

DMG Chapter 21: Jobseeker's Allowance - Labour market questions, special conditions for JSA(Cont)

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Introduction 21000

21000 This chapter contains guidance on JSA, including labour market questions (jobseeking periods, linking periods, linked periods and claimants approaching retirement age), special conditions relating to JSA(contribution-based), availability, actively seeking employment and the jobseeker's agreement (also known as the claimant commitment).

Definition of claimant & Jobseeking periods 21001 - 21050

Definition of claimant

21001 Throughout this chapter, the term “claimant” includes a member of a joint claim for JSA, unless otherwise stated.

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Jobseeking periods 21002 - 21050

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Introduction

21002 The guidance on JSPs applies only to JSA and not to IS. See the definition of claimant for JSA, IS and joint claims for JSA, in **DMG Chapter 22**. Note the exemption of certain members of a joint claim in **DMG Chapter 20**.

21003 To determine waiting days¹ and certain aspects of hardship² the DM has to determine whether the claimant's current claim starts a new JSP, or whether it can link with a former JSP.

1 JS Act 95, Sch 1, para 4; JSA Regs, reg 46; 2 reg 141

21004 The DM will need to determine

1. which days are part of a JSP¹ (see **DMG 21008 - 21018**) and
2. whether separate JSPs can be treated as one JSP (linking periods)² (see **DMG 21021 - 21036**).

1 JS Act 95, s 35(1); JSA Regs, reg 47; 2 JS Act 95, Sch 1, para 3; JSA Regs, 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 JSP if they are days on which the claimant satisfies, or is treated as satisfying, **all** the following conditions¹

1. availability²
2. having a current JSAg that remains in force³
3. ASE⁴
4. not being in remunerative work⁵
5. capability⁶
6. not receiving relevant education⁷
7. being under pension age⁸
8. being in GB⁹ (see **DMG 070712**).

Waiting days are part of a JSP.

1 JSA Regs, reg 47(1); 2 JS Act 95, s 1(2)(a); 3 s 1(2)(b); 4 s 1(2)(c); 5 s 1(2)(e);
6 s 1(2)(f); 7 s 1(2)(g); 8 s 1(2)(h); 9 s 1(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 JSP¹.

1 JSA Regs, reg 47(2)

21010 From and including 28.10.96 any period during which claimants are entitled to JSA(Cont) because they have satisfied the engaged in employment and weekly earnings rules (see DMG Chapter 37) forms part of a JSP¹. This does not apply to any days falling in the period 7.10.96 to 27.10.96.

1 reg 47(2A)

Linking with periods of interruption of employment

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

1. the eight weeks before

1.1 a JSP or

1.2 linked period

that begins on 7.10.96 **or**

2. the twelve weeks before

2.1 a JSP or

2.2 linked period

that begins after 7.10.96

is treated as a JSP². This does not apply when the days of claim the DM is considering fall in the period 7.10.96 to 27.10.96. When working out eight or twelve weeks before a date, the date itself is excluded.

1 reg 47A(2); 2 reg 47A(1)

Example

Stuart has been claiming and receiving either UB or IB throughout the period 2.1.95 to 17.8.96. He works from 19.8.96 until 8.11.96 when he is made redundant. Stuart claims JSA on 9.11.96. Stuart's PIE ended on 17.8.96, which is within twelve weeks of a JSP (which began on 9.11.96). The PIE is treated as a JSP, so Stuart's JSP begins on 2.1.95.

Linking with periods of interruption of employment - linked period spans 7.10.96

21012 For any days of a JSA claim up to and including 30.11.97 a PIE can only be treated as a JSP if¹

1. the PIE ends within twelve or eight weeks of a JSP or linked period and

2. that JSP or linked period starts on or after 7.10.96.

1 JSA Regs, reg 47A(1)

21013 If the conditions in **DMG 21012** are not satisfied, part of the PIE 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 PIE must end on 6.10.96 at the latest. Legislation for PIEs does not exist after this date¹.

1 SS CB Act 92, s 25A; JS Act 95, Sch 3

Example 1

Claimant has

UB from 11.8.93 to 16.3.94.

IB from 17.3.94 to 6.11.96.

Then claims JSA from 7.11.96.

The claims to UB and IB form a PIE. This PIE is treated as a JSP as 6.10.96 (the end of the PIE) is within twelve weeks of the start of the claimant's JSP.

The claimant's JSP starts on 11.8.93.

The claimant's relevant benefit year (see **DMG Chapter 20**) is the benefit year that includes 11.8.93 (that is 1993). The claimant does not have to serve waiting days (see **DMG Chapter 20**).

Example 2

Claimant has

UB from 11.8.93 to 16.3.94.

IB from 17.3.94 to 19.3.97.

Then claims JSA from 20.3.97.

The claims to UB and IB form a PIE. That PIE ends on 6.10.96.

The period on IB is a linked period - but it starts before 7.10.96 (on 17.3.94).

The end of the PIE (6.10.96) and the start of the JSP (20.3.97) are more than twelve weeks apart. The PIE cannot be treated as a JSP (see **DMG 21011**).

But the IB period is also a linked period and ends within twelve weeks of the start of the JSP. The claimant's relevant benefit year (see **DMG 21053**) is the benefit year that includes 17.3.94 (that is 1994). The claimant does not have to serve waiting days (see **DMG Chapter 20**).

Changes to regulations from 1.12.97

21015 For any days of a JSA claim from 1.12.97 to 31.3.98 inclusive any days of unemployment that form part of a PIE can be treated as a JSP where¹

- 1.** the last day of unemployment in the PIE is within eight weeks of a linked period **and**
- 2.** the linked period began before 7.10.96 and is still current on 1.12.97.

Note: Guidance on days that cannot be days of unemployment is at **DMG 37010** et seq. Guidance on

Example

Claimant claims and receives UB 11.8.93 to 16.3.94.

The claimant then claims IB 17.3.94 to 9.3.97 and from 14.4.97 to 7.12.97.

On 8.12.97 the claimant claims JSA.

The linked period that began before 7.10.96 is not still current on 1.12.97 so the days of unemployment (11.8.93 to 16.3.94) cannot be treated as a JSP.

The claimant's JSP starts on 17.3.94.

The claimant's relevant benefit year (see **DMG 21053**) is the benefit year that includes 17.3.94 (that is 1994). The claimant does not have to serve waiting days (see **DMG Chapter 20**).

Changes to regulations from 1.4.98

21016 For any days of a JSA claim from and including 1.4.98 any days of unemployment that form part of a PIE can be treated as a JSP where¹

- 1.** the last day of unemployment in the PIE is within eight weeks of a linked period **and**
- 2.** the linked period began before 7.10.96.

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

Example 1

Claimant claims and receives UB 11.8.93 to 16.3.94.

The claimant then claims IB 17.3.94 to 9.3.97 and from 14.4.97 to 1.4.98.

On 2.4.98 the claimant claims JSA.

16.3.94 is within eight weeks of 17.3.94, so the days of unemployment (11.8.93 to 16.3.94) can be treated as a JSP.

The claimant's JSP starts on 11.8.93.

The claimant's relevant benefit year (see **DMG 21053**) is the benefit year that includes 11.8.93 (that is 1993). The claimant does not have to serve waiting days (see **DMG Chapter 20**).

Example 2

Claimant claims and receives UB 11.8.93 to 16.3.94.

The claimant then claims IB 17.3.94 to 9.3.97 and from 14.4.97 to 13.3.98.

On 14.3.98 the claimant claims JSA.

In respect of the period 14.3.98 to 31.3.98: the days of unemployment (11.8.93 to 16.3.94) cannot be treated as JSP because the linked period that began before 7.10.96 is not still current on 1.12.97; the claimant's JSP starts on 17.3.94 and his relevant benefit year is 1994. The claimant does not have to serve waiting days.

In respect of the period 1.4.98 onwards; the days of unemployment (11.8.93 to 16.3.94) can be treated as a JSP; the claimant's JSP starts on 11.8.93 and his relevant benefit year is 1993. The claimant does not have to serve waiting days.

Linking with periods of interruption of employment - linked period and jobseeking period start after 7.10.96

21017 Where a claimant has a

- 1.** PIE that ends before 7.10.96 **and**
- 2.** linked period that begins after 7.10.96 **and**
- 3.** JSP that begins after 7.10.96

the PIE, linked period and JSP are treated as one JSP as long as each period is separated by no more than twelve weeks.

Example

Claimant has a PIE that ends on 6.10.96. On 14.12.96 the claimant claims IB. The claim to IB ends on 14.2.97. On 15.2.97 the claimant claims JSA.

The linked period begins on 14.12.96 and ends on 14.2.97. The JSP begins on 15.2.97. The claimant has a JSP and a linked period that begin after 7.10.96.

The PIE is treated as a JSP because it ends within twelve weeks of the start of the linked period. The two

JSPs (the PIE that is treated as a JSP and the JSP that begins on 15.2.97) are treated as one JSP (see **DMG 21021**).

Days which are not part of a jobseeking period

21018 Days will not be part of a JSP if they are

- 1.** days for which no claim for JSA has been made or treated as made¹ **or**
- 2.** days that are before the day on which a claim for JSA was made or treated as made² **or**
- 3.** days for which the claimant is not entitled to JSA because they are more than twelve months before the date on which the claim to JSA was made or treated as made³ **or**
- 4.** days⁴ for which a claimant⁵

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

4.2 is not entitled to JSA⁶ because of

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

4.2.b not attending at the time specified in a written notice given or sent by the DM, 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 DM **and**

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

- 5.** in any week (Sunday to Saturday) for which a claimant is not entitled to JSA because of a TD⁷ **or**

- 6.** any days falling on or after 6.9.99 for which a claimant is not entitled to JSA under certain legislation⁸ because the required information or evidence about an NI number is not provided⁹.

1 JSA Regs, reg 47(3)(a); 2 reg 47(3)(b); 3 reg 47(3)(c); SS A Act 92, s 1(2)(b) & 1(4)(aa);

4 JSA Regs, reg 26; 5 JSA Regs, reg 47(3)(d); 6 reg 25; 7 reg 47(3)(e); JS Act 95, s 14;

8 SS A Act 92, s 1(1A); 9 JSA Regs, reg 47(3)(f).

Linking periods

21021 Two or more JSPs are treated as one JSP where they are separated only by¹

1. twelve weeks or less **or**

2. one linked period (see **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 twelve weeks or less **or**

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

5. linked periods immediately preceded by a period of twelve 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 seven days².

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

Example 1

Ruby claims JSA for four weeks, then does jury service for four weeks. Ruby waits for ten weeks before claiming JSA again. The current JSP will not link with the four week JSP.

Example 2

JSA (2 years)

Training (Linked period) (1 year)

Gap (1 week)

IB (Linked period) (20 weeks)

Gap (1 week)

MA (Linked period) (18 weeks)

JSA

The two periods of JSA link and can be treated as one JSP as they are separated by linked periods that are separated by a period of twelve weeks or less (see **DMG 21021 3.**).

Example 3

JSA (2 months)

Gap (2 days)

JSA (6 months)

IB (Linked period) (13 weeks)

JSA (4 months)

IB (Linked period) (20 weeks)

JSA

All the periods on JSA link and are treated as one JSP.

Example 4

JSA (2 years)

IB (Linked period) (14 weeks)

Training (Linked period) (6 months)

JSA

The two periods of JSA link and can be treated as one JSP. They are separated by two linked periods which follow immediately one after the other (see **DMG 21021 2.**).

Example 5

JSA (1 year)

IB (Linked period) (13 weeks)

Gap (10 weeks)

Training (Linked period) (3 months)

Gap (2 days)

JSA

The two periods on JSA link and can be treated as one JSP. They are separated by linked periods that are separated by a period of twelve weeks or less (see **DMG 21021 3.**) and by a linked period immediately

followed by a period of twelve weeks or less (see **DMG 21021 4.** and **21021 5.**).

Linking - calculation of eight and twelve week periods

21022 When calculating whether PIEs or linked periods fall within eight weeks (56 consecutive days) or twelve weeks (84 consecutive days) of the start of a JSP or linked period (see **DMG 21011** and **21053**), DMs should disregard the first day of the JSP or later linked period.

Example

Last day of PIE = 18.7.96

First day of current JSP = 10.10.96

18.7.96 is within the twelve weeks (84 days) (18.7.96 - 9.10.96) before the start of the JSP. The DM does not include 10.10.96 in this calculation. The PIE and the JSP are treated as one JSP.

21023 To calculate whether linked periods or JSPs are separated by twelve weeks (84 consecutive days) (see DMG 21021), DMs should disregard the¹

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

2. first day of the second period.

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

Example 1

Last day of previous JSP = 16.2.97

First day of current JSP = 12.5.97

There are twelve weeks (84 days) between the two JSPs. The DM does not include 16.2.97 and 12.5.97 in this calculation. The two JSPs are treated as one JSP.

Example 2

JSP ends 6.1.97.

IB period from 1.4.97 to 13.5.97.

Current JSP starts 6.8.97.

There are twelve weeks (84 days) between the first JSP and the beginning of the IB period. The DM does not include 6.1.97 and 1.4.97 in this calculation.

There are twelve weeks (84 days) between the end of the IB period and the current JSP. The DM does not include 13.5.97 and 6.8.97 in this calculation.

The two JSPs are treated as one JSP.

21024 - 21026

Linked periods

21027 Linked periods are¹ any period when the claimant

1. is entitled to CA² (see **DMG 21036**) **or**

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

3. has LCW or is treated as having LCW⁴ **or**

4. is entitled to MA⁵ **or**

5. is doing training for which a training allowance is payable⁶ (see **DMG 21555**) **or**

6. is on the E/O (S/E)⁷ **or**

7. is not entitled to JSA because they are on the waged option of the VSO or ETFO or are participating in the IAP **and**

7.1 are in remunerative work **or**

7.2 their income exceeds the applicable amount **or**

7.3 their earnings exceed the prescribed amount⁸ **or**

8. is not entitled to JSA because they are participating in an EZ programme and

8.1 are in remunerative work **or**

8.2 their income exceeds the applicable amount **or**

8.3 their earnings exceed the prescribed amount⁹

9. is entitled to a CSP¹⁰.

Note: Jobcentre Plus operational guidance provided guidance on the E/O (S/E), VSO, ETFO, IAP and EZ.

1 JSA Regs, reg 48(2); 2 reg 48(2)(a); SS CB Act 92, s 70; 3 JSA Regs, reg 48(2)(b); SS CB Act 92, Part XIIA;

4 JSA Regs, reg 48(2)(bb); WR Act 07, Part 1; 5 JSA Regs, reg 48(2)(c); SS CB Act 92, s 35;

6 JSA Regs, reg 48(2)(d) & 1(3); 7 reg 48(2)(f)(i); 8 reg 48(2)(f)(ii); 9 reg 48(2)(g); 10 reg 48(2)(h); SS CB Act 92

21028 From 28.10.96 a period

1. that includes 6.10.96 **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 UB

is a linked period¹. This does not apply when the days of claim the DM is considering fall in the period 7.10.96 to 27.10.96.

1 JSA Regs, reg 48(2)(e)

21029 - 21035

CA

21036 CA only becomes a linked period if it allows the claimant to satisfy the contribution conditions for entitlement to JSA(Cont) and the claimant would otherwise be unable to satisfy them¹. The linked period of CA has to end within 12 weeks or less of the starting of a JSP or some other linked period².

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

Example 1

Josie claims and receives JSA(Cont) from and including 14.10.96. JSA(Cont) stops and CA is payable from 16.12.96. Caring ends on 11.10.98 and Josie claims JSA(Cont) on 12.10.98. If 12.10.98 was the start of the JSP, she would not be entitled to JSA(Cont). As Josie cannot satisfy the contribution conditions for JSA(Cont), then the period of CA **does** become a linked period, and the JSP begins on 14.10.96.

Example 2

Meg claims and receives JSA(Cont) from and including 14.10.96. JSA(Cont) stops and CA is payable from 16.12.96. Caring ends on 21.12.97 and Meg claims JSA(Cont) on 22.12.97. If 22.12.97 was the start of the JSP, she would be entitled to JSA(Cont). As Meg can satisfy the contribution conditions for JSA(Cont),

then the period of CA **does not** become a linked period, and the JSP 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 JSA, for example because entitlement to JSA(Cont) has been exhausted¹.

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

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

1. that fall after 6.10.96 **and**

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

3. for which JSA is not payable because the claimant

3.1 has exhausted entitlement to 182 days JSA(Cont)² **or**

3.2 does not satisfy one or both of the contribution conditions for JSA(Cont)³ **or**

3.3 is entitled to JSA(Cont), 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 ASE and is not treated as ASE⁶ **or**

4.3 does not have a valid JSAg and is not treated as having a valid JSAg⁷.

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, reg 49(1) & (2); 2 JS Act 95, s 5(1); 3 s 2(1)(a)&(b); 4 JSA Regs, reg 81;

5 JS Act 95, s 1(2)(a); JSA Regs, reg 14, 16 & 17; 6 JS Act 95, s 1(2)(c); JSA Regs, reg 19, 20 & 21;

7 JS Act 95, s 1(2)(b); JSA Regs, reg 34

21046 The qualifying age for SPC 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, reg 1(3)

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

21047 Any day of

1. IfW that falls within a PIW (see **DMG Chapter 56**)¹ **or**

2. LCW that falls within a PLCW (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, reg 49(4); SS CB Act 92, s 30C; 2 JSA Regs, reg 49(4A); WR Act 07, Part 1

Claimants who work

21048 Where claimants work as employed earners or S/E earners for more than twelve continuous weeks, they cannot be treated as satisfying the conditions at **DMG 21008 1. to 8.** for any days within the twelve weeks or following the twelve weeks. But if claimants stop work and claim JSA, they can again be treated as satisfying the conditions at **DMG 21008 1. to 8.**, as long as they satisfy the requirements of **DMG 21045**¹. Week means a period of seven days².

