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2010 CHAPTER 13

PART 1

SOCIAL SECURITY

Miscellaneous

Exemption from jobseeking conditions for victims of domestic violence

23.—(1) In Schedule 1 to the Jobseekers Order (supplementary provisions), after paragraph 8A insert—

“**8B.**—(1) This paragraph applies if domestic violence has been inflicted on or threatened against a person (“V”) in prescribed circumstances.

(2) The Department must exercise the powers to make regulations under Articles 8(4) and 9(4) so as to secure that, for an exempt period, V is treated as—

- (a) being available for employment; and
- (b) actively seeking employment.

(3) If V has not entered into a jobseeker's agreement before the exempt period begins, the Department must also exercise the power to make regulations under Article 11(10) so as to secure that V is treated as having entered into a jobseeker's agreement which is in force for the exempt period.

(4) In this paragraph—

“domestic violence” has such meaning as may be prescribed;

“exempt period” means a period of 13 weeks beginning no later than a prescribed period after the date (or last date) on which the domestic violence was inflicted or threatened.

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(5) Regulations may make provision for the purposes of this paragraph prescribing circumstances in which domestic violence is, or is not, to be regarded as being inflicted on or threatened against a person.”.

(2) In Article 37(1)(c) of that Order (regulations subject to the confirmatory procedure), after “or paragraph” insert “ 8B or ”.

Good cause for failure to comply with regulations etc.

24.—(1) In Schedule 1 to the Jobseekers Order (supplementary provisions), after paragraph 14A insert—

“Good or just cause for acts or omission

14B.—(1) This paragraph applies to any regulations made under this Order that prescribe matters to be taken into account in determining whether a person has good cause or just cause for any act or omission (including any failure to comply with the regulations).

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.”.

(2) In Schedule 2 to the Welfare Reform Act (employment and support allowance: supplementary provisions), after paragraph 10 insert—

“Good cause for failure to comply with certain regulations

10A.—(1) This paragraph applies to any regulations made under section 11, 12 or 13 that prescribe matters to be taken into account in determining whether a person has good cause for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.”.

PROSPECTIVE

Jobseekers' agreements and action plans: well-being of children

25.—(1) In Article 11 of the Jobseekers Order (the jobseeker's agreement), after paragraph (4) insert—

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“(4A) In preparing a jobseeker's agreement for a claimant, the officer must have regard (so far as practicable) to its impact on the well-being of any child who may be affected by it.”.

(2) In section 14 of the Welfare Reform Act (employment and support allowance: action plans in connection with work-focused interviews) at the end add—

“(5) In preparing any [^{F1}claimant commitment or] action plan, [^{F1}the Department or] the Department for Employment and Learning must have regard (so far as practicable) to its impact on the well-being of any person under the age of 16 who may be affected by it.”.

Textual Amendments

F1 Words in s. 25(2) inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **60(7)**; S.R. 2016/215, art. 2(3)(b)

Contracting out functions under Jobseekers (Northern Ireland) Order 1995

26.—(1) The Jobseekers Order is amended as follows.

(2) Before Article 23 (but after the italic heading immediately before that Article) insert—

“Contracting out

22E.—^{F2}(1)

(2) The following functions of officers of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) specifying places and times, and being contacted, under Article 10;
- (b) entering into or varying any jobseeker's agreement under Article 11 or 12 and referring any proposed agreement or variation to the Department under Article 11 or 12;
- (c) giving notifications under Article 18 ^{F2}...;
- ^{F2}(d)

(3) Regulations may provide for any of the following functions of the Department or of the Department for Employment and Learning to be exercisable by, or by employees of, such person (if any) as that Department may authorise for the purpose—

- (a) any function under regulations under Article 10, ^{F2}... 19A ^{F2}..., except the making of an excluded decision (see paragraph (4));

