed is from 19.3.14.

The amount of the reduction for that week and the three weeks following is calculated as the number of days in the benefit week i.e. 7 days x £8.00 (the daily reduction rate) = £56.00.

Example 2

Justine is aged 27 years and claims JSA. Her benefit week ends on a Thursday.

On 6.11.14 the DM determines that Justine has failed without good reason to comply with a specified action as part of a work search requirement. Justine has no previous low-level sanctionable failures so the DM imposes a sanction of 6 days for the period of non-compliance and a further 7 days (fixed period) following compliance.

Justine already has a higher-level sanction imposed on her JSA award of 91 days which still has 30 days outstanding. The new total outstanding reduction period is 43 days as all sanctions run consecutively.

The daily reduction rate is £10.20 ($£71.70 \times 52 \div 365$). Justine was last paid JSA up to 30.10.14.

The amount of the reduction for the benefit week starting on 31.10.14 and the next 5 weeks is calculated as the number of days in the benefit week of 7 days x £10.20 (the daily reduction rate) = £71.40.

For the benefit week starting on 12.12.14 the amount of the reduction is calculated as the total outstanding reduction period of 1 day (i.e. the balance of days that remain to be served) x £10.20 = £10.20.

S4063 – S4065

Sanctions where UC ends and the person is entitled to JSA

1. the claimant's award of UC is terminated **and**
2. a higher, medium or low-level sanction is imposed¹ **and**
3. the claimant is entitled to JSA

any reduction of the UC award is applied to the JSA award².

1 WR Act 12, s 26 & 27; 2 JSA Regs 13, reg 30(1) & (2)

Period of the reduction

S4067 Where S4066 applies, the period for which JSA is reduced is the number of days for which the UC sanction applied after deducting any days which

1. have already resulted in a reduction of the amount of UC¹ **or**
2. fall after the last day of UC entitlement and the first day of JSA entitlement².

1 UC Regs, reg 102 – 104; 2 JSA Regs 13, reg 30(3)

Daily reduction rate

S4068 Where S4066 applies, the daily reduction rate for JSA is calculated in the same way as for a JSA sanction¹. See S4062 for further guidance.

1 JSA Regs 13, reg 30(4)

Amount of reduction

S4069 Where S4066 applies, the amount of the reduction of JSA is the number of days in S4067 x the daily reduction rate in S4068¹.

1 JSA Regs 13, reg 30(5)

The content of the examples in this document (including use of imagery) is for illustrative purposes only