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

21049 - 21050

Contribution-based conditions 21051 - 21087

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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 Act 95, s 2(4)(a); SS CB Act 92, s 21(6)

Class 2 contributions and volunteer development workers

21052 A person who works abroad as a volunteer development worker¹ (for example, for an organization such as Voluntary Service Overseas) may be entitled to pay special Class 2 contributions under specific legislation². HMRC 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 GB (see DMG 070769) **and**
2. employed outside GB (see DMG 070712).

¹ JSA Regs, reg 167; SS (Contributions) Regs 79, reg 123A(1); ² reg 123C; ³ reg 123A(2)

Relevant benefit year

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

1. the current JSP **or**

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

2.1 JSP or

2.2 linked period²

whichever is earlier.

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

1 JS Act 95, s 2(4)(b); 2 JSA Regs, 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, reg 158(3); 2 SS (Contributions) Regs 79, reg 98(c)

Tax year

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

1 JS Act 95, s 35(1)

21056 - 21059

General

21060 The contribution-based conditions for entitlement to JSA(Cont) are that the claimant must¹

- 1.** satisfy the first contribution condition (see DMG 21067 - 21071) **and**
- 2.** satisfy the second contribution condition (see DMG 21074 - 21076) **and**
- 3.** not have earnings higher than the prescribed amount (see DMG 21081 - 21082) **and**
- 4.** not be entitled to IS.

Note: Claimants who do not make a claim for IS cannot be entitled to IS.

1 JS Act 95, s 2(1)

HM Revenue and Customs questions

21061 HMRC decide whether Class 1 or Class 2 contributions have been paid or credited in any year¹.

¹ SSC (ToF) Act 99, s 8(1)(e); R(JSA) 8/02

What the DM decides

21062 The DM 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 Act 98, s 8(1)

Reference to HMRC

21063 Entitlement to JSA(Cont) depends on the contribution conditions being satisfied. In practice the NI 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 DM to HMRC 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 HMRC.

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

¹ SS CS (D&A) Regs, reg 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 JSA **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 LEL for that tax year (see DMG Appendix 1 to this Chapter).

1 JS Act 95, s 2(1)(a), 2(2) & 35(1)

Share fishermen

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

1 JS Act 95, s 2(1)(a), 2(2) & 35(1); JSA Regs, reg 158(2)

Volunteer development workers

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

1 JS Act 95, s 2(1)(a), 2(2) & 35(1); JSA Regs, reg 167; 2 SS (Contributions) Regs 79, Part VIII, Case G

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 LEL¹.

1 JS Act 95, s 2(2A); JSA Regs, reg 45A(1)

21071 When working out the relevant earnings, any earnings in excess of LEL are ignored¹.

1 JSA Regs, 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 LEL on the grounds that they

1. are a spouse or civil partner of a member of HMF **and**

2. accompanied that member of HMF 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, reg 45B(2); Social Security (Credits) Regulations 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 LEL 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 LEL for that tax year, disregarding any earnings which exceed LEL.

1 JSA Regs, 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 LEL on the grounds that she accompanied her husband on overseas postings. When they arrived back in the UK, Jessica made a claim for JSA with a date of claim of 10.1.12.

The DM decides that Jessica satisfies the first contribution condition for JSA(Cont). 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 HMF, the DM 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 LEL for each of those last two complete tax years (see DMG Appendix 1 to this Chapter).

1 JS Act 95, s 2(1)(b), 2(3) & 35(1)

Share fishermen

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

1 JS Act 95, s 2(1)(b), 2(3) & 35(1); JSA Regs, reg 158(2)

Volunteer development workers

21076 For volunteer development workers DMG 21074 **1.1** and **2.1** can include¹ Class 1 contributions or Class 2 contributions for volunteer development workers².

1 JS Act 95, s 2(1)(b), 2(3) & 35(1); JSA Regs, reg 167;

2 SS (Contributions) Regs 79, Part VIII, Case G

Earnings at or below the LEL

21077 People who have earnings at or below the LEL and people who have earnings above the LEL do not have to pay any contributions on earnings at or below the LEL¹.

1 SS CB Act 92, s 6A

21078 The earnings

1. on which primary Class 1 contributions have been paid or treated as paid, that did not exceed the UEL **and**

2. at or below the LEL

count towards satisfying the second contribution condition¹.

¹ JS Act 95, s 2(3A)

21079 - 21080

Prescribed amount of earnings

21081 Claimants are not entitled to JSA(Cont) for any week that they have earnings that are higher than the prescribed amount (see DMG 21060 **3.**)¹.

¹ JS Act 95, s 2(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 persons, repeat claims) **and**

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

2.4 DMG 26114 - 26133, (carers, special occupations, earnings from one or more occupations, JSA(IB) and IS - 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, P/T work and payments on termination) **and**

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

1 JSA Regs, reg 56(1) & (2); 2 reg 99(2) & 101(2) & Sch 6, para 1-16 & 19

Example

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

He is entitled to a disregard of £5.00 a week.

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

If Darren has earnings of more than £72.49 a week he is not entitled to JSA(Cont).

Late payment of contributions

21083 The DM determines whether the contribution conditions for JSA(Cont) 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 DM may accept that contributions are treated as having been paid on an earlier date¹. The DM will need to liaise with HMRC.

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

Class 2 NI contributions

Contributions paid by due date

21084 The deadline for the payment of Class 2 NI contributions from the 2015/16 tax year onwards is 31 January of the following calendar year; for example, Class 2 NI contributions due in the 2015/2016 tax year are due to be paid by 31.1.2017. This date falls after the start of the benefit year for JSA, which means there is a possibility of a claim for these benefits being made in circumstances where entitlement relies on as yet unpaid contributions, and consequently being disallowed.

Note: Class 2 NI Contributions are only relevant to JSA claims from share fishermen and volunteer development workers. See DMG 21074 - 21076 for further details.

21085 A decision to disallow claims to JSA may be revised¹ at any time where

1. on or after the date of the decision a contribution that is paid by the due date is treated as paid² before the relevant benefit week **and**
2. as a result, the person now satisfies the contribution conditions.

1 SS & CS (D&A) Regs, reg 3(8E);

2 Social Security(Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001, reg 7A

Contributions refunded

21086 A decision to award JSA may be revised¹ at any time where contributions are repaid or returned to the contributor where this means the person no longer satisfies the contribution conditions of entitlement to the benefit.

1 SS & CS (D&A) Regs, reg 3(8F) & (8H)

21087

Duration of JSA(Cont) 21088 - 21104

[Maximum entitlement](#) 21088 - 21095

[Days that count as days of entitlement to JSA\(Cont\)](#) 21096 - 21104

Maximum entitlement

21088 Claimants who are entitled to JSA(Cont) cannot have more than 182 days JSA(Cont)¹ for any period using the same two tax years (see **DMG 21090 - 21091**). Each day for which

1. JSA(Cont) is paid **or**

2. JSA(Cont) is treated as paid (see **DMG 21097**) **or**

3. the claimant is entitled to JSA(Cont) but it is not payable (see **DMG 21098 - 21099**)

counts towards the 182 day total.

1 JS Act 95, s 5(1)

21089

More than one period of entitlement to JSA(Cont)

21090 If a claimant has two or more separate claims to JSA on which entitlement to JSA(Cont) is decided using the same two tax years, the days of entitlement in each of those awards are added together, up to a maximum of 182 days¹.

1 JS Act 95, s 5(1)

21091 If a claimant has two or more separate claims to JSA, the days of entitlement to JSA(Cont) in each of those awards are **not** added together for any claims where

1. the claimant's entitlement to JSA(Cont) is decided using at least one different tax year to the earlier award¹ **and**

2. the separate periods do not link.

In these cases claimant's can start their 182 day maximum entitlement again if they satisfy **DMG 21067 - 21082**.

1 JS Act 95, s 5(1) & 35(1)

Example 1

A man claims JSA from 4.11.96.

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

1. 6.4.93 - 5.4.94 **and**

2. 6.4.94 - 5.4.95.

JSA(Cont) is paid from 7.11.96 (4.11.96 - 6.11.96 are waiting days).

The award ends on 25.11.96.

He has had 19 days JSA(Cont).

He is employed on a short-term contract that ends on 2.12.96.

He then makes a new claim to JSA from 3.12.96.

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 3.12.96 is his 20th day of entitlement JSA(Cont).

Example 2

A woman claims JSA from 4.11.96.

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

1. 6.4.93 - 5.4.94 **and**

2. 6.4.94 - 5.4.95.

JSA(Cont) is paid from 7.11.96 (4.11.96 - 6.11.96 are waiting days).

The award ends on 25.11.96. She has had 19 days JSA(Cont).

She is employed on a short-term contract that ends on 17.1.97.

She makes a new claim to JSA from 20.1.97.

As the second claim is made within twelve 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 20.1.97 is her 20th day of entitlement JSA(Cont).

Example 3

A man claims JSA from 13.1.97.

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

1. 6.4.94 - 5.4.95 **and**

2. 6.4.95 - 5.4.96.

JSA(Cont) is paid from 16.1.97 (13.1.97 - 15.1.97 are waiting days).

The award ends on 4.2.97. He has had 20 days JSA(Cont).

He is employed from 5.2.97 - 9.5.97.

He then makes a new claim to JSA from 12.5.97.

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

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

2. 12.5.97 - 14.5.97 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 15.5.97 is his 21st day of entitlement to JSA(Cont).

Example 4

A woman claims JSA from 4.11.96.

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

1. 6.4.93 - 5.4.94 **and**

2. 6.4.94 - 5.4.95.

JSA(Cont) is paid from 7.11.96 (4.11.96 - 6.11.96 are waiting days).

The award ends on 25.11.96. She has had 19 days JSA(Cont).

She is employed on a fixed term contract that ends on 27.2.97.

She then makes a new claim to JSA from 28.2.97.

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

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

2. 28.2.97 - 2.3.97 are waiting days.

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

1. 6.4.94 - 5.4.95 **and**

2. 6.4.95 - 5.4.96.

The days of entitlement on the second claim are **not** added to those of the first claim because her entitlement to JSA(Cont) is calculated using one different tax year (6.4.95 - 5.4.96).

She is entitled to a maximum of 182 days JSA(Cont) on the later claim.

21092 - 21095

Days that count as days of entitlement to JSA(Cont)

21096 Days can be

1. treated as days of entitlement to JSA(Cont) **and**

2. count towards the maximum of 182 days¹.

even though no JSA(Cont) is payable.

1 JS Act 95, s 5(3); JSA Regs, reg 47(4)

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

1. are days that fall in a JSP² **and**

2. are days

2.1 on which

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

2.1.b JSA(Cont) is not payable because of a sanction or disqualification for benefit fraud offences or joint claim JSA 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, ASE and as having a JSAg as in **DMG 21009**⁵.

1 JS Act 95, s 5(3); JSA Regs, 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 JSA(Cont).

JSA(Cont) is paid to her for 100 days.

Nora refuses employment without good reason.

The DM imposes a sanction. Any days that

1. fall in the JSP **and**

2. the sanction is imposed for

count towards Nora's remaining 82 days of entitlement.

21098 Days where

1. claimants are entitled to JSA(Cont) **but**

2. JSA(Cont) is not payable for whatever reason will count towards the maximum of 182 days.

Example 1

Dan is entitled to JSA(Cont).

Due to the amount of his occupational pension no JSA(Cont) is payable.

Each day in the JSP counts towards the maximum of 182 days.

Example 2

A share fisherman who is entitled to JSA(Cont) is paid JSA(Cont) 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 DM decides that JSA(Cont) is not payable for the week.

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

21099 Claimants who satisfy the

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

for JSA, and the amount of JSA(IB) is higher than the amount of JSA(Cont), will be paid JSA(IB). But in these circumstances, the days that JSA(IB) are paid for can count towards the 182 days maximum for JSA(Cont).

Example

Peggy, who lives with her partner and five children claims JSA and qualifies for JSA(Cont) and JSA(IB).

Peggy is paid JSA(IB) because her entitlement to JSA(IB) is higher than her entitlement to JSA(Cont).

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

The DM supersedes Peggy's award of JSA and her personal rate of JSA(Cont) equals her applicable amount of JSA(IB).

Peggy is now paid JSA(Cont).

The first day that she is paid JSA(Cont) is the 161st day of her claim to JSA and all of these days count towards the 182 day maximum.

Claimants who have had their full entitlement of JSA(Cont) 21105 - 21108

21105 The DM decides whether the claimant can have another period of entitlement to JSA(Cont).

21106 Claimants who have had their full 182 days entitlement to JSA(Cont) can have another period of JSA(Cont) 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 Act 95, s 5(2) & 35(1)

Example 1

A man claims JSA and is paid JSA(Cont). His award of JSA(Cont) 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 6.4.93 - 5.4.94, **and** 6.4.94 - 5.4.95. The award of JSA ends on 26.11.96. The claimant is employed from 27.11.96 - 17.1.97. He then makes a new claim to JSA from 20.1.97. 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. He is not entitled to another period of 182 days JSA(Cont).

Example 2

A man claims JSA from 13.1.97. The two complete tax years used for calculating whether he satisfies the second contribution condition, for this claim, are 6.4.94 - 5.4.95 **and** 6.4.95 - 5.4.96. JSA(Cont) is paid from 16.1.97 (13.1.97 - 15.1.97 are waiting days). 16.7.97 is the claimant's 182nd day of JSA(Cont). His award of JSA ends on 17.7.97. He is employed from 18.7.97 - 17.10.97. He then makes a new claim to JSA from 20.10.97. As the second claim is made more than twelve weeks after the end of the first award, 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 JSA(Cont).

Example 3

A woman claims JSA and is paid JSA(Cont). Her award of JSA(Cont) 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 6.4.93 - 5.4.94 **and** 6.4.94 - 5.4.95. The award of JSA ends on 26.11.96. The claimant is

employed from 27.11.96 - 27.2.97. She then makes a new claim to JSA from 28.2.97. This claim does not link to the previous award. The 2 complete tax years used for calculating whether she satisfies the contribution-based conditions, for this second claim, are 6.4.94 - 5.4.95 **and** 6.4.95 - 5.4.96. She is entitled to another period of 182 days JSA(Cont) because one of these tax years (6.4.95 - 5.4.96) is later than the tax years used for the earlier claim.

21107 - 21108

Arrears of JSA(Cont) or UB due; JSA(Cont) overpaid 21109 - 21119

[Arrears of JSA\(Cont\) due - claimant had full entitlement of JSA\(Cont\)](#) 21110 - 21111

[Arrears of UB due - claimant had full entitlement of JSA\(Cont\)](#) 21112 - 21113

[JSA\(Cont\) overpaid](#) 21114 - 21119

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

- 1.** the DM's decision is made on or after 28.10.96 **and**
- 2.** some of the later JSA(Cont) 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 JSA(Cont) due - claimant had full entitlement of JSA(Cont)

21110 Where

- 1.** claimants become entitled to arrears of JSA(Cont) **and**
- 2.** they have already received JSA(Cont) for a later day or days in one or more periods of entitlement to JSA **and**
- 3.** because of the 182 days limit on JSA(Cont), payment of the arrears would cause any of the later JSA(Cont) to be overpaid

the overpaid JSA(Cont) is treated as paid on account of the arrears. The arrears due should be reduced accordingly¹.

1 SS (Gen Ben) Regs, reg 9(5A)

21111 No overpayment arises even if the JSA(Cont) that would become overpaid was paid at a higher weekly rate than the JSA(Cont) 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 UB due - claimant had full entitlement of JSA(Cont)

21112 Where

- 1.** claimants become entitled to arrears of UB for one or more days that were before 7.10.96 or in the benefit week that includes 7.10.96 **and**
- 2.** they have already received JSA(Cont) for a later day or days in one or more periods of entitlement to JSA **and**
- 3.** because of the
 - 3.1** 182 days limit on JSA(Cont) **or**
 - 3.2** 156 or 312 days limit under transitional protection

payment of the arrears would cause any of the later JSA(Cont) to be overpaid

the overpaid JSA(Cont) is treated as paid on account of the arrears of UB. The arrears due should be reduced accordingly¹.

1 SS (Gen Ben) Regs, reg 9(5B)

21113 No overpayment arises even if the JSA(Cont) that would become overpaid was paid at a higher weekly rate than the UB 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.

JSA(Cont) overpaid

21114 Where

- 1.** a decision is changed on appeal or review **and**
 - 2.** JSA(Cont) 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 JSA(Cont).

21115 **DMG 21114** only applies in deciding whether

1. the claimant has had the maximum number of days entitlement to JSA(Cont) **and**
2. the date on which the claimant has reached the maximum number of days entitlement to JSA(Cont).

But it does not apply where **DMG 21116** applies¹.

1 SS (Gen Ben) Regs, 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 JSA(Cont). 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, reg 9(5C)(b)

21117 If

1. an award continues after the claimant has reached the maximum number of days entitlement to JSA(Cont) **and**
2. the DM then determines that some or all of the JSA(Cont) paid before the claimant reached the maximum number of days entitlement to JSA(Cont) 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 JSA(Cont). 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 JSA(Cont) but for the payment by the Secretary of State to certain employees of insolvent businesses² **and**
2. in calculating that payment, the Secretary of State made a deduction on account of JSA(Cont) received.

Such days are not treated as days of entitlement to JSA(Cont) when calculating when the claimant has reached the maximum number of days of entitlement to JSA(Cont), even though the overpayment resulting from any revised decision has not been recovered to the NI Fund.

21119

Availability 21120 - 21519

Introduction

[\[See DMG Memo 06/20\]](#)

21120 The guidance on availability in **DMG 21121 - 21488** applies only to JSA and not to IS. 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 (see **DMG 21423 - 21424**), the availability decision should start from the beginning of the benefit week being considered. See **DMG 20007** for guidance for persons in receipt of a training allowance.

21121

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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 seven days ending with the day determined by the last two digits of the claimant's NINO as shown in the following table unless the Secretary of State arranges otherwise.