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- (b) the function under Article 10(1) of the 1998 Order (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
 - (c) the function under Article 11(1) of the 1998 Order (superseding of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
 - (d) any function under Chapter 2 of Part 2 of the 1998 Order (social security decisions), except Article 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within sub-paragraphs (a) to (c).
- (4) Each of the following is an “excluded decision” for the purposes of paragraph (3)—
- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under Article 10, ^{F2}... or 19A;
 - (b) a decision about whether a person had good cause for failure to comply with such a requirement;
 - (c) a decision about not paying or reducing a jobseeker's allowance in consequence of a failure to comply with such a requirement.
- (5) Regulations under paragraph (3) may provide that a function to which that paragraph applies may be exercised
- (a) either wholly or to such extent as the regulations may provide,
 - (b) either generally or in such cases as the regulations may provide, and
 - (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.
- (6) An authorisation given by virtue of any provision made by or under this Article may authorise the exercise of the function concerned—
- (a) either wholly or to such extent as may be specified in the authorisation,
 - (b) either generally or in such cases as may be so specified, and
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;
- but, in the case of an authorisation given by virtue of regulations under paragraph (3), this paragraph is subject to the regulations.
- (7) An authorisation given by virtue of any provision made by or under this Article—
- (a) may specify its duration,
 - (b) may be revoked at any time by the Department or the Department for Employment and Learning, and

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(c) does not prevent the Department or the Department for Employment and Learning or any other person from exercising the function to which the authorisation relates.

(8) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or the Department for Employment and Learning or (as the case may be) an officer of that Department.

(9) But paragraph (8) does not apply—

(a) for the purposes of so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function, or

(b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person).

(10) Any decision which an authorised person makes in exercise of a function of the Department or of the Department for Employment and Learning has effect as a decision of the Department under Article 9 of the 1998 Order.

(11) Where—

(a) the authorisation of an authorised person is revoked at any time, an

(b) at the time of the revocation so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department or the Department for Employment and Learning (and not as frustrated by reason of the revocation).

(12) In this Article—

(a) “the 1998 Order” means the Social Security (Northern Ireland) Order 1998;

(b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this Article;

(c) references to functions of the Department or of the Department for Employment and Learning under any statutory provision include functions which the Department has by virtue of the application of Article 9(1)(c) of the 1998 Order in relation to the statutory provision.”.

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(3) In each of the following provisions for “employment officer” substitute “officer of the Department or of the Department for Employment and Learning”

- (a) Article 10(1)(a),
- (b) Article 11(1), (5), (6) and (7)(b),
- (c) Article 12(1), (4), (5) and (6)(b)(ii),
- (d) Article 21(5)(b)(ii), (6)(c) and (10)(b) ^{F3} ..., and
- (e) Article 22A(2)(b)(ii) and (f) ^{F4}

(4) In Article 10(1A)(a), for “the Department” substitute “an officer of the Department or of the Department for Employment and Learning”.

^{F5}(5)

Textual Amendments

- F2** Words in s. 26(2) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 2](#); S.R. 2016/46, [art. 3\(6\)\(b\)](#)
- F3** Words in s. 26(3)(d) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 2](#); S.R. 2016/46, [art. 3\(6\)\(b\)](#)
- F4** Words in s. 26(3)(e) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 2](#); S.R. 2016/46, [art. 3\(6\)\(b\)](#)
- F5** S. 26(5) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 2](#); S.R. 2016/46, [art. 3\(6\)\(b\)](#)

Commencement Information

- I1** S. 26 partly in operation; s. 26 not in operation at Royal Assent see s. 36(2); s. 26(1) in operation for certain purposes at 20.6.2011 by [S.R. 2011/213](#), [art. 2\(a\)](#); s. 26(2) in operation for certain purposes at 20.6.2011 by [S.R. 2011/213](#), [art. 2\(b\)\(c\)](#);

Attendance in connection with jobseeker's allowance: sanctions

27.—(1) Article 10 of the Jobseekers Order (attendance, information and evidence) is amended as follows.

(2) In paragraph (2), for sub-paragraphs (a) to (c) (together with the “and” at the end of sub-paragraph (c)) substitute—

- “(a) prescribe circumstances in which a jobseeker's allowance is not to be payable for a prescribed period (of at least one week but not more than two weeks) in the case of—
 - (i) a claimant (other than a joint-claim couple claiming a joint-claim jobseeker's allowance) who fails to comply with any regulations made under that paragraph, or
 - (ii) a joint-claim couple claiming a joint-claim jobseeker's allowance a member of which fails to comply with any such regulations;