NI No.	Day
--------	-----

00 - 19	Monday
---------	--------

20 - 39	Tuesday
---------	---------

40 - 59	Wednesday
---------	-----------

60 - 79	Thursday
---------	----------

80 - 99	Friday
---------	--------

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 “an elderly person” means a person of, or over, pension age² (see **DMG 20010**).

1 JSA Regs, 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, reg 17A(7)

Child

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

1 JS Act 95, s 35(1)

Close friend

21128 When considering whether a person is a close friend¹ the DM 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 grandchild or great grandparent.

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

Example

A man is married to three 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 to, or civil partners of, each other and are members of the same household (this includes each of the couples in a polygamous marriage) **or**
2. not married to, or civil partners of, each other but are LTAMC.

1 JS Act 95, s 35(1); JSA Regs, reg 1(3)

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 JSA¹.

1 JSA Regs, reg 1(3); SS (C&P) Regs, reg 6

21134

Employment

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

1 JSA Regs, reg 4

21136

Employment officer

21137 An Emp O is an officer of the Secretary of State¹.

1 JSA Regs, reg 4; JS Act 95, s 9(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, reg 4

Full time employment

21139 F/T employment means work of 16 hours a week or more, or 16 hours a week or more on average, where the hours of work fluctuate¹.

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

Full time student

21140 F/T student is explained in **DMG Chapter 30**¹.

1 JSA Regs, reg 1(3)

Lone parent

21141 A lone parent is¹ a person who is

1. not a member of a

1.1 a couple **or**

1.2 a polygamous marriage **and**

2. responsible for

2.2 a child **or**

2.2 young person

who is a member of that person's household.

1 JSA Regs, reg 1(3)

Partner

21142 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, reg 1(3)

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.

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, reg 4

Example

Hannah was a F/T 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, 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, reg 4

21150

Polygamous marriage

21151 A polygamous marriage is¹ 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, reg 1(3)

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 (an employment related course)² **and**
2. lasts no more than twelve consecutive months **and**
3. is a course described in certain legislation³.

Note: An Emp O 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, reg 17A(7); 2 reg 1(3); 3 Further & Higher Education Act 92, Sch 2; Further & Higher Education (Scotland) Act 92, s 6; 4 JSA Regs, reg 17A (8)

Temporary

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

Temporarily absent from Great Britain

21154 Guidance on temporarily absent from GB is at **DMG 070853** et seq.

21155

Temporarily absent from United Kingdom

21156 The principles in **DMG 070853** et seq should be applied when deciding if someone is temporarily absent from the 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 DMs 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 ND25+ course is taken¹.

1 JSA Regs, reg 4

Terminal date

21162 In England and Wales terminal date¹ means the first of the following dates to occur after the person ceases FTE

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, reg 1(3); CHB (Gen) Regs, reg 7(2)

21163 In Scotland where a person

1. undertakes the Higher Certificate or Advanced Higher Certificate immediately before ceasing relevant education **and**
2. ceases relevant education earlier than they would have done had they taken the comparable examination in England and Wales

the terminal date is calculated by reference to the date that applies had they taken the examination in England and Wales¹.

Note: In England, Wales and Scotland if a person leaves school and reaches 20 before the next terminal date see **DMG 20790**.

1 CHB (Gen) Regs, reg 7(2)

Traineeship

21164 Traineeship means¹ a course which

1. is funded (in whole or in part) by, or under arrangements made by, the

1.1 Secretary of State under specified legislation² **or**

1.2 Chief Executive of Skills Funding **and**

2. lasts no more than six months **and**
3. includes training to help prepare the participant for work and a work experience placement **and**
4. is open to persons who on the first day of the course have attained the age of 16 but not 25.

Vacation

21165 Vacation means any period falling within the period of study (see **DMG 30218** et seq.) that is not term-time¹.

1 JSA Regs, reg 4

21166 - 21167

Voluntary work

21168 Voluntary work is¹

1. work

1.1 for an organization 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 organizations 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, reg 4

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

Example 1

Eddie is in receipt of JSA(Cont) 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 DM 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 JSA(IB). She has started to work at her local primary school for 10 hours a week as a

classroom assistant. The work is unpaid. The DM decides that this is voluntary work within the meaning of **DMG 21168**.

21170

Week

21171 A week is¹ a period of seven consecutive days.

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

21172

Young person

21173 Young person has the same meaning as in **DMG Chapter 22**¹, except in **DMG 21460 - 21462** when a young person is² 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 JSA(Cont) **or**

2.2 has had their full entitlement to JSA(Cont) (**DMG 21088 - 21106**) **and**

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

1 JSA Regs reg 1(3) & 76; 2 reg 57(1)

21174 - 21179

Available to be employed - introduction 21180 - 21189

21180 Claimants are not entitled to JSA unless in any benefit week they are

1. willing and able to take up at once any employment, unless **DMG 21183** applies or
2. treated as available¹ or
3. a member of a joint claim couple exempt from being available for employment².

Note: Hardship payments may be made in certain circumstances.

1 JS Act 95, s 1(2)(a), 1(2B)(b), 6(1), 6(2) & 6(4); 2 JSA Regs, reg 3D(1)(c) and Sch A1

21181 Claimants who are normally S/E (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 (see **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. to 4.

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

1 JSA Regs, regs 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 - 21260**
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 21190 - 21264

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[Persons regarded as not available](#) 21255 - 21264

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 Act 95, s 6(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

JSAg. But claimants must continue to satisfy **1.** and **2.** to maintain entitlement to JSA.

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 DM 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, HMRC should be asked for advice.

1 R(U) 14/51

21193 The DM 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

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 (see **DMG 070880**)¹.

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

Example 1

A man who does not have a right to live in the UK, is 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 HO. When his employment ends he claims benefit. Any offer of employment made to him is subject to a work permit being obtained, from the HO, 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 and community disposals

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

21199 DMs will need to know exactly what the terms of the community order, supervised attendance order, anti-social behaviour order, fine payment work or community disposal 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, DMs cannot accept that they are available for those times or in those locations if the claimant would be breaking the law (see **DMG 21195**).

Note: Appendix 2 and **Appendix 3** to this chapter describe the different types of community orders, fine payment work and community disposals.

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

Unpaid work requirement, community service order, community reparation order and diversion from prosecution

21201 Unpaid work, community service, community reparation and diversion schemes can generally be re-arranged to enable the claimant to satisfy JSA entitlement conditions. Availability will only be in doubt where this does not happen.

Supervision, activity, attendance centre requirements and probation

21202 The Probation Service and Criminal Justice Social Work Services will try not to require an offender to do something that conflicts with their benefit entitlement. The Jobcentre Plus adviser will liaise with the Probation Service or in Scotland, Criminal Justice Social Work Services 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 Service or Criminal Justice Social Work Services 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 DM 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 an anger management programme, which

may impact positively on their behaviour. The duration and intensity of the programme depends on the seriousness of the offence and will vary from 20 to 25 half-day sessions (twice weekly) to 30 to 60 half-day sessions for some offences. 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 Jobcentre Plus adviser will already have considered whether the JSAg 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 attendance 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 JSA 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 good reason for leaving their employment.

21212 Claimants who leave employment no sooner than is necessary for them to organize their affairs before going abroad, may have good reason 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 JSA(Cont) when they go abroad must be in receipt of JSA(Cont) before going abroad. If they obtain employment before going abroad they will not be able to export JSA(Cont). 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 York. 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 ten days before she is due to travel abroad with her husband.

She wants to export JSA(Cont) when she goes abroad.

She claims JSA for one 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 JSA(Cont) when she goes abroad.

As she left her employment no sooner than was necessary she had good reason 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 Jobcentre Plus 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' or one week's notice if **DMG 21265** applies.

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

21219

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

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 **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 Jobcentre Plus office an address or telephone number that they can be contacted at throughout the period of absence **or**
 - 2.2** telephone the Jobcentre Plus 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 Jobcentre Plus 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 Jobcentre Plus office he was staying at. He does not notify the Jobcentre Plus 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, reg 7(3)

Example 1

Ross has agreed in his JSAg 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 four days of that week. But he is treated as not available for that week.

Example 2

Josephine has agreed in her JSAg 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 three 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 six 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 JSAs to cover the absence, they may be available for the benefit weeks that include the absence.

Example

Ellen has agreed in her JSAg 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 Jobcentre Plus office before her holiday to explain the position. She fills in a new JSAg 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 DM 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 JSAg. 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 JSAg.

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 has 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 five days in that week and has not recorded his pattern of availability for that week in a varied JSAg.

Example 2

Dianne is available for 40 hours a week but will work any days and any hours. She has 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 Jobcentre Plus office of her holiday plans before she goes, and alters her JSaG 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 five days.

The DM 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 JSaG, has reasonable prospects of getting work, and has not considerably reduced her chances of getting work.

21234

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

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

1 JSA Regs, reg 5(4)

When notice starts, when absent from home

21236 Where claimants are entitled to 24 hours, 48 hours, one week's or 28 days notice (see **DMG 21276**, **DMG 21265**, **DMG 21273** and **DMG 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 hours, 48 hours, one week or 28 days 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 JSA for two months.

He notifies the Jobcentre Plus office that he will be away from home for three weeks because he is to be involved in voluntary work in various places in both Suffolk and North Yorkshire. The organizers 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 be 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 P/T student is a person

- 1.** who is attending or undertaking a course of study **and**
- 2.** who is not a F/T student (see **DMG Chapter 30**)¹.

1 JSA Regs, reg 1(3)

21239 If claimants are doing P/T study or training or some test or examination, the DM 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 P/T 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 P/T 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 claimants 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 DM 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 21440 (parenting orders and parenting contracts) **or**

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

1.6 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, reg 11(1)

21248 In considering **DMG 21247 3.** only, the DM 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 three or more calendar months, immediately before the date that they first attended the course of study¹

1.1 in receipt of JSA **or**

1.2 in receipt of IB **or**

1.3 in receipt of ESA **or**

1.4 on WBTfYP (England and Wales) or Skillseekers (Scotland) (see **DMG Chapter 34**) **or**

1.5 in receipt of IS because the IS DM has accepted that the claimant is incapable of work (see **DMG Chapter 20**) **or**

2. in six calendar months immediately before the date that they first attended the course of study were for²

2.1 one or more periods totalling three or more months, receiving one of the benefits or on WBTfYP (England and Wales) or Skillseekers (Scotland) 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 JSA, ESA, IB or IS that would have been payable in **1..**

Note: All the period of three months in **1.** or six months in **2.** must fall after the terminal date.

1 JSA Regs, reg 11(2)(a); IS (Gen) Regs, Sch 1B, para 7; 2 JSA Regs, reg 11(2)(b);
IS (Gen) Regs, Sch 1B, para 7

21250 The period referred to in **DMG 21249 2.2** must be¹

1. the remainder of the six months in **DMG 21249 2.** where **DMG 21249 2.1** did not apply **and**

2. after the

2.1 single period of three or more months **or**

2.2 first period, if the three or more months were made up of more than one period.

1 JSA Regs, reg 11(2)

Example

Richard lives and is seeking employment in Leeds. He received JSA from 30 May - 10 July. He was in remunerative work from 11 July - 21 August and received JSA from 2 September which he is still receiving.

Richard starts a P/T course of study in Nottingham on 14 November.

In deciding if Richard is able and willing to re-arrange the hours of the course the DM can take into account all matters relating to the course.

The DM 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 DM is considering whether, if Richard was notified of a job opportunity in Leeds on a day that he attended college, he could return to Leeds 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 of their pattern of availability no question on availability arises (see **DMG 21434**)¹.

1 JSA Regs, reg 5(4)

21253 - 21254

Persons regarded as not available

Prisoners, maternity, parental, paternity or adoption leave

21255 [\[See Memo DMG 07/20\]](#) [\[See DMG Memo 08/20\]](#) 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, reg 15(1)(b), (c) & (bc); 2 Prisons Act 1952 or Prisons (Scotland) Act 1989

3 SS CB Act 92, s 35 or 35B & 164 - 171; 4 ER Act 1996, s 80A & 80B & 75A & 75B

21256

Full-time students

21257 Claimants who are F/T students (see **DMG Chapter 30**) and make a claim to JSA 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 F/T student **or**
 - 2.1.b is a single student **and**
 - 2.2 is, or their partner is, treated as responsible for a child or YP² **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, 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 GB (see **DMG 070702**) **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 JSA Regs, reg 166(2); SS (Mariners' Ben) Regs, reg 2

21259 In deciding if someone is normally resident or has a place of residence in the UK, 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**, **DMG 21319** and **DMG 21332 - 21368**¹.

1 JSA Regs, reg 15(bb)

21261 - 21264

Claimants who do not have to be available at once 21265 - 21304

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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 week's 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, regs 5(1)(b)(i); 2 reg 5(1)(b)(ii)

Example 1

Simon has caring responsibilities on Monday and Wednesday.

On Friday 16 June he is offered a job which 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 organize someone to take over his caring.

Simon is still willing and available to take up employment within one week's notice. He is available.

Example 2

Simon (in example **1.** above) then contacts the Emp O 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 week's notice (i.e. within one week of 16 June). He is not available.

Example 3

Clive who attends the Jobcentre Plus 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 DM 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 DM should establish whether they

- 1.** are able and willing to attend an interview within 48 hours and take up employment within 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

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 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**.

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, reg 5(1A)

Example

Ros is in receipt of JSA. She has 5 children. Ros has told the Emp O 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 DM 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, reg 5(5)

Example

Graham is a lone parent in receipt of JSA. 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 9:00 am to 4:00 pm during the term-time.

In accordance with **DMG 21271**, the DM 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 DM 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 21440 (parenting orders and parenting contracts) **or**

1.5 DMG 21443 (claimants with physical or mental disabilities) **or**

1.6 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, reg 12

21274

21275 In considering **DMG 21273 3.** only the DM 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, 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 organize someone to provide the 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 a mandatory probation service programme are unlikely to be providing a service and the DM 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 Act 2003, s 177 & 199

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 Act 2003, s 177 & 201

21290 A Court may order offenders, under the age of 25, 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 daily attendance is three hours. The maximum total attendance is 36 hours (24 for offenders under 17).

1 Criminal Justice Act 2003, s 214

21291 Offenders under the age of 21 and probationers may still be available. But the DM 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 21 and probationers because they are not engaged in providing a service.

21293 Claimants subject to curfew or a restriction of liberty order do not provide a service and so have to be available at once, not on 24 hours notice.

21294

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

21295 If claimants

1. have 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 of their pattern of availability no question on availability arises (see **DMG 21143**)¹.

1 JSA Regs, 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, 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, reg 5(3); 2 ER Act 96, s 86(2)

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, reg 5(3)

Example

Jane is working P/T and is available for any employment.

She is required to give one 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

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General

21305 Claimants can be treated as available under certain circumstances. **DMG 21309 - 21419** 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, reg 14(1)

Definitions

21306 The following definitions are relevant to guidance in **DMG 21309** to **21311** below.

Tribunal

21307 Tribunal means¹ any tribunal listed in specific legislation².

1 JSA Regs, reg 14(7); 2 Tribunals and Inquiries Act 1992, Sch 1

Prisoner

21308 [\[See Memo DMG 07/20\]](#) 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, reg 85(4); 2 Prison Act 1952; Prisons (Scotland) Act 1989;
3 MH Act 1983; MH (C & T) (Scot) Act 2003; Criminal Procedure (Scotland) Act 1995

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, reg 14(1)(r)

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 Emp O notice, in writing where requested by the Emp O, that he is required to attend **or**
3. where he is a prisoner.

1 JSA Regs, reg 14(2B)

Detained in Custody

21311 A claimant can be treated as available¹ if held in

1. police detention under specific legislation² **or**
 2. legal custody as defined in Scotland³, so long as they are not a prisoner,
- 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**.

Example 1

Tony says that he failed to attend the Jobcentre Plus office as required on Thursday 8 June because he was being questioned in police custody from 4pm on Wednesday 7 June until 11am on Saturday 10 June.

At 11am 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

Lou says she was not able to attend the Jobcentre Plus office as required on Thursday 8 June because she was being questioned in police custody. She was taken into custody at 4pm on Wednesday 7 June and was released at 10am on Monday 12 June.

Lou was held in police 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 Great Britain

Interview for employment

21313 Claimants can be treated as available if they

- 1.** are temporarily absent from GB (for a maximum of one week at a time) to attend an interview for employment **and**
- 2.** have given notice to an Emp O that they will be absent.

The notice given to the Emp O must be in writing if the Emp O wants it in writing¹.

1 JSA Regs, reg 14(1)(m)

Taking a member of the family abroad for treatment

21314 Claimants can be treated as available for a maximum of eight weeks at a time if they are temporarily absent from GB 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, reg 14(1)(c)

Example

Sheila tells the Jobcentre Plus office that she has to go to America for twelve weeks as her son will be treated there for a brain tumour. She is treated as available for the first eight weeks of the twelve weeks absence.

21315 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, reg 14(4)

21316 Whether someone is giving treatment depends on the circumstances of each case. DM's 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 four weeks at a time¹ if

1. the claimant is a member of a couple and

2. they and their partner are both absent from GB and

3. any of the following are payable for the claimant's partner

3.1 PP² or

3.2 EPP (JSA only)³ or

3.3 HPP⁴ or

3.4 DP⁵ or

3.5 SDP⁶.

1 JSA Regs, reg 14(1)(n); 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 GB. But this only applies if they would be available but for the fact that they are absent from GB¹.

1 SS (Mariners' Ben) Regs, reg 6(1); JSA Regs, reg 166(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 JSAg or

1.1.b restricted the hours for which they are available because of caring responsibilities (see **DMG 21434**), parenting contract or parenting order (see **DMG 21440**), child's school hours (see **DMG 21454**), physical or mental disabilities (see **DMG 21443**) or short time work (see **DMG 21324 - 21325**) and that restriction has been agreed with an Emp O 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 Emp O 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 JSaG **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 Emp O **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, 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 JSA 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 Emp O agrees the pattern of availability and the restriction on the type of employment to office work and records them in a JSaG that Rosie and the Emp O sign. Rosie is treated as available for the first Friday, Saturday, Sunday and Monday from the date of claim.

Example 2

Rick claims JSA 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 Emp O agrees the pattern of availability and records them in a JSaG that Rick and the Emp O sign.

Rick says that he will not be able to sign on on Monday because he is going away with his friends to Blackpool 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 from the date of claim.

Example 3

Hazel claims JSA 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 Emp O 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**) applies **or**

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, 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, reg 4

21323 Claimants can only be treated as available as in **DMG 21321** for a maximum of 13 weeks. This period begins on the day after the day that they were laid-off¹.

1 JSA Regs, 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, 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 (see **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, reg 17(2)(a); 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, 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, reg 17(3)

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

21328 Where claimants

- 1.** have been receiving ESA, IB or IS on the grounds of incapacity prior to their claim for JSA **and**
- 2.** the Secretary of State has extended the time for claiming JSA, because notification of expiry of entitlement to ESA, IB or IS 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 JSA, they are available or treated as available².

1 (C&P) Regs, reg 19(7)(d); 2 JSA Regs, reg 14(1)(o)

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 a 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, 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 one week for each occurrence or combination of occurrences **and**

3. for a maximum of four periods in any period of twelve months¹.

1 JSA Regs, reg 14(2) & 14(6)

Example

In a period of twelve months a claimant may be treated as available on four separate occasions for

1. one 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. two days due to a domestic emergency affecting the claimant **and**

4. one 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.

Example

Judy is in receipt of JSA 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 DM 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 one 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 one period in any period of twelve months and the period will count towards the 4 periods allowed under **DMG 21330 3.**¹

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.

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 JSA.

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.

Example 1

Rowan is in receipt of JSA. She attends the Jobcentre 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 that 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 LA's housing team.

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 DM 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 DM 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 JSA. 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 DM 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 JSA.

Serious illness

21336 Whether an illness is a serious illness is for DMs to determine based on all available evidence. If DMs do not have sufficient evidence to decide this they may obtain evidence from the claimant's GP. 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 DM 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 Except for claimants who have been given notice to participate in a prescribed scheme (see **DMG 21990** and **21997**), claimants can be treated as available for one week beginning with the date of discharge, if they have been discharged from detention in a

1. prison **or**

2. remand centre **or**

3. youth custody institution¹.

1 JSA Regs, reg 14(1)(h)

Note: This also applies to claimants released from prison to serve a home detention curfew.

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 local prison is 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 F/T student, for a maximum of

1. two weeks for each course **and**

2. one course in any period of twelve months.

Before claimants can be treated as available the Emp O has to have approved their taking part in the employment-related course before the course starts¹.

1 JSA Regs, 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, reg 14(1)(a) & 15(1)(a)

21342 An employment-related course is¹ 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, reg 1(3)

Community orders: programme requirement

21343 The DM 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, reg 14(1)(a)

Traineeship

21344 A claimant must be treated as available for employment if they are participating in a Traineeship¹. The guidance at **DMG 21257** on full-time students regarded as not being available does not apply to claimants participating in a Traineeship.

1 JSA Regs, reg 14(1)(aa)

End of entitlement to JSA

21345 If the last day that JSA 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 JSA is terminated **and**
- 2.** ending on the last day that JSA is paid for.

1 JSA Regs, 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, 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 organized wholly or partly to provide such help or protection.

1 JSA Regs, 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 organization of a search for that person.

1 JSA Regs, reg 14(5)(b)

Lifeboat crew

21349 Claimants can be treated as available for any period that they are engaged in the crewing or launching of a lifeboat¹.

Looking after a child

One member of a couple is absent from the United Kingdom

21350 Claimants can be treated as available for a maximum of eight 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, 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 eight weeks at a time if they are looking after a child F/T 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, 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, reg 14(1)(t)

Example 1

Louise is in receipt of JSA. Her son Robbie normally attends school 5 days a week. However, Louise has informed the Emp O 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 DM 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 JSA. 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 Emp O 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 DM 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 authority (in Scotland, an education authority) **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, Reg 14(1)(u)

Example

Clare is in receipt of JSA. 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 DM 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 one 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, 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 P/T member of a fire brigade¹.

1 JSA Regs, reg 14(1)(d)

21356 A P/T member of a fire brigade is¹

1. in Scotland, a person employed by the Scottish Fire and Rescue Service² **and**
2. in England and Wales, a person employed by a fire and rescue authority under relevant legislation³.

1 JSA Regs, reg 4; 2 Fire (Scotland) Act 2005, s 1A; 3 Fire and Rescue Services Act 2004

Programmes provided by 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. four weeks for each programme **and**
2. one programme in any period of twelve months¹.

1 JSA Regs, reg 14(1)(k)

21358 The programme provided by the Venture Trust must be provided under an agreement made by the Scottish Ministers¹.

Note: For England and Wales there are now no programmes provided by the Venture Trust. In Scotland Venture Trust programmes continue to operate.

1 JSA Regs, reg 14(1)(k)

21359 **DMG 21257** does not apply if¹

1. the claimant is only doing one course of study **and**
2. that course of study is a programme provided by the Venture Trust.

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 GB.

Note: Appendix 1 to DMG Chapter 26 lists the reserve forces.

1 JSA Regs, reg 14(1)(v)

Temporary absence from Great Britain for NHS treatment abroad

21361 Claimants can be treated as available for any period when they are temporarily absent from GB for the purpose of receiving NHS treatment abroad¹ (see **DMG Chapter 7**).

1 JSA Regs, reg 14(1)(q)

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 LCW as in **DMG Chapter 20**¹.

1 JSA Regs, reg 14(1)(l)

Work camp

21363 Claimants who are attending a residential work camp can be treated as available for a maximum of

1. two weeks at a time **and**
2. one period in any period of twelve months¹.

1 JSA Regs, reg 14(1)(b)

21364 A work camp is any place in GB (see **DMG 070702**) 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 LA **or**

2.3 voluntary organization¹.

1 JSA Regs, reg 4

Voluntary Organization

21365 A voluntary organization¹ is a body

1. whose activities are not carried out for profit **and**

2. that is not a public authority or LA.

1 JSA Regs, reg 1(3)

In any period of twelve 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. DMG 21340 (employment-related courses) **or**

3. DMG 21357 (programme provided by the Venture Trust) **or**

4. DMG 21363 (work camps)

the DM should look back over the twelve 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 eight 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 GB) **or**

3. DMG 21329 - 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, P/T 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, 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 JSAg.

Note: This only applies when calculating whether the claimant is available for the required number of hours¹.

1 JSA Regs, 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 JSA, 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, coercive 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 4 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 sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour.

1 JSA Regs, reg 14A(10); 2 reg 14A(10); 3 reg 14A(10)

Example 1

Abdul and Gita are married. Gita threatens Abdul with a kitchen knife during an argument after Abdul 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 Abdul. 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, reg 14A(10)

Health care professional

21373 A HCP in this guidance means¹ a person who is a member of a profession regulated under relevant legislation².

1 JSA Regs, reg 14A(10); 2 National Health Service Reform and Health Care Professionals Act 2002, s

Person acting in an official capacity

21374 A person acting in an official capacity means¹

- 1.** a HCP
- 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, 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.** Health and Care Professions Council
- 2.** Social Care Wales
- 3.** Scottish Social Services Council
- 4.** Northern Ireland Social Care Council.

1 JSA Regs, 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, reg 14A(10)

Note: The notification must be in the manner specified¹. Jobcentre Plus procedural guidance provides advice on this.

1 JSA Regs, 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 Jobcentre Plus 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, 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 Jobcentre Plus in the manner specified that they have had domestic violence inflicted on them or threatened against them¹.

1 JSA Regs, reg 14A(2)

21379 The claimant is to be treated as available for four weeks

1. whether or not they are entitled to JSA for the whole or part of the four week period **and**

2. on only one occasion in any 12 month period¹.

1 JSA Regs, reg 14A(3)

Example

Rebecca has made a claim for JSA from 2.5.12. 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 6.4.12. Rebecca notifies the Jobcentre on 9.5.12 that she has been a victim of domestic abuse. The DM treats Rebecca as being available for work for four weeks beginning on

9.5.12. The last day of that period will be 5.6.12.

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, 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 9.5.12. On 30.5.12 Rebecca's social worker phones the DM to verify Rebecca's evidence that she has been the victim of domestic abuse. However, the DM cannot accept this evidence unless it is provided in writing before 6.6.12. Until the evidence is provided in writing then the four week period of treated availability cannot be extended.

On 5.6.12 written evidence is received by the DM from Rebecca's social worker. The DM extends the period for which Rebecca can be treated as available. Rebecca is now treated as available from 9.5.12 to 7.8.12 (both dates inclusive).

21381 The 13 week period begins on the date that the claimant first notified Jobcentre Plus 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, reg 14A(6)

21382 Where the DM 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 JSA for the whole or part of that

period¹.

1 JSA Regs, reg 14A(7)

21383 The 13 week period can be suspended where after the first four weeks the claimant notifies the Jobcentre 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, reg 14A(8) & (9)

21384 Where the claimant notifies the Jobcentre 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, 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, reg 14A(9)(b)

Example

Freida has been treated as available for employment on the grounds of domestic violence since 30.4.12. She provided relevant evidence of the abuse within the initial four week exemption period and so the DM treated Freida as available from 30.4.12 to 29.7.12 (both dates inclusive).

On 25.6.12 Freida told the DM that she wished to be subject to the requirement to be available for work again, so the DM suspended the 13 week period. This means that Freida was treated as available for a period of eight weeks.

On 15.4.13 Freida tells the DM that she wishes again to be treated as available. The DM treats Freida as available for employment from 15.4.13 but only up to and including 29.4.13. This is because 12 months will have lapsed since the initial notification on 30.4.12.

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, 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, 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 one week **and**
- 3.** is no more than 13 weeks.

1 JSA Regs, 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 DM 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, 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 DM 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 DM must consider all the available evidence and all the factors listed in **DMG 21389** and determine 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 DM should remember that there is no burden of proof on the claimant. The DM should try to judge the extent of the claimant's prospects in an objective way.

21395 The DM needs to determine whether or not the permitted period ended before the first day that is referred for a decision. The DM need not decide exactly how long it lasts in each case. But if the DM

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 DM considers that the period which can be allowed¹ has ended **and**

3. receives an appeal from the claimant against the JSA decision

the DM should make a submission as to what, in the DM's opinion, was a reasonable period to allow in the circumstances of the case, and the reasons for that opinion.

1 JSA Regs, 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 DM 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, two or three 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 specialized that they would be unable to obtain it elsewhere, for example, a senior

2.1 bank official **or**

2.2 civil servant **or**

2.3 local government officer.

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, NI 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 DM 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 two years and two months. For the first two years he is paid an 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 two months, he loses his job and claims JSA. He tells a claimant 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 DM 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

New Deal 25+ education based

21414 DMs should note that currently there are no claimants doing ND25+ qualifying courses under the relevant legislation¹.

1 JSA Regs, reg 17A

21415 Claimants can be treated as available¹ as in **DMG 21417** and **21418** if

- 1.** they are aged 25 or over² **and**
- 2.** they are undertaking a qualifying course with the agreement of an Emp O³ **and**
- 3.** they have made a claim for JSA or are treated as having made a claim⁴ **and**
- 4.** they have been receiving, at the time the qualifying course starts or is due to start, IS as an

unemployed person **or** JSA, for two years or more within a JSP⁵ **and**

5. they⁶

5.1 have not previously undertaken a qualifying course for at least part of which they were treated as available as in DMG 21417 or 21418 **or**

5.2 have previously undertaken a qualifying course for at least part of which they were treated as available as in **DMG 21417** or 21418 but the length of this, when added to the length of the current qualifying course is not more than one year (the “length of” a course means the period beginning with the start of the course and ending with the last day of the course) **or**

5.3 had good cause for giving up or failing to attend a previous qualifying course for at least part of which they were treated as available as in **DMG 21417** or **21418** **or**

5.4 have been receiving IS as an unemployed person or asylum seeker, UB or JSA for two years or more since the last day of the most recent previous qualifying course for at least part of which they were treated as available as in **DMG 21417** or **21418**. The “last day” means the later of the date on which the last day of the course falls or the date on which the final examination of that course is completed⁷.

1 JSA Regs, reg 17A(1); 2 reg 17A(2)(a); 3 reg 17A(3); 4 reg 17A(2)(b) & 4;
5 reg 17A(2)(b); 6 reg 17A(4), (6), (7A) & (7B); 7 reg 17A(7)

21416 Claimants can have weeks for which they get an NI credit counted towards the qualifying period if they get NI credits because¹

1. of JSA² or

2. they are approaching retirement (autocredits)³ or

3. of UB (prior to 7.10.96)⁴.

(Claimants who do not receive autocredits only because they do not need them in that year can still have weeks when they would have otherwise received autocredits counted towards the qualifying period.)

1 JSA Regs, reg 17A(7); 2 SS (Credits) Regs, reg 8A; 3 reg 9A; 4 reg 9 as in force before 7.10.96.

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 F/T students and

2. they provide, within five calendar days of being asked to do so by an Emp O, 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 Emp O 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 SS (Credits) Regs, reg 4; 2 JSA Regs, reg 17A(3)(a), 3 reg 15(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 a vacation from their qualifying course if they are willing and able to take up at once any casual employment³.

1 JSA Regs, 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 FTE by regular attendance at school or otherwise **and**

2.2 is not required by law to receive FTE **and**

3. it would not be reasonable for the claimant to make other arrangements for the care of the child.

1 JSA Regs, reg 17B

Restricted availability 21420 - 21519

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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, reg 6(1)

21421 Claimants who restrict the hours for which they are available because¹

1. they are on short time (see **DMG 21324**) or

- 2.** they have caring responsibilities (see **DMG 21434**) or
- 3.** of their physical or mental disabilities (see **DMG 21443**) or
- 4.** they have caring responsibilities for a child who is subject of a parenting order or parenting contract (see **DMG 21440**) or
- 5.** of their child's school hours (see **DMG 21454**) or
- 6.** of a combination of **1.** to **5.**

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, 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.** P/T 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 are available for employment, to less than 40 hours in any benefit week¹ (but see **DMG 21367 - 21368**).

1 JSA Regs, 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 JSAg **and**
- 3.** any variations to **2.** must be recorded in a varied JSAg **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 JSAg (even though they are not required to have a JSAg in order to get a credit).

1 JSA Regs, reg 7(2)

Example

Ryan is available on Thursdays - Saturdays and Mondays - Wednesdays in each benefit week, from midnight to 8.00am on each of those days. These hours are recorded in his JSAg.

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.

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, 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 (see **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.**

1 JSA Regs, reg 8 & 13(2); 2 reg 13(3)

21429 It is for the DM 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 six month period beginning with their date of claim¹. If claimants

do restrict their availability in this way after the six month period they are not available unless the restriction relates to pay that is not higher than the NMW that applies to them.

Note 1: A claimant can impose restrictions on pay beyond a period of six months if those restrictions are reasonable in light of the claimant's physical or mental condition².

Note 2: Claimants for whom the NMW applies can restrict their availability on pay by insisting that they will only accept the minimum wage that applies to them.

1 JSA Regs, reg 9; 2 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 seven months ago and claimed JSA.

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 JSA more than six months ago, Susan is allowed to restrict her availability to jobs paying £200 a week or more 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, 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 of 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, reg 5(4)

Example

Anna is available for employment on 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 JSAg.

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 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, reg 5(5)

Example

Harsha is available for employment for Thursdays to Mondays in each benefit week and for eight 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.

Harsha 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 Harsha 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, reg 13(4)

21435 In deciding whether or not claimants satisfy **DMG 21434 1**, the DM should consider all available evidence. But the DM 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, reg 13(5)

21436 Claimants with caring responsibilities should ask about and make use of any facilities such as

1. day nurseries

2. child care schemes

3. home helps

4. school meals

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 Emp O 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, reg 13(4), (6) & (7)

21438 Where the Emp O 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, 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 Emp O agrees that Sharon does not need to show that she has reasonable prospects of securing employment. However, Sharon still has to satisfy the Emp O 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 JSA 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, reg 8

Example

Helen 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.

Helen also says 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 DM should decide whether Helen has reasonable prospects of obtaining employment

1. working those hours **and**
2. for that wage.

Parenting orders and parenting contracts

21440 A claimant with caring responsibilities for a child who

1. is the subject of a parenting order concerning that child under certain legislation¹ **or**
2. has entered into a parenting contract concerning that child under certain legislation²

can restrict their availability in any way providing that the restrictions are reasonable in light of the terms of the order or contract under **1.** or **2.**³.

1 Crime and Disorder Act 1998, s 8; Anti-social Behaviour Act 2003, s 20; Anti-social Behaviour etc. (Scotland) Act 2004, s 102; 2 Anti-social Behaviour Act 2003, s 19; 3 JSA Regs, reg 13(3A)

Community orders, fine payment work, community disposals, and anti-social behaviour orders

21441 For claimants with community orders, fine payment, community disposals or anti-social behaviour orders the DM 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 times they are prepared to work. In addition the DM 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** and **21207**.

Note: **Appendix 2** and **Appendix 3** to this chapter describe the different types of community orders, fine payment work and community disposals.

Example

Jon 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 DM 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 DM 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 Emp O

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 her 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 DM 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, reg 13(3); 2 R(JSA) 3/01

Evidence

21444 DMs 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 DMs may obtain evidence from the claimants GP if they have the claimants permission. But as claimants may have to pay for their GP to give a statement, this should be considered only if sufficient evidence cannot be obtained from other sources.

Note: A GP's evidence is likely to be about the precise medical nature of the claimant's condition. As the DM is considering how the disability affects the claimant's ability to work the GP should be asked for an

opinion on this as well.

21446 If a claimant has been assessed by a HCP for IB or ESA purposes the DM may consider any reports produced by the Medical Services doctor. But the DM should have the claimant's permission before approaching the doctor.