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- (b) provide for the consequence set out in sub-paragraph (a) not to follow if, within a prescribed period of a person's ("P") failure to comply with any such regulations ("the relevant period"), P or, if P is a member of a joint-claim couple, either member of the couple—
 - (i) makes prescribed contact with an officer of the Department or of the Department for Employment and Learning, and
 - (ii) shows that P had good cause for the failure;
 - (c) provide for entitlement to a jobseeker's allowance to cease at such time as may be determined in accordance with any such regulations if P or, as the case may be, a member of the couple does not make prescribed contact with an officer of the Department or of the Department for Employment and Learning in the relevant period;
 - (ca) prescribe circumstances in which a jobseeker's allowance is to be payable in respect of a claimant even though provision made by any such regulations by virtue of sub-paragraph (a) prevents payment of a jobseeker's allowance in respect of the claimant; and".
- (3) After that paragraph insert—
- “(2A) The provision that may be made by any such regulations by virtue of paragraph (2)(ca) includes, in particular, provision for a jobseeker's allowance payable by virtue of that sub-paragraph to be—
- (a) payable only if prescribed requirements as to the provision of information are complied with;
 - (b) payable at a prescribed rate;
 - (c) payable for a prescribed period (which may differ from the period mentioned in paragraph (2)(a)).”.
- (4) In paragraph 3(ca) of Schedule 3 to the 1998 Order (decisions against which an appeal lies: payability of benefit), which is inserted by section 1, after “Article” insert “ 10 or ”.

Social security information and employment or training information

28.—(1) In section 2A of the Administration Act (claim or full entitlement to certain benefits conditional on work-focused interview), after subsection (7) insert—

“(7A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.”.

(2) In section 2AA of that Act (full entitlement to certain benefits conditional on work-focused interview for partner), after subsection (6) insert—

“(6A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.”

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(3) In Schedule 1 to the Jobseekers Order (supplementary provisions relating to jobseeker's allowance), at the end add—

“Treatment of information supplied as information relating to social security

19 Information supplied in pursuance of any provision made by or under this Order shall be taken for all purposes to be information relating to social security.”.

(4) In Article 69 of the 1999 Order (supply of information for certain purposes)—

- (a) in paragraph (1)(a) and (b), after “social security information” insert “, or information relating to employment or training,”, and
- (b) in paragraph (7), for “purposes connected with employment or training includes purposes connected with” substitute “ information relating to, or purposes connected with, employment or training includes information relating to, or purposes connected with,”.

Persons under pensionable age to take part in work-focused interviews etc.

29.—(1) The Administration Act is amended as follows.

(2) In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview)—

- (a) in subsection (1)(a), for sub-paragraph (ii) substitute—
 - “(ii) has not attained pensionable age at the time of making the claim (but see subsection (1A)),”.
- (b) in subsection (1)(b)(i), for “is under that age and” substitute “ has not attained pensionable age and is ”, and
- (c) after subsection (1) insert—
 - “(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.”.

(3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner)—

- (a) in subsection (1)(a), for sub-paragraphs (i) and (ii) substitute—
 - “(i) has not attained pensionable age (but see subsection (1A)), and
 - (ii) has a partner who has also not attained pensionable age,”, and
- (b) after subsection (1) insert—
 - “(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.”.

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(4) In sections 2A(1)(a) and 2AA(1), for “a work-focused interview” substitute “one or more work-focused interviews”, and in section 2A(1)(b), for “such an interview” substitute “one or more work-focused interviews”

Minor amendments

30.—(1) Sections 80 and 81 of the Contributions and Benefits Act (which continue to have effect in certain cases despite their repeal by the Tax Credits Act 2002 (c. 21)) are to have effect as if the references in those sections to a child or children included references to a qualifying young person or persons.

(2) “Qualifying young person” has the same meaning as in Part 9 of the Contributions and Benefits Act.

(3) In section 146(2) of the Contributions and Benefits Act (interpretation of Part 10: Christmas bonus), in the definition of “qualifying employment and support allowance”, for “an employment and support allowance” substitute “a contributory allowance”.

(4) Despite the provision made by the Welfare Reform (2007 Act) (Commencement No. 5) Order (Northern Ireland) 2008 (S.R. 2008 No. 276), paragraph 3(7) and (8) of Schedule 3 to the Welfare Reform Act (which amend sections 88 and 89 of the Contributions and Benefits Act) are deemed not to be in operation by virtue of the provision made by that order at any time after the passing of this Act.

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