21447 DMs may request the views of the placement, assessment and counselling teams within the Jobcentre Plus office. If a request is made the DM 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, reg 8

Example 1

Frank says that due to his disability he can only work for two 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 DM should determine whether Frank has reasonable prospects of obtaining employment

- 1.** for two 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 DM should determine 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, reg 13(2)

Example 1

Miriam may restrict her availability to exclude the Jewish Sabbath (or Shabbat) 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 JSA 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, 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 DM 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, 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, reg 5(4)

Example

Dulcie is a lone parent with a son called William who is 9 years old. She has told the Emp O 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 JSAg.

Dulcie 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. DMs 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**.

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, 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 eight weeks as in **DMG Chapter 30**³ **and**
3. their JSA has not been reduced by the DM under a severe hardship direction⁴ or by the DM because of a sanction⁵ because the young person has

3.1 given up a place on a training scheme or employment programme without good reason⁶ **or**

3.2 failed to attend a place on a training scheme or employment programme without good reason⁷
or

3.3 refused a place on a training scheme or employment programme without good reason⁸ **or**

3.4 neglected a reasonable opportunity of a place on a training scheme or employment programme without good reason⁹ **or**

3.5 lost a place on a training scheme or employment programme through misconduct¹⁰ **or**

3.6 refused employment without good reason¹¹ **or**

3.7 neglected a reasonable opportunity or employment without good reason¹² **and**

4. they have not been sanctioned for

4.1 leaving employment voluntarily¹³ **or**

4.2 losing employment through misconduct¹⁴.

1 JSA Regs, reg 64(2); 2 reg 61(a); 3 reg 61(f); 4 reg 63;
5 reg 68; 6 JSA Act 95, s 19(5)(b)(iii); 7 s 19(5)(b)(iv); 8 s 19(5)(b)(ii);
9 s 19(5)(b)(i); 10 s 19(5)(c); 11 s 19(6)(c); 12 s 19(6)(d);
13 s 19(6)(b); 14 s 19(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, reg 64(3)

21462 Suitable training 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. 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, reg 57(1)

21463 - 21466

Whether restrictions imposed

21467 The DM 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 DM 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 DM 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, 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 of their home area. If not the DM 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 DM should consider all available evidence. But the DM should, in particular, consider¹

1. the claimant's 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, 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 (see **DMG 21477**)¹.

1 JSA Regs, 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 the 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 JSA 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 Jobcentre Plus office, based on their knowledge of the labour market **and**

2. claimants themselves.

21485 As the Jobcentre Plus office are not told of most jobs the DM cannot decide against claimants only on the number of vacancies that

1. fit their restrictions **and**

2. are notified to the Jobcentre Plus office.

21486 If the DM knows of evidence as to claimants prospects other than evidence provided by

1. the Jobcentre Plus office **or**

2. claimants themselves

the DM should take it into account. If the DM 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

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[\[See DMG Memo 06/20\]](#)

21520 The guidance on ASE in **DMG 21522 - 21791** applies only to JSA and not to IS. See **DMG 20007** for guidance on persons in receipt of a training allowance.

21521

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21522 The definitions in **DMG 21523 - 21561** apply whenever the words or phrases are used in **DMG 21523 - 21790**.

Charity

21523 A charity is an organization set up for charitable purposes for the good of the general public that helps and is available to a large section of the community.

Child

21524 A child is a person under the age of 16¹.

1 JS Act 95, s 35(1)

Couple

21525 A couple means two people who are¹

1. married to, or civil partners of, each other and are members of the same household (this includes each of the couples in a polygamous marriage) **or**
2. not married to, or civil partners of, each other but are LTAMC.

1 JS Act 95, s 35(1); JSA Regs, reg 1(3)

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 02**)

a claim for JSA¹.

21527

Employment

21528 Employment is employed earner's employment (see **DMG Chapter 26**)¹.

1 JSA Regs, 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 workers².

1 JSA Regs, reg 18(5); 2 Employment Agencies Act 73, s 13

21530 The DM 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, reg 18(5); 2 Employment Agencies Act 73, s 13

21532 The DM 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 Emp O is an officer of the Secretary of State¹.

1 JSA Regs, reg 4; JS Act 95, s 9(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 legislation² by the Secretary of State. The course or programme must be to help people to select, train for, obtain or retain employment.

1 JSA Regs, reg 18(5); reg 19(3); 2 E & T Act 73, s 2

Employment-related course

21537 An employment-related course is¹ 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, reg 1(3)

Engaged during an emergency

21538 A person is engaged during an emergency 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 organized wholly or partly to provide such help or protection.

1 JSA Regs, 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 organization of a search for that person.

1 JSA Regs, 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, 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, reg 1(3)

Part-time member of a fire brigade

21545 A P/T member of a fire brigade is¹

- 1.** in Scotland and Wales, a person who is a P/T member of a fire brigade maintained under relevant

legislation² **and**

2. in England, a P/T firefighter employed by a fire and rescue authority.

1 JSA Regs, reg 4; 2 Fire Services Act 47 - 59

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 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 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 claimant's 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 DMs 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.

21551 Customary slackness at particular times of the year is not temporary adverse industrial conditions¹.

1 R(U) 3/59

Temporarily absent from Great Britain

21552 Guidance on temporary absence from GB is at **DMG 070853** et seq.

Temporarily absent from United Kingdom

21553 The principles in **DMG 070853** et seq should be applied when deciding if someone is temporarily absent from the UK.

Traineeship

21554 Traineeship means¹ a course which

1. is funded (in whole or in part) by, or under arrangements made by, the

1.1 Secretary of State under specified legislation² **or**

1.2 Chief Executive of Education and Skills Funding **and**

2. lasts no more than six months **and**

3. includes training to help prepare the participant for work and a work experience placement **and**

4. is open to persons who on the first day of the course have attained the age of 16 but not 25.

1 JSA Regs, reg 1(3); 2 Education Act 2002, s 14

Training allowance

21555 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

1.2.a the Secretary of State for Work and Pensions **or**

1.2.b Scottish Enterprise **or**

1.2.c Highlands and Islands Enterprise **or**

1.2.d Skills Development Scotland **or**

1.2.e the Chief Executive of Education and Skills Funding **or**

1.2.f Welsh Ministers **and**

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 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

3.3.a the Secretary of State for Work and Pensions **or**

3.3.b Scottish Enterprise **or**

3.3.c Highlands and Islands Enterprise **or**

3.3.d Skills Development Scotland **or**

3.3.e Welsh Ministers

But it does not include an allowance paid by any government department to, or for, people who are following a course of FTE which is not arranged under relevant legislation² or who are training as a teacher.

1 JSA Regs, reg 1(3); 2 E & T Act 73, s 2; Enterprise & New Towns (Scotland) Act 90, s 2

Voluntary work

21557 Voluntary work is¹

1. work

1.1 for an organization 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 organizations 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, reg 4

21558 Voluntary work may include work experience as long as **DMG 21557** is satisfied.

Week

21559 A week¹ is a period of seven days ending with the day determined by the last two digits of the claimant's NINO as shown in the following table unless the Secretary of State arranges otherwise.

NI No. Day

00 - 19 Monday

20 - 39 Tuesday

40 - 59 Wednesday

60 - 79 Thursday

80 - 99 Friday

21560

Young person

21561 Young person has the same meaning as in **DMG Chapter 22**¹ except in **DMG 21680 - 21689** when a young person is² 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 JSA(Cont) (see **DMG 21060 - 21082**) **or**

2.2 has had their full entitlement to JSA(Cont) (see **DMG 21088 - 21106**) **and**

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

1 JSA Regs, reg 1(3) & 76; 2 reg 57(1)

21562 - 21570

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General

21571 Claimants are not entitled to JSA unless in any week

1. they are or can be treated as ASE¹ **or**
2. they are the member of a joint claim to JSA couple exempt from having to ASE².

Hardship payments may be made in certain circumstances.

1 JS Act 95, s 1(2)(c) & 1(2B)(b); 2 JSA Regs, reg 3D(1)(c) & Sch A1

21572 To be ASE 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 (see **DMG 21616 - 21628**).

Note: Whilst it is open to a claimant to seek employment abroad, to satisfy the ASE requirements the claimant **must** take steps to ASE in Great Britain².

1 JS Act 95, s 7(1); 2 GP v SSWP (JSA) [2015] UKUT 0476 (AAC)

21573 Details of what the claimant has agreed to do to satisfy the ASE test will be in the claimant's JSAg. 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 JSAg.

21574 DMs 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 ASE.

Period from the date of claim

21575 Where the date of claim is not the first day of a week, claimants are ASE 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 (see **DMG 21616 - 21628**)¹. This does not apply where claimants were previously incapable of work and are treated as ASE in accordance with **DMG 21714**, or are persons recently discharged from detention and treated as ASE in accordance with **DMG 21722**.

1 JSA Regs, reg 18A(1) & (2)

21576 The steps it is reasonable for a claimant to take include those listed at **DMG 21606**¹. The DM should follow the guidance at **DMG 21607 - 21611**. The DM should consider all the circumstances of the case, including the points at **DMG 21634**², and follow the guidance at **DMG 21638 - 21666**.

1 JSA Regs, reg 18A(2)(a); 2 reg 18A(2)(b)

21577

Extent of DM's determination where other issues arise

21578 A DM may be asked to determine

1. whether a claimant is ASE **and**

2. another question, normally availability.

The DM should determine both issues.

21579 - 21583

Relationship to availability and capability

21584 ASE 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 ASE test

2. although claimants are taking the steps that are reasonable for a person to be expected to take and satisfy the ASE 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. ASE but not available for employment **or**

2. available for employment but not ASE.

21586 Exceptionally when considering ASE a doubt may arise as to whether the claimant is capable of work. Any other doubt to entitlement should also be resolved.

21587 - 21589

Evidence

21590 Where there is a doubt about whether claimants are ASE, the case will usually be referred to the DM with

1. a copy of the JSAG **and**

2. details of any other steps to seek work that an officer of the Jobcentre Plus office suggested the claimant take in the week or weeks in question **and**

- 3.** a copy of any direction on a JSAg that has been given by the DM **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 Jobcentre Plus office had previously given the claimant.

21591 The DM does not have to accept that the steps suggested by the Jobcentre Plus office are those that claimants can reasonably be expected to take to give them their best chance of getting employment. For example, the DM may have, or obtain, other evidence that suggests

- 1.** it was not reasonable to expect the claimant to take the steps listed by the Jobcentre Plus office 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 DM should accept that the steps suggested by the Jobcentre Plus office 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 Jobcentre Plus office.

21593 Corroboration of claimants evidence is not essential (see DMG Chapter 03). DMs 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 DM 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 job seekers **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 DM is inconsistent or seems unlikely.

21595

Proof

21596 Before determining whether the claimant was ASE in any week the DM

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 (see **DMG 21644 - 21646**).

The onus is on the claimant to show what steps have been taken¹.

1 JSA Regs, reg 24(1)

21597 Determining whether claimants were ASE 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 - 21679

[Steps 21606 - 21615](#)

[Best chance of getting employment 21616 - 21625](#)

[Appointing someone else to help in finding employment 21626 - 21631](#)

[Reasonably be expected to have to take 21632 - 21663](#)

[Nature and conditions of employment 21664 - 21679](#)

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 Act 95, s 7(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 JS Act 95, s 7(1); JSA Regs, reg 18(1)

21602 There is no “magic number” of steps which would insulate a claimant from an argument that they are not ASE. 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 DM 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 Act 95, s 7(2)(a); JSA Regs, reg 18(2); 2 JS Act 95, s 7(2)(b); JSA Regs, reg 18(3)

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 Emp O, 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 Act 95, s 7(2)(a); JSA Regs, 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 S/E 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 (see **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 Act 95, s 7(3); JSA Regs, reg 18(4)

21611 Steps such as

- 1.** reading the situations vacant pages in a newspaper or magazine **or**
- 2.** visiting the Jobcentre Plus 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

each count individually as 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 ASE test.

21620 The DM 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 Jobcentre Plus office 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 Jobcentre Plus office, 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 orders, community disposals or anti-social behaviour orders

21621 If claimants are subject to community orders, community disposals or, anti-social behaviour orders that require them to be at home during the day, the DM 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 DM 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 entitlement to JSA. For example, a claimant who visits the Jobcentre Plus office every week for four months to read the

advertised display may be unsuccessful in getting employment. Eventually the DM may determine 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 determining whether claimants have taken the steps that they can reasonably be expected to take, the DM 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 crewing or launching of a lifeboat **or**

7.1.b in the performance of duty as a P/T 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 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 P/T student (see **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 three 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 EC **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 S/E 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 Act 95, s 7(2)(b); JSA Regs, 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.

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 a local Jobcentre Plus office 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 DM 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 Jobcentre Plus office or prospective employers.

21650

Employment or training programmes

21651 Employment or training programmes where a training allowance is not payable include

- 1.** Work Trial
- 2.** Job Preparation Courses
- 3.** Jobplan Workshops
- 4.** Programme Centre Workshops.

Note: **1.** and **2.** are part of the Job Interview Guarantee Scheme.

21652 People attending WBLA (TfW in Scotland) usually receive a training allowance. In cases of doubt DMs should obtain information about the scheme from the relevant Jobcentre Plus office.

21653 - 21654

Course or programme which helps employment prospects

21655 If DMs 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 organizer 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 S/E.

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

Homeless claimants

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 claimants 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 (see **DMG 21420 - 21488**), if they can show that they satisfy the availability conditions **or**

2. in a situation vacant because of a TD 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 reason for refusing if it was notified to them by an Emp O.

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 reason for refusing employment on this ground (see **DMG Chapter 34**).

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 ASE 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 ASE 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 21680 - 21689

[General](#) 21680 - 21682

[Steps to seek employment](#) 21683 - 21686

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General

21680 A young person is required to be ASE as in **DMG 21571 - 21600, 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 DMG Chapter 30³

also have to satisfy **DMG 21681 - 21689**.

1 JSA Regs, reg 65(5); 2 reg 61(1)(a); 3 reg 61(1)(f)

21681 Young people

1. whose JSA has not been reduced by the Secretary of State under a severe hardship direction¹ **or**

2. whose JSA has not been reduced by a DM because of a sanction² because they have

2.1 given up a place on a training scheme or employment programme without good reason³ **or**

2.2 failed to attend a place on a training scheme or employment programme without good reason⁴
or

2.3 refused a place on a training scheme or employment programme without good reason⁵ **or**

2.4 neglected a reasonable opportunity of a place on a training scheme or employment programme without good reason⁶ **or**

2.5 lost a place on a training scheme or employment programme through misconduct⁷ **or**

2.6 refused employment without good reason⁸ **or**

2.7 neglected a reasonable opportunity of employment without good reason⁹ **or**

3. who have not been sanctioned for

3.1 leaving employment voluntarily¹⁰ **or**

3.2 losing employment through misconduct¹¹ **or**

3.3 failing to attend without good reason

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, reg 63; 2 reg 68; 3 JS Act 95, s 19(5)(b)(iii) & 20A(2)(b)(iii); 4 s 19(5)(b)(iv) & 20A(2)(b)(iv);
5 s 19(5)(b)(ii) & 20A(2)(b)(ii); 6 s 19(5)(b)(i) & 20A(2)(b)(i); 7 s 19(5)(c) & 20A(2)(c);
8 s 19(6)(c) & 20A(2)(f); 9 s 19(6)(d) & 20A(2)(g); 10 s 19(6)(b) & 20A(2)(e);
11 s 19(6)(a) & 20A(2)(d); 12 JSA Regs, reg 27A; 13 JSA Act, s 7(6); JSA Regs, 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 FTE **and**

3. those steps in **DMG 21606**.

Note: Where claimants follow **DMG 21606** the term employment in that paragraph includes training².

1 JSA Regs, reg 65(3); 2 JS Act 95, s 7(6); JSA Regs, 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, reg 57(1) & 65(6)

Full-time education

21685 FTE is¹

1. FTE by attendance at a recognized educational establishment (see **DMG Chapter 20**) **or**
2. FTE elsewhere than under **1.**, where the education is recognized by the DM (see **DMG Chapter 20**)² **or**
3. education that is treated as F/T (see **DMG Chapter 20**)³.

1 JSA Regs, reg 57(1); 2 CHB Act 2005; 3 Child Benefit (General) Regs 2006, reg 1(3)

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 30**³ **or**
3. do not fall within **DMG 21681**⁴

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, reg 18(1) & 65; 2 reg 61(1)(a); 3 reg 61(1)(f); 4 regs 63 & 68

21688 To have the best chance of getting employment and training all young people other than those described in **DMG 21687**¹ 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, 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, reg 65(2)

Treated as actively seeking employment 21690 - 21809

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[In any period of twelve months](#) 21785 - 21787

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[Lone parents](#) 21792 - 21809

General

21690 Claimants can be treated as ASE under certain circumstances. DMG 21699 - 21791 explains when claimants can be treated as ASE. Claimants are treated as ASE

1. in specified circumstances **and**

2. up to the maximum mentioned in the relevant paragraph¹.

1 JSA Regs, reg 19(1)

21691 Where claimants can be treated as ASE they are treated for whole weeks except in DMG 21697, 21707 and DMG 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, reg 19(3); 2 Tribunals and Inquiries Act 1992, Sch 1

Prisoner

21694 [\[See Memo DMG 07/20\]](#) 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, reg 85(4); 2 Prison Act 1952; Prisons (Scotland) Act 1989; 3 MH Act 83;
MH (C&T) (Scot) Act 03; Criminal Procedure (Scotland) Act 1995

Claimants attending a court or tribunal

21695 Subject to DMG 21696 below, claimants can be treated as ASE¹ 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, reg 19(1)(v)

21696 A claimant required to attend a court or tribunal as in DMG 21695 above, is **not** to be treated as ASE¹

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 Emp O notice, in writing where requested by the Emp O, that he is required to attend **or**

3. where he is a prisoner.

1 JSA Regs, reg 19(2A)

Detained in Custody

21697 A claimant can be treated as ASE¹ if held in

1. police detention under specific legislation² **or**

2. legal custody as defined in Scotland³, so long as they are not a prisoner,

for a maximum of **96 hours** before being released.

Note: This only treats the claimant as ASE for the actual period he is in custody.

1 JSA Regs, reg 19(1)(w); 2 Police and Criminal Evidence Act 1984, s 118(2); 3 Criminal Procedure (Scotland) Act 1995, s 295

21698

Absent from Great Britain

Interview for employment

21699 Claimants can be treated as ASE in any week that they

- 1.** are temporarily absent from GB to attend an interview for employment **and**
- 2.** have given notice to an Emp O that they will be absent.

Claimants can only be treated as ASE for this reason for one week at a time. But they must be temporarily absent from GB for three days or more in that week¹.

1 JSA Regs, reg 19(1)(m)

21700 The notice given to the Emp O must be in writing if the Emp O wants it in writing¹.

1 JSA Regs, reg 19(1)(m)

21701

Taking a member of the family abroad for treatment

21702 Claimants can be treated as ASE in any week that they are temporarily absent from GB 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 ASE for this reason for a maximum of eight weeks at a time. But they must be temporarily absent from GB for three days or more in each week¹.

1 JSA Regs, 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, reg 19(3)

21704

Member of a couple - both absent

21705 Claimants can be treated as ASE 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 GB **and**

3. any of the following are payable for the claimant's partner

3.1 PP¹ **or**

3.2 EPP (JSA only)² **or**

3.3 HPP³ **or**

3.4 DP⁴ **or**

3.5 SDP⁵.

Claimants can only be treated as ASE for this reason for a maximum of four weeks at a time. But they must be absent from GB for three days or more in each week⁶.

1 JSA Regs, 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)(n)

Example

Joe tells the Jobcentre Plus office that he and his wife are going abroad for a six week holiday to Spain. Joe gets DP for his wife. Joe is treated as ASE for the first four weeks of the six 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 ASE during any period when they are absent from GB. But this only applies if they would be ASE but for the fact that they are absent from GB¹.

21708 - 21709

Claimants who are laid-off

21710 Claimants can be treated as ASE in any week that

- 1.** they are laid-off **and**
- 2.** restrict their availability as in DMG 21321 for three 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 Act 95, s 7(4); JSA Regs, reg 21

21711 - 21712

Claimants on short time

21713 Claimants can be treated as ASE in any week that

- 1.** they are working short time **and**
- 2.** restrict their availability as in DMG 21324 for three 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 Act 95, s 7(4); JSA Regs, reg 21

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

21714 Where claimants

- 1.** have been receiving ESA, IB or IS on the grounds of incapacity prior to their claim for JSA **and**
- 2.** the Secretary of State has extended the time for claiming JSA, because notification of expiry of entitlement to ESA, IB or IS was not sent before the date that the claimant's entitlement expired¹ **and**
- 3.** are treated as available in accordance with DMG 21328²

they can be treated as ASE for the period for which they are treated as available.

21715

Deaths, funerals and domestic emergencies

21716 Claimants can be treated as ASE 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 a 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, reg 14(2) & 19(1)(o)

21717 Claimants can only be treated as ASE 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, reg 14(2) & 19(1)(o); reg 4

Domestic emergencies

21718 In deciding whether the claimant has to deal with a domestic emergency the DM 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 DMs to determine based on all available evidence. If DMs do not have sufficient evidence to determine this they may obtain evidence from the claimant's GP. But this must only be done with the claimant's permission.

21720 - 21721

Discharged from detention

21722 Claimants can be treated as ASE for the first week after the date of claim¹, and for any period between the date of claim and the beginning of that 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, reg 14(1)(h) & 19(1)(h); 2 reg 19(l)(i); 3 reg 14(l)(h)

Example

A man is discharged from detention in a prison on 4 November.

On 4 November he makes a claim to JSA.

The Secretary of State 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 a prison.

The claimant can be treated as ASE

1. from 8 November - 14 November (the first benefit week) 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 **and**

2. 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.

21723 Claimants released from prison to serve home detention curfew can be treated as ASE 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, reg 19(l)(h)

Domestic violence

21724 A claimant has to be treated as ASE 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, reg 19(1)(x)

Employment or training programmes

21725 Claimants can be treated as ASE in any week they are taking part in an employment or training programme for which a training allowance is not payable (see DMG 21651). But they must be taking part in the employment or training programme for three days or more in that week¹.

1 JSA Regs, reg 19(1)(q)

21726 DMG 21725 does not apply to the employment programme known as “Work Experience”.

Claimants on this programme must be ASE¹.

1 JSA Regs, reg 19(1)(q)

Employment-related course

21727 Claimants can be treated as ASE for any week that they are taking part in an employment-related course as a F/T student (see DMG Chapter 30). But claimants can only be treated as ASE for this reason for a maximum of

1. two weeks for each course **and**

2. one course in any period of twelve months¹.

21728 To be treated as ASE they must be taking part in the employment-related course for three days or more in each week¹.

21729 Before claimants can be treated as ASE the Emp O has to have approved their taking part in the employment-related course before the course starts¹.

21730 Where a claimant declares they attend a mandatory probation service programme, the DM should decide if the programme is an employment-related course, and whether claimants can be treated as ASE for up to 2 weeks¹.

End of entitlement to JSA

21731 If the last day that JSA is paid for is not the last day of a week claimants can be treated as ASE¹ for the period

1. beginning with the beginning of the week in which the award of JSA is terminated **and**
2. ending on the last day that JSA is paid for¹.

21732

Engaged during an emergency

21733 Claimants can be treated as ASE 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 three or more days in that week¹.

21734 - 21735

Lifeboat crew

21736 Claimants can be treated as ASE for any week that they are engaged in the crewing or launching

of a lifeboat. But they must be engaged in the crewing or launching of a lifeboat for three days or more in that week¹.

1 JSA Regs, reg 19(1)(d)

Looking after a child

One member of a couple is absent from the United Kingdom

21737 Claimants can be treated as ASE 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 ASE for this reason for a maximum of eight weeks at a time. But they must be looking after the child for three days or more in each week¹.

1 JSA Regs, reg 19(1)(e)

Person who looks after a child cannot look after the child

21738 Claimants can be treated as ASE in any week that they are looking after a child F/T 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 as ASE for this reason for a maximum of eight weeks at a time and they must be looking after a child F/T for three days or more in each week¹.

1 JSA Regs, reg 19(1)(g)

21739 - 21740

No intention to actively seek employment

21741 Claimants can be treated as ASE in any week where they have given notice to an Emp O that they

1. do not intend to be ASE **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 Emp O must be in writing if the Emp O asks for written notice¹.

1 JSA Regs, reg 19(1)(p)

21742 Claimants who do not intend to be ASE and intend to reside at a place other than their normal place of residence can only be treated as ASE for a maximum of¹

1. two weeks, for any reason **or**

2. three weeks if they are attending an outward bound course for three days or more in each week **or**

3. six weeks

3.1 if they are a blind person **and**

3.2 apart from the two weeks when they can be treated as ASE for any reason, they undertake a course of training, for a maximum of four weeks, in the use of guide dogs, of which three or more days in each week is spent training

in any period of twelve months¹.

1 JS Act 95, s 7(4); JSA Regs, reg 19(2)

21743 Although claimants can be treated as ASE 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 ASE 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 ASE for this reason for a maximum of one week for each residential course and they must be attending the residential course for three days or more in that week¹.

1 JSA Regs, reg 19(1)(f)

21747

Part-time member of a fire brigade

21748 Claimants can be treated as ASE for any week that they are performing their duties as a P/T member of a fire brigade. But they must be performing those duties for three days or more in that week¹.

1 JSA Regs, reg 19(1)(d)

21749

Permitted period

21750 Claimants can be treated as ASE for a permitted period if they are people

1. who¹

1.1 were, at anytime during the period of twelve calendar months immediately before their date of claim, engaged in their usual occupation in S/E earner's employment **and**

1.2 are ASE, S/E earner's employment or employment and S/E 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 ASE 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 Act 95, s 7(5); JSA Regs, reg 20(2) & (3); 2 JS Act 95, s 7(5); JSA Regs, reg 20(1)

21751 Claimants are only entitled to a permitted period for ASE 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 ASE 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 ASE for a permitted period.

1 JSA Regs, reg 20

21752 - 21753

Programmes provided by Venture Trust

21754 Claimants can be treated as ASE 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 ASE 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, reg 19(1)(k)

21755 The programme provided by the Venture Trust must be provided under an agreement made by the Scottish Ministers¹.

Note: For England and Wales there are now no programmes provided by the Venture Trust. In Scotland Venture Trust programmes continue to operate.

1 JSA Regs, reg 19(1)(k)

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 ASE 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 GB.

Note: Appendix 1 to DMG Chapter 26 lists the reserve forces.

1 JSA Regs, reg 19(1)(y)

Taking steps to become self-employed

21760 Claimants can be treated as ASE in any week during which they are taking active steps to establish themselves in S/E earner's employment. But it must be under a scheme for helping people to become S/E in¹

1. England, where the scheme is provided directly or indirectly by, or with financial help from

1.1 the Secretary of State **or**

1.2 the Urban Regeneration Agency **or**

1.3 an Urban Development Corporation **or**

1.4 a Housing Action Trust **or**

2. Scotland, where

2.1 the scheme is established under arrangements made by Scottish Enterprise or Highlands and Islands Enterprise or Skills Development Scotland² **or**

2.2 the scheme is provided directly or indirectly by, or with financial help from, the Secretary of State **or**

3. Wales, where they attend under arrangements made by the Secretary of State³.

1 JSA Regs, reg 19(1)(r); 2 Enterprise and New Towns (Scotland) Act 90, s 2(3); 3 E & T Act 73, s 2(3)

21761 If the claimant is undertaking a scheme that is provided directly or indirectly by, or with financial help from someone other than the Secretary of State, the DM should ask the corporation whether they are

1. an Urban Regeneration Agency¹ **or**

2. an Urban Development Corporation² **or**

3. a Housing Action Trust³

set up by the Secretary of State (see DMG 21764 - 21766).

1 JSA Regs, reg 19(3); Leasehold Reform, Housing and Urban Development Act 93, s 158(1);

2 JSA Regs, reg 19(3); Local Government, Planning and Land Act 80, s 135(1);

3 JSA Regs, reg 19(3); Housing Act 88, s 62

21763 A Chamber of Commerce, LEC, the Chief Executive of Education and Skills Funding or NCET (also known as National Council for Education and Learning in Wales) may organise schemes to help claimants to become S/E. The DM should confirm whether such schemes are provided for as in DMG 21760. People in the NDYP gateway who start the short course or one to one counselling for EO(S/E) have been accepted onto a scheme as in DMG 21760, and can be treated as ASE.

Housing Action Trust

21764 A Housing Action Trust is a corporation established by an order of the Secretary of State, whose first objective is to¹

- 1.** repair or improve the housing held by the trust **and**
- 2.** secure proper and effective management and use of that housing **and**
- 3.** encourage diversity in
 - 3.1** which housing in the area is occupied **and**
 - 3.2** the identity of the landlords, where the accommodation is occupied by tenants **and**
- 4.** improve the living conditions, social conditions and general environment of the area.

1 JSA Regs, reg 19(3); Housing Act 88, Part III

Urban Development Corporation

21765 An Urban Development Corporation is a corporation established by the Secretary of State to regenerate a particular area that the Secretary of State feels it is in the national interest to designate as an urban development area¹.

1 JSA Regs, reg 19(3); Local Government, Planning and Land Act 80, s 134, 135 & 136

Urban Regeneration Agency

21766 An Urban Regeneration Agency is a corporate body whose purpose is to regenerate land that is in England and which is

- 1.** vacant or unused **or**
- 2.** in an urban area and that is under used or ineffectively used **or**
- 3.** contaminated, derelict, neglected or unsightly **or**
- 4.** likely to become derelict, neglected or unsightly because of actual or possible collapse of the surface due to operations that have ceased to be carried out

that the Agency determines to be suitable for regeneration¹.

1 JSA Regs, reg 19(3); Leasehold Reform, Housing and Urban Development Act 93, s 158(1), 159(1) & (2)

21767

Maximum period

21768 People can only be treated as ASE under DMG 21760 for any week that falls in an eight week period¹. If they do not claim for all or any of those weeks or are not entitled to JSA, they cannot be treated for different weeks instead.

1 JSA Regs, reg 19(1)(r)

21769 The provision only applies to a single period of eight weeks for each period of continuous entitlement to JSA¹. If claimants have already been treated under this provision in the same period of continuous entitlement to JSA and they make another attempt to establish themselves in S/E, they cannot be treated as ASE again.

1 JSA Regs, reg 19(1)(r)

21770 Claimants who fall under DMG 21760 can be treated as ASE for the period beginning with the week in which they are accepted on a place on the scheme¹.

1 JSA Regs, reg 19(1)(r)

Active steps

21771 Whether claimants are taking active steps to establish themselves in S/E is a question of fact. Steps to establish claimants in S/E include taking steps directed by the scheme, for example, going on courses, learning bookkeeping. 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 **or**
- 6.** started work on any paperwork required by the relevant CCTE, LEC, the Chief Executive of Education and Skills Funding or NCET.

Temporary absence from Great Britain for NHS treatment abroad

21772 Claimants can be treated as ASE for any period when they are temporarily absent from GB for the purpose of receiving NHS treatment abroad¹ (see DMG Chapter 7).

Note: If claimants are treated as ASE 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 ASE.

1 JSA Regs, reg 19(l)(u)

Traineeship

21773 Where a claimant is treated as available for employment because they are participating in a Traineeship then they must also be treated as ASE for the same period of time¹.

1 JSA Regs, reg 19(1)(aa)

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

21774 Claimants not in an EPS (see DMG 21775 for claimants in an EPS) can be treated as ASE in any week that they are treated as capable of work or as not having LCW as in DMG Chapter 20. But they must be treated as capable for three days or more in that week¹.

1 JSA Regs, reg 19(1)(l) & 19(1)(ll)

21775 A claimant making use of the EPS provision has to be treated as ASE 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 EPS who, notwithstanding their illness, could be reasonably expected to take steps to seek employment should have their ASE determined with regard to the steps that they actually take to seek employment¹.

1 JSA Regs, reg 19(1)(lzl)

Example 1

Tony is in receipt of JSA. Following an injury playing football, Tony has had 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 ESA, Tony decides to stay on JSA. 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 JSA. 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 JSA. 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 ASE in any week that they are attending a residential work camp. But they must be attending the residential work camp for three days or more in that week. They can only be treated as ASE for a maximum of

- 1.** two weeks at a time **and**
- 2.** one period in any period of twelve months¹.

1 JSA Regs, reg 19(1)(b)

21777 A work camp is any place in GB (see DMG Chapter 7) 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** LA **or**
 - 2.3** voluntary organization¹.

1 JSA Regs, reg 4

Voluntary organization

21778 A voluntary organization¹ is a body

- 1.** whose activities are not carried out for profit **and**
- 2.** that is not a public authority or LA.

1 JSA Regs, reg 1(3)

21779 - 21784

In any period of twelve months

21785 In deciding whether a claimant can be treated as ASE 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 DM should look back over the twelve month period that ends with the week being considered.

21786 - 21787

New Deal 25+ education based

21788 There are currently no claimants undertaking ND25+.

Actively seeking employment in term-time

21789 Claimants are treated as ASE in any benefit week¹ falling wholly or partly in term-time during which they are treated as available as in DMG 21417².

1 JSA Regs, reg 4; 2 reg 21A(1)(a)

Actively seeking employment during examinations and vacations

21790 Claimants are treated as ASE 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, reg 4; 2 reg 21A(1)(b) & (c)

Lone parents

21791 Where a claimant is treated as available as in DMG 21419, they must also be treated as ASE for that same period of time¹.

1 JSA Regs, reg 21B

21792 - 21809

The jobseeker's agreement 21810 - 21839

[Definitions](#) 21812 - 21823

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[What is a Jobseeker's Agreement](#) 21826 - 21839

21810 The guidance on the JSaG in DMG 21812 - 21981 applies only to JSA and not to IS. See DMG 20007 for guidance on persons in receipt of a training allowance.

21811 From 2013, the Department has rolled out a "Claimant Commitment" for JSA claimants. DMs need to be aware that, unless the claimant is a claimant for either UC or new style JSA, then this is actually in law a JSaG. Accordingly, the guidance in this chapter applies. DMs dealing with UC or new style JSA should refer to the relevant chapters of the ADM for guidance on the claimant commitment.

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 JSA¹.

1 JSA Regs, reg 1(3); SS (C&P) Regs, reg 6

Employment

21819 Employment means employed earner's (see DMG Chapter 26) employment¹.

1 JSA Regs, reg 4

Employment officer

21820 An Emp O is an officer of the Secretary of State, or another person whom the Secretary of State

has designated for this purpose¹. The Secretary of State has authorized people who work for

1. LAs who participate in the ONE service

2. Action for Employment Ltd

3. Deloitte Consulting PLC **and**

4. The Reed Partnership Ltd

where they are employed to give training or employment advice to claimants as part of the ONE service as Emp Os. They can enter into or vary a JSAg with a claimant or refer a JSAg or a proposed variation of a JSAg to the Secretary of State.

1 JS Act 95, s 9(13); JSA Regs, 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 JSA(Cont) (see DMG 21060 - 21082) **or**

2.2 has had their full entitlement to JSA(Cont) (see DMG 21088 - 21106).

1 JSA Regs, reg 57(1)

21822 - 21823

Entitlement

21824 Claimants are not entitled to JSA¹ if they

1. have

1.1 not entered into a JSAg **or**

1.2 entered into a JSAg but it has ended **and**

2. cannot be treated as having a JSAg **and**

3. are not a member of a joint claim couple exempt from having to have a JSAg².

Note: Hardship payments may be made in certain circumstances.

21825

What is a Jobseeker's Agreement

21826 A JSAg is an agreement that¹

1. is entered into by a claimant and an Emp O **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 (see DMG 21265)

2.3.b not being available at once because they do voluntary work (see DMG 21265)

2.3.c not being available at once because they are providing a service (see DMG 21276)

2.3.d not being available at once because the claimant is required to give notice to terminate employment (see DMG 21298 - 21299)

2.3.e restrictions due to being laid off or on short time (see DMG 21321 - 21330)

2.3.f restrictions on nature, rate of pay, locality, terms or conditions of employment (see DMG 21427 - 21429)

2.3.g restrictions because they are only available at certain times (see DMG 21434 - 21435)

2.3.h restrictions due to caring responsibilities (see DMG 21434 - 21439)

2.3.i restrictions due to physical or mental disabilities (see DMG 21443 - 21449)

2.3.j restrictions due to religious beliefs or conscientious objections (see 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 claimants right to

2.7.a have a proposed JSAg referred to a DM **and**

2.7.b seek the revision or supersession of any decision given by a DM in respect of the JSAg
and

2.7.c appeal to an AT against a decision by a DM **and**

2.8 the date of the agreement.

1 JS Act 95, s 9(1); JSA Regs, reg 31

21827 The JSAg should be

1. in writing **and**

2. signed by the Emp O and claimant¹ **and**

3. copied to the claimant².

1 JS Act 95, s 9(3); 2 s 9(4)

21828 An Emp O should not enter into a JSAg with a claimant unless in the Emp O's opinion claimants would satisfy the availability and ASE conditions if they comply with or are treated as complying with the JSAg¹.

1 JS Act 95, s 9(5)

Young people

21829 For a young person¹ the JSAg must also contain a broad description of the circumstances when the amount of the claimant's JSA

1. may be reduced by the DM under a severe hardship direction² **or**

2. may be reduced by the DM because of a sanction³ because the claimant has

2.1 given up a place on a training scheme or employment programme without good reason⁴ **or**

2.2 failed to attend a place on a training scheme or employment programme without good reason⁵
or

2.3 refused a place on a training scheme or employment programme without good reason⁶ **or**

2.4 neglected a reasonable opportunity of a place on a training scheme or employment programme without good reason⁷ **or**

2.5 lost a place on a training scheme or employment programme through misconduct⁸ **or**

2.6 refused employment without good reason⁹ **or**

2.7 neglected a reasonable opportunity of employment without good reason¹⁰ **or**

2.8 failed to attend without good reason

2.8.a on the correct day and place **or**

2.8.b at the correct time¹¹ **or**

3. may not be payable because the claimant has been sanctioned for

3.1 leaving employment voluntarily¹² **or**

3.2 losing employment through misconduct¹³ **or**

3.3 failing to attend without good reason

3.3.a on the correct day and place **or**

3.3.b at the correct time¹⁴.

1 JSA Regs, reg 66(1); 2 JS Act 95, s 17; JSA Regs, reg 63; 3 reg 68; 4 JS Act 95, s 19(5)(b)(iii) & 20A(2)(b)(iii); 5 s 19(5)(b)(iv) & 20A(2)(b)(iv); 6 s 19(5)(b)(ii) & 20A(2)(b)(ii); 7 s 19(5)(b)(i) & 20A(2)(b)(i); 8 s 19(5)(c) & 20A(2)(c); 9 s 19(6)(c) & 20A(2)(f); 10 s 19(6)(d) & 20A(2)(g); 11 s 8; 12 s 19(6)(b) & 20A(2)(e); 13 s 19(6)(a) & 20A(2)(d); 14 JSA Regs, 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 eight weeks (a week is a period of seven consecutive days³) as in DMG 30754 - 30756⁴.

21831 - 21839

DM's consideration of a proposed jobseeker's agreement 21840 - 21909

[When and why a jobseeker's agreement is referred to a DM](#) 21840 - 21846

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[End of Jobseeker's Agreement](#) 21900 - 21904

[When Jobseeker's Agreement stays in force](#) 21905 - 21909

When and why a jobseeker's agreement is referred to a DM

21840 Emp Os **may** refer a proposed JSAg to a DM to determine whether¹

1. if claimants were to do what is in the proposed JSAg, they would satisfy

1.1 the availability condition **or**

1.2 the ASE condition **and**

2. it is reasonable to expect the claimant to have to do what is in the proposed JSAg (see DMG 21850 - 21851).

1 JS Act 95, s 9(6)

21841 The claimant can ask the Emp O to refer a proposed JSAg to a DM to decide whether

1. if the conditions were complied with, the claimant would satisfy the

1.1 availability condition **or**

1.2 ASE condition **and**

2. it is reasonable to expect the claimant to have to do what is in the proposed JSAg (see DMG 21850 - 21851).

If the claimant does ask the Emp O to refer a proposed JSAg to a DM, the Emp O must refer the JSAg straightaway¹.

1 JS Act 95, s 9(6)

21842 Any referral to the DM should, where practicable, be disposed of within 14 days of the date of referral¹.

1 JS Act 95, s 9(7)(a)

21843 The DM¹

1. can give a decision on the terms on which the Emp O is to enter into a JSAg with the claimant (see DMG 21855 - 21858) **or**

2. may direct that the proposed JSAg 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 Act 95, s 9(7)(b) & (c)

21844 - 21846

Availability and actively seeking employment

21847 In determining whether, if complied with, the JSAg would enable the claimant to satisfy the

1. availability conditions, the DM should follow the guidance on availability in DMG 21120 - 21488

2. ASE conditions, the DM should follow the guidance on ASE in DMG 21520 - 21790.

Back to work schemes

21848 A statement about the Back to Work Schemes Guide on the JSAg is intended to signpost claimants to a source of information. This statement is not to be taken in the context of an action that the claimant is being asked to take. Therefore if the claimant does not read the guide it should not result in a sanction or disallowance of their JSA.

21849

Is the jobseeker's agreement reasonable

21850 It is not reasonable to expect the claimant to do what is in the proposed JSAg if in doing so, the claimant is unable to satisfy the

1. availability condition **or**
2. ASE condition **or**
3. both the availability and ASE conditions.

Example

A woman is highly skilled and seeking work that requires the skills she possesses.

The action that she will take to seek employment is stated in the proposed JSAg as only visiting the local Jobcentre Plus office.

The DM determines that only visiting the local Jobcentre Plus office does not give her the best chance of getting employment.

So the DM determines that

1. the proposed JSAg would not satisfy the ASE conditions if she complied with it **and**
2. it is not reasonable to expect her to have to do what is in the JSAg.

21851 The DM should not expect the claimant to do what is in the proposed JSAg if the terms of the JSAg are not reasonable. The DM 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 JSAg enables the claimant to satisfy the availability and ASE conditions.

1 CH v SSWP (JSA) [2015] UKUT 0373 (AAC)

Example 1

Phil is seeking work as a bricklayer. The proposed JSAg specifies that he should visit the Jobcentre Plus office twice every day as well as visiting five building sites daily.

The DM determines that, although the proposed JSAg, if met, would enable Phil to satisfy the ASE condition it is not reasonable to expect him to take this number of steps on a daily basis.

Example 2

The proposed JSAg 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 DM determines that, although the proposed JSAg would satisfy the availability and ASE 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

DM's determinations and directions on a proposed Jobseeker's Agreement

21855 If the DM determines that it would be reasonable to expect the claimant to do what is in the proposed JSAg, the DM should give a decision to that effect.

21856 If the DM determines that it would not be reasonable to expect the claimant to have to do what is in the proposed JSAg the DM

1. should decide that it was not reasonable **and**

2. may give directions on the terms that the Emp O is to enter into a JSAg with the claimant¹.

1 JS Act 95, s 9(7)(b)

21857 If the DM 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 ASE conditions **and**

2. be reasonable.

21858 In determining what directions to give the DM should consider

1. where the proposed JSAg is made by the Emp O

1.1 why the claimant refused to accept the JSAg proposed by the Emp O **and**

1.2 whether the claimant was reasonable in refusing to accept the proposed JSAg **and**

1.3 what terms the claimant proposes **and**

1.4 why the Emp O considers that the proposed JSAg 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 JSAg is made by the claimant

2.1 why the Emp O refused to accept the JSAg proposed by the claimant **and**

2.2 what terms the Emp O proposes **and**

2.3 why the claimant considers that the proposed JSAg 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 JSAg referred to the DM will not have been agreed by the Emp O and claimant. So the claimant will not have a current JSAg for the purposes of satisfying entitlement to JSA¹.

1 JS Act 95, s 1(2)(b) and 1(2B)(b)

21866 In any case that is referred, the DM may decide that the proposed JSAg 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 Emp O subsequently enter into the proposed JSAg **and**

2. any conditions that the DM considers appropriate are satisfied.

1 JS Act 95, s 9(7)(c)

21867 The proposed JSAg referred to in DMG 21866 includes

1. any proposed JSAg referred to the DM **or**

2. any directions that the DM gives concerning the terms on which the Emp O was to enter into a JSAg with the claimant.

21868 The DM should take into account all of the circumstances of the case including¹

1. where claimants refuse to accept the JSAg proposed by the Emp O, whether they are reasonable in refusing to accept it **and**

2. where claimants have shown to the Emp O or DM that they are prepared to accept

2.1 a JSAg that differs from the one proposed by the Emp O, whether the terms of the JSAg that they are prepared to accept are reasonable **or**

2.2 the original JSAg proposed by the Emp O, that fact **and**

3. the date that the DM considers the claimant was first prepared to enter into a reasonable JSAg **and**

4. where the date the claimant first had an opportunity to sign a JSAg was later than the date of claim that fact.

1 JSA Regs, reg 32

21869 - 21874

Reasonable in refusing to accept the Jobseeker's Agreement

21875 If the DM considers that the claimant was reasonable in refusing to accept the proposed JSAg the DM can decide, the date on which the JSAg should be treated as having effect from, if

1. it is accepted and entered into **and**

2. the DM considers that the claimant would have been prepared to enter into the JSAg given in the direction.

21876 The DM can treat the JSAg as decided, as having effect from the date that the claimant would have been prepared to enter into that JSAg.

21877 If

1. DMG 21868 **4.** also applies **and**

2. the claimant was prepared to enter into the JSAg, as decided from the date that he was first given the opportunity to sign a JSAg

the DM can treat the JSAg, 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 JSAg that differs from the one proposed by the Emp O, the DM 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 JSAg **or**

2. the date of claim if DMG 21868 **4.** also applies.

21881 But this only applies if

1. the proposed JSAg will enable the claimant to satisfy the availability and ASE conditions **and**

2. the DM considers that the terms of the proposed JSAg 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 JSAg proposed by the Emp O after the DM has given a determination or direction, the DM's decision is final and should be followed by the Emp O and the claimant¹. But the DM's decision should have taken into account DMG 21875 - 21877.

1 SS Act 98, s 17(1)

21886 If claimants say that they are prepared to accept the JSAg proposed by the Emp O before the DM gives a decision the DM can treat the proposed JSAg as having effect from the date that the DM considers the claimant was first prepared to accept that JSAg.

21887 This will rarely apply from the date of claim. This is because a referral to the DM would not have been made unless the claimant disputed the terms of the JSAg. So it is likely that the date on which the claimant was first prepared to accept the JSAg will be after the date of claim.

21888 But if the DM considers that claimants

1. genuinely misunderstood the proposed JSAg **and**

2. were willing to accept it once they understood the terms of the JSAg

the DM can treat the JSAg 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 JSAg 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 DM can treat the JSAg as having effect from the date of claim.

21894 But this only applies if the DM considers that the claimant would have entered into the JSAg on the earlier date if it had been proposed to them.

21895 - 21897

Automatic backdating of Jobseeker's Agreement

21898 The JSAg should be treated as having effect from the date of claim if¹

1. the JSAg is signed on a date later than the date of claim **and**

2. there is no reference to the DM as in DMG 21840 - 21841.

1 JS Act 95, s 9(11); JSA Regs, reg 35

21899

End of Jobseeker's Agreement

21900 A JSAg entered into by a claimant and an Emp O should usually cease to have effect when an award of JSA ends¹.

1 JS Act 95, s 9(12)

21901 This may occur because the

1. claimant's award of JSA is terminated **or**

2. claimant's definite award of JSA(Cont) ends. See DMG 21905, if the claimant claims JSA(IB) within 14 days.

21902 - 21904

When Jobseeker's Agreement stays in force

21905 A JSAg entered into by a claimant stays in force¹

1. if a further claim to JSA 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 JSA has been suspended by the DM² for a definite or indefinite period because a question has arisen as to whether

2.1.a the conditions for entitlement to JSA are or were fulfilled **or**

2.1.b the award of JSA 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 JSA is revised or superseded because the claimant had no entitlement to JSA 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 NI credits³.

1 JS Act 95, s 9(12); JSA Regs, reg 36; 2 SS (C&P) Regs, reg 37(1A); 3 SS (Credits) Regs 75

Example

Fergus claims JSA from 4.11.11.

On 18.11.11 Fergus goes away from home and cannot be contacted whilst away. He is due to return on 8.12.11.

As a doubt has arisen on his availability for the period 18.11.11 - 8.12.11 the DM suspends the award of JSA for that period.

On 25.11.11 Fergus returns home and is available again from that date.

The DM cancels the suspension from 25.11.11 - 8.12.11.

The DM supersedes the award of JSA and decides that Fergus was not entitled to JSA for the period 18.11.11 - 24.11.11.

The JSAg remains in force.

21906 - 21909

Jobseeker's Agreement treated as having been made 21910 - 21924

[General](#) 21910 - 21919

[Young people](#) 21920 - 21924

General

21910 Claimants are treated as having entered into a JSAg 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 Emp O to draw up a JSAg

if they are allowed to make a claim for JSA without attending an office of the DWP **or**

2. where

2.1 they have made a claim to JSA **and**

2.2 their claim to JSA terminates before they have an interview with an Emp O to agree a JSAg **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 Emp O to agree a JSAg **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 JSA (see DMG 21911) **or**

5. where they were in receipt of a training allowance and were entitled to JSA(IB) as in DMG Chapter 20, without being available for employment, having entered into a JSAg or ASE for the period

5.1 starting with the date that they ceased to be entitled to JSA(IB) as in DMG Chapter 20 **and**

5.2 ending on the date that they have an interview with an Emp O to draw up a JSAg **or**

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 JSAg before that period began.

21911 DMG 21910 **4.** would apply to situations where the office of the DWP 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 JSAg, for a reason that only affects that claimant.

21912 - 21919

Young people

21920 A young person should be treated as having entered into a JSAg that remains in force if they register with the Jobcentre Plus office for both employment and training because they are¹

- 1.** unable to register with the Careers Service or the Connexions Service because of an emergency affecting either service, 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 Careers Service or the Connexions Service³.

1 JSA Regs, reg 66(2); 2 reg 62(2); 3 reg 62(3)

21921 Young people can only be treated as having entered into a JSAg that remains in force while the circumstances in DMG 21920 apply. Once these circumstances have ended the young person should enter into a JSAg.

21922 The Careers Service and the Connexions Service are defined in DMG Chapter 30.

21923 - 21924

Variation of Jobseeker's Agreement 21925 - 21929

General

21925 A JSAg may be varied at any time on the proposal of either the claimant or Emp O¹.

1 JSA Regs, reg 37

21926 Any variation to the JSAg must

- 1.** be in writing¹ **and**
- 2.** have the agreement of the claimant and Emp O² **and**
- 3.** be signed by the claimant and Emp O³ **and**
- 4.** be copied to the claimant⁴.

1 JS Act 95, s 10(2); JSA Regs, reg 37; 2 JS Act 95, s 10(1); 3 s 10(2); JSA Regs, reg 37;

4 JS Act 95, s 10(3)

21927 An Emp O should not agree to a variation of a JSAg unless in the Emp O's opinion the claimant would, if they complied with or were treated as complying with the proposed variation to the JSAg, satisfy the availability and ASE conditions¹.

1 JS Act 95, s 10(4)

21928 - 21929

DM's consideration of proposed variation to jobseeker's agreement

21930 - 21979

[When and why a variation to a jobseeker's agreement is referred to a DM](#) 21930 - 21936

[Availability and actively seeking employment](#) 21937 - 21939

[Is the proposed variation to the jobseeker's agreement reasonable](#) 21940 - 21944

[DM decisions on directions on a proposed variation to a Jobseeker's Agreement](#) 21945 - 21954

[Backdating a variation to Jobseeker's Agreement](#) 21955 - 21979

When and why a variation to a jobseeker's agreement is referred to a DM

21930 An Emp O **may** refer a proposed variation to the JSAg to a DM to determine whether¹

1. if claimants did what was in the proposal to vary the JSAg, they would satisfy the

1.1 availability condition **or**

1.2 ASE conditions **and**

2. it is reasonable to expect the claimant to have to do what is in the proposed varied JSAg (see DMG 21940 - 21941).

1 JS Act 95, s 10(5)

21931 The claimant can ask the Emp O to refer a proposed variation to a DM to determine whether

1. if the conditions were complied with, the claimant would satisfy the

1.1 availability conditions **or**

1.2 ASE condition **and**

2. it is reasonable to expect the claimant to have to do what is in the proposed variation to the JSAg (see DMG 21940 - 21941).

If the claimant does ask the Emp O to refer a proposed variation to the JSAg to a DM, the Emp O must refer the JSAg straightaway¹.

1 JS Act 95, s 10(5)

21932 Any referral to the DM should, where practicable, be disposed of within 14 days of the date of

referral¹.

1 JS Act 95, s 10(6)(a)

21933 The DM¹

1. should decide

1.1 whether the JSAg should be varied **and**

1.2 if so, the terms on which the claimant and Emp O are to enter into an agreement to vary the JSAg (see DMG 21945 - 21951) **or**

2. may bring the JSAg to an end where the claimant fails to comply, within a certain time (see DMG 21980 - 21981), with a direction as in **1.1 or**

3. may direct that

3.1 if the JSAg is varied **and**

3.2 providing such conditions as the DM considers appropriate are satisfied

the JSAg is to be treated as having effect from a date earlier than it would otherwise have effect (see DMG 21955 - 21974).

1 JS Act 95, s 10(6)(b), (c) & (d)

21934 - 21936

Availability and actively seeking employment

21937 In determining whether, if complied with, the proposed variation to the JSAg would enable the claimant to continue to satisfy the

1. availability conditions, the DM should follow the guidance on availability in DMG 21120 - 21488

2. ASE conditions, the DM should follow the guidance on ASE in DMG 21520 - 21790.

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 JSAg if in doing so the claimant is unable to satisfy

1. the availability condition **or**

2. the ASE condition **or**

3. both the availability and ASE condition.

Example

A man has been claiming JSA for several months. The Emp O proposes a variation to the JSAg.

The variation involves him in consulting professional magazines and registering with a specialist employment agency.

He is unskilled. The case is referred to the DM.

The DM determines that regularly visiting his local Jobcentre Plus office and applying for jobs advertised in the local newspaper would offer him his best chance of getting employment.

The DM decides that

1. the Emp O's proposal to vary the JSAg is not reasonable **and**

2. the original JSAg was still reasonable **and**

3. the JSAg should not be varied.

21941 The DM should not expect the claimant to do what is in the proposed variation to the JSAg if the terms of the variation are not reasonable. This is the case even if it enables the claimant to satisfy the availability and ASE conditions.

Example

A woman has been entitled to a permitted period.

As that period has now ended the Emp O proposes a variation to the JSAg.

The variation involves her in sending job applications to 150 employers a week. She asks for the variation to the JSAg to be referred to the DM.

She explains to the DM 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 DM decides that

- 1.** the JSAg should be varied **and**
- 2.** the terms proposed by the Emp O were not reasonable **and**
- 3.** the terms proposed by the claimant were reasonable **and**
- 4.** the terms on which the claimant and Emp O were to enter into an agreement to vary the JSAg were those proposed by the claimant.

21942 - 21944

DM decisions on directions on a proposed variation to a Jobseeker's Agreement

21945 If the DM determines that it would be reasonable to expect the claimant to do what is in the proposed variation to the JSAg, the DM should give a

- 1.** decision to that effect **and**
- 2.** direction that the

2.1 JSAg should be varied **and**

2.2 terms of the varied JSAg should be those that were proposed.

21946 If the DM determines that it would not be reasonable to expect the claimant to have to do what is in the proposed variation to the JSAg the DM should give a

- 1.** decision to that effect¹ **and**
- 2.** direction that the JSAg should or should not be varied².

1 JS Act 95, s 10(5); 2 s 10(6)(b)

21947 The current JSAg will remain in effect if the DM 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 JSAg **and**
- 2.** a direction that the JSAg should not be varied.

21948 If the DM 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 JSAg **and**

2. a direction that the JSAg should be varied

the DM should give directions on the terms on which the claimant and Emp O are to enter into an agreement to vary the JSAg¹.

1 JS Act 95, s 10(6)(b)

21949 The terms specified in an DM's direction should be those that

1. mean that if the direction is complied with the claimant will satisfy the availability and ASE conditions **and**

2. are reasonable.

21950 In determining what directions to give the DM should consider

1. where the proposal to vary the JSAg is made by the Emp O

1.1 why the claimant refused to accept the varied JSAg proposed by the Emp O **and**

1.2 whether the claimant was reasonable in refusing to accept the proposed variation to the JSAg **and**

1.3 what terms the claimant proposes **and**

1.4 why the Emp O considers that the proposed variation to the JSAg 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 JSAg is made by the claimant

2.1 why the Emp O refused to accept the varied JSAg proposed by the claimant **and**

2.2 what terms the Emp O proposes **and**

2.3 why the claimant considers that the proposed variation to the JSAg 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 DM considers that

1. both the claimant's and the Emp O's proposals to vary the JSAg satisfy the

1.1 availability condition **and**

1.2 ASE condition **and**

2. it would be reasonable, in respect of either the claimant's or the Emp O's proposed variation to the JSAg, to expect the claimant to have to do what is in the proposed variation to the agreement

the DM should direct that the JSAg should be varied along the lines proposed by the claimant¹.

1 JSA Regs, reg 39

21952 - 21954

Backdating a variation to Jobseeker's Agreement

21955 Any proposed variation to a JSAg referred to the DM will not have been agreed by the Emp O and claimant. So the JSAg that was current before the variation was proposed will remain in force.

21956 In any case that is referred the DM may direct that the proposed variation to the JSAg should be treated as having effect from an earlier date as long as¹

1. the JSAg is varied **and**

2. any conditions that the DM considers appropriate are satisfied.

1 JS Act 95, s 10(6)(d)

21957 The proposed agreement referred to in DMG 21956 includes

1. any proposed variation referred to the DM **or**

2. any directions that the DM gives concerning the terms on which the Emp O and claimant were to enter into an agreement to vary the JSAg.

21958 Legislation does not restrict the circumstances the DM can take into account. The DM should take into account all the circumstances of the case including

1. where claimants refuse to accept the variation to the JSAg proposed by the Emp O, whether they are reasonable in refusing to accept it **and**

2. where claimants have shown to the Emp O or DM that they are prepared to accept

2.1 a variation to the JSAg that differs from the one proposed by the Emp O, whether the terms of the JSAg that they are prepared to accept are reasonable **or**

2.2 the variation to the JSAg proposed by the Emp O, that fact **and**

3. the date that the DM considers the claimant was first prepared to enter into a reasonable varied JSAg **and**

4. the claimant's and Emp O's preferences.

21959 The DM should prefer the claimant's proposed variation where¹

1. both the claimant's and the Emp O's proposals to vary the JSAg satisfy the availability and ASE conditions **and**

2. in considering both the Emp O's and the claimant's proposed variations to the JSAg, the DM 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, reg 39

21960 - 21964

Reasonable in refusing to accept a variation to the Jobseeker's Agreement

21965 If the DM considers that the claimant was reasonable in refusing to accept the proposed variation to the JSAg the DM should consider specifying in any direction given under DMG 21945 - 21951, the date

on which the JSAg should be treated as having effect from, if

1. it is accepted and entered into **and**

2. the DM considers that the claimant would have been prepared to enter into the proposed variation to the JSAg given in the direction.

21966 The DM should consider treating the proposed variation to the JSAg, as given in the direction, as having effect from the date that the claimant would have been prepared to enter into that varied JSAg.

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 JSAg that differs from the one proposed by the Emp O, the DM 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 JSAg.

21970 But this only applies if

1. the proposed variation to the JSAg will enable the claimant to satisfy the availability and ASE conditions **and**

2. the DM considers that the terms of the proposed variation to the JSAg 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 JSAg proposed by the Emp O after the DM has given a decision, the DM's decision is final and should be followed by the Emp O and the claimant¹. But the DM's decision should have taken into account DMG 21965 - 21966.

1 SS Act 98, s 17(l)

21974 If claimants say that they are prepared to accept the variation to the JSAg proposed by the Emp O before the DM gives a decision the DM should consider treating the proposed JSAg as having effect from the date that the DM considers the claimant was first prepared to accept that varied JSAg.

21975 - 21979

DM ends jobseeker's agreement 21980 - 21989

Decisions and directions given by a DM on how a Jobseeker's agreement is to be varied

21980 Any DM may bring the JSAg to an end where the claimant does not comply with the DM's direction on how the JSAg 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 Act 95, s 10(6)(c); JSA Regs, 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 JSAg comes to an end on the date that the DM decides to end the JSAg.

1 JSA Regs, reg 38

Example

On 2.12.10 the DM issues a direction to Jackie saying how her JSAg should be varied. On 24.12.10 the JC refer the agreement to the DM 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 DM makes a decision to end the agreement on 30.12.10. The JSAg comes to an end on 30.12.10.

21982 - 21989

Requirement to meet the jobseeking conditions 21990 - 21999

1 JS Act 95, s 17A(10)

Subpages

- Prescribed schemes 21990 - 21992
- Claimants not required to meet the jobseeking conditions 21993 - 21999

Prescribed schemes 21990 - 21992

21990 There are prescribed schemes which may affect certain JSA claimants with regards to the jobseeking conditions¹. These schemes are²

1. Day One Support for Young People
2. The Derbyshire Mandatory Youth Activity Programme
3. Full-time Training Flexibility
4. New Enterprise Allowance
5. The sector-based work academy
6. Skills Conditionality
7. The Work Programme
8. Community Work Placements.

1 JSA (SAPOE) Regs, regs 3 & 7; 2 reg 3

21991

Definition

21992 The jobseeking conditions¹ are the requirements for a claimant to

1. be available for employment **and**
2. enter into a JSAg, which remains in force **and**
3. be ASE.

Claimants not required to meet the jobseeking conditions 21993 - 21999

[Full-time students](#) 21993 - 21994

[New Enterprise Allowance](#) 21995 - 21996

[Discharged from detention](#) 21997 - 21999

Full-time students

21993 Where a claimant is participating in a prescribed scheme¹ as a F/T student² (see DMG 30146 et seq for the meaning of F/T student) they are not required to meet the jobseeking conditions of availability and ASE under JSA legislation³. However, the claimant may be required to do some jobseeking activity as a condition of participating in the scheme⁴.

1 JSA (SAPOE) Regs, reg 3; 2 JSA Regs, reg 1(3); 3 JSA (SAPOE) Regs, reg 7(2); 4 reg 5(2)(c)

Example

Declan is taking part in a prescribed scheme and is engaged in employment-related training of 30 hours a week. Although taking part in the scheme means that he is not required to be ASE or available for employment as a condition of entitlement to JSA, Declan is still required under the scheme to remain engaged with the labour market. This requirement was set out clearly when Declan was notified that he was on the scheme. Declan has been required by the Emp O to draw up an up to date CV and to apply for jobs in the sector in which he is training.

21994

New Enterprise Allowance

21995 Where a claimant is participating in the New Enterprise Allowance scheme they are not required to be ASE under JSA legislation¹. However, the claimant may be required to some jobseeking activity as a condition of participating in the scheme².

1 JSA (SAPOE) Regs, reg 7(1); 2 reg 5(2)(c)

Example

Jude is taking part in the New Enterprise Allowance scheme. She is working towards becoming a self-employed delivery driver. Whilst taking part in the scheme, Jude is not required to be ASE in order to continue to be entitled to JSA. As a condition of participating in the scheme, the Emp O has required Jude to look for other opportunities in self-employment besides being a delivery driver.

21996

Discharged from detention

21997 A claimant who is taking part in a prescribed scheme is not required to meet the jobseeking conditions of

1. being available for employment **and**

2. actively seeking employment

for a period of one week beginning with the date of discharge, if they have been discharged from detention in a prison, remand centre **or** youth custody centre¹.

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

21998 Instead these claimants will be subject to the requirements of a prescribed scheme. Failure to participate can attract a sanction (see DMG Chapter 34).

Example

Jonty has just been released from prison. His date of release is 6.3.13 and he made a claim to JSA in advance of being released. Jonty has also been mandated to a prescribed scheme with immediate effect. The DM determines that Jonty cannot be treated as either being available for employment or as ASE. However as a condition of being on the scheme, Jonty is not required to be either available or ASE for a period of one week from the date of discharge, 6.3.13, to 12.3.13. Jonty may, as a result of participating in the scheme, be required to perform some activity connected with stabilising his life with the aim of securing employment following his release from prison. Failure to do this without good reason will result in a sanction.

21999

Appendix 1: Lower earnings limit

From	To	Amount (£)
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6.4.00	5.4.01	67
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6.4.01	5.4.02	72
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6.4.02	5.4.03	75
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6.4.03	5.4.04	77
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6.4.04	5.4.05	79
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6.4.05	5.4.06	82
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6.4.06	5.4.07	84
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6.4.07	5.4.08	87
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6.4.08	5.4.09	90
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6.4.09	5.4.10	95
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6.4.10	5.4.11	97
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6.4.11	5.4.12	102
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6.4.12	5.4.13	107
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6.4.13	5.4.14	109
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6.4.14	5.4.15	111
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6.4.15	5.4.16	112
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6.4.16	9.4.17	112
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10.4.17	8.4.18	113
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9.4.18		116
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Appendix 2: Community orders and fine payment work in England and Wales

Introduction

1 The following paragraphs describe the different types of community orders and fine payment work available in England and Wales.

2 Although generally they only apply in England and Wales, community orders can be made by courts in England and Wales in relation to offenders residing in Scotland¹.

1 Criminal Justice Act 2003, Sch 9, para 180

Fine payment work

3 Fine payment work has been introduced for people who are genuinely unable to pay their fine. They are allowed to do unpaid work in the voluntary sector as an alternative. When the work is done, the fine is regarded as paid. A fines officer works out the number of hours the offender is required to work to discharge the fine. The offender is allowed to reduce the number of hours he is required to work by paying part of the sum.

4 The work should have been arranged so as not to affect benefit entitlement or the offender's ability to be readily available to seek or take up work.

Community orders

5 The community order is made up of twelve requirements. The number of requirements a claimant will undertake will vary depending on the seriousness of the offence and the likelihood of them re-offending. A claimant may undertake only one of the requirements, but they could potentially undertake up to four or more.

Unpaid work requirement

6 This can last from 40 to 300 hours, and can usually be undertaken on any day of the week. It is equivalent to the community punishment order available under the old sentencing arrangements and it will vary according to the needs and circumstances of the claimant.

Supervision requirement

7 This can last for up to three years. It is similar to the current community rehabilitation order. The offender has to report regularly to a "responsible officer" (usually a probation officer). Reporting times

can be flexible to reflect the offender's other commitments such as jobsearch.

Programme requirement

8 These are structured, accredited programmes designed to impact positively on aspects of the offender's behaviour. The programmes can vary in length between 20 to 25 half-day sessions to 30 to 60 half-day sessions depending on the nature of the offence, most are typically delivered twice weekly but this may vary in individual Probation Service areas.

Treatment requirement

9 There are three types of requirements drug rehabilitation, alcohol treatment and mental health treatment. These requirements can vary widely in length and intensity according to offender need. The claimant must get treatment for at least four hours each day. They will be required to have carried out at least 20 hours in the first 13 weeks of their sentence.

Residence requirement

10 The offender can be required to live at a specified address for a fixed period. This can be either a private address or a hostel.

Activity requirement

11 The offender can be required to undertake any activity for up to 60 separate days. These might include activities designed to improve the offender's skills or employability and will often include an element of basic skills.

Prohibited activity requirement

12 The offender must refrain from any activities specified by the court. The court will also specify the times and days when these activities should not be undertaken.

Exclusion requirement

13 The offender is forbidden from entering a specified place or area for up to two years. Exclusions will also be combined with rehabilitative treatment.

Curfew requirement

14 Offenders must remain in a specified place (usually the home address) for specified periods (two to twelve hours a day or on certain days for up to six months). Generally this will be electronically monitored and they may also only be allowed in the community with supervision.

Attendance centre requirement

15 Attendance will be for between two to three hours. This is only for offenders aged under 25 years old.

It is generally only available at weekends.

Appendix 3: Community disposals in Scotland

Introduction

1. The following paragraphs describe the different types of community disposals available in Scotland.
2. Although generally they only apply in Scotland, they could apply to a small number of claimants who live in England and Wales and have been convicted of offences in Scotland.

Community payback order

3. An offender given a community payback order¹ may be required to carry out unpaid work of benefit to the community. They can only apply to offences which would otherwise have led to imprisonment or detention.

1 Criminal Procedure (Scotland) Act 1995, s 227A - 227XN

4. A community payback order consists of a number of requirements. From these, the court may select one or more in deciding on the make up of the order and these can be tailored specifically to each offender based on the nature of their crime and the underlying issues which are fuelling it. The requirements are

1. unpaid work or other activity requirement;
2. offender supervision requirement
3. compensation requirement
4. programme requirement
5. mental health treatment requirement
6. drug treatment requirement
7. alcohol treatment requirement
8. residence requirement
9. conduct requirement.

5. The requirements can only apply to offences which would otherwise have led to imprisonment or detention. However, a community payback order may be imposed even if the offence is punishable by a fine and not imprisonment. In which case, a restricted range of requirements is available to the court. The

court may impose a fine and/or a community payback order imposing one or more of

1. an offender supervision requirement
2. a level one unpaid work or other activity requirement
3. a conduct requirement.

Restriction of liberty order

5. Courts can impose Restriction of Liberty Orders on offenders, and provide that electronic monitoring equipment is used to monitor compliance with the terms of the Order¹. It can be used to restrict an offender's movements at times when they might otherwise become involved in offending behaviour.

1 Criminal Procedure (Scotland) Act 1995, s 245A - 245I

Drug treatment and testing order

6. In Scotland these are relatively new community sentences, which apply to drug misusing offenders¹. They last for a period of between six months to three years and can be used on their own, or in conjunction with another community disposal order, for example probation. There are three main requirements

1. treatment - at a specified place (residential centre or as an outpatient)
2. testing - an offender subject to an order must be tested regularly for drug use
3. court review - to allow sentencers to monitor progress.

1 Criminal Justice (Scotland) Act 1995, s 234B - 234H

Diversion from prosecution

7. This is an alternative to prosecution which is open to Procurator's Fiscal in the case of individuals accused of relatively minor offences (and where there is no overriding public interest for a prosecution). Instead of being prosecuted the accused is referred to social work or "diversion schemes" which aim to address underlying causes of offending. Diversion is designed to prevent individuals being prematurely "up-tariffed" into a custodial sentence.

Non harassment order

8. These are used either as a result of civil proceedings, or when a person is convicted of an offence involving harassment. The order¹ requires the offender to refrain from such conduct as specified in the order in relation to the victim and for the period specified in the order. It is used in addition to any other

orders made in relation to the offence. This order may prevent the offender entering or approaching certain premises or areas.

1 Criminal Procedure (Scotland) Act 1995, s 234A

Appendix 4: Examples of domestic abuse

1 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, genital mutilation, “honour violence”.

Physical effects are often in areas of the body that are covered and hidden (i.e. breasts, legs or 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.

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