

EXPLANATORY MEMORANDUM TO

The Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations (Northern Ireland) 2013

S.R. 2013 No. 250

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and is subject to the confirmatory resolution procedure before the Assembly.
- 1.3 The rule is due to come into operation on 29 October 2013.

2. Purpose

- 2.1 These Regulations amend regulation 14A of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 so as to widen the definition of domestic violence. Regulation 14A makes provision for a Jobseeker's Allowance (JSA) claimant to be treated as meeting the requirement to be available for work for a period of 4 weeks on notifying the Department that they have had domestic violence inflicted on or threatened against them at any time in the 26 weeks before the notification, by their partner, former partner or a family member.

3. Background

- 3.1 Regulation 14A was inserted into the Jobseeker's Allowance Regulations (Northern Ireland) 1996 on 23 April 2012. It makes provision for JSA claimants who are victims of actual or threatened domestic violence by a partner, former partner or a family member to be exempt from jobseeking conditions and requirements to be actively looking for employment for an initial 4 week period, which can extend to a total of 13 weeks where relevant evidence is provided. This period is intended to provide those who have been affected by domestic violence with time to focus on priorities like organising new accommodation or arranging alternative schooling for dependent children without having to also focus on meeting their jobseeking conditions.
- 3.2 The Home Office recently consulted on the definition of domestic violence. Respondents called overwhelmingly for the inclusion of "coercive control" and the inclusion of 16-17 year olds in the definition. It has been widely understood that coercive control is a core part of domestic violence. The extension does not mean a fundamental change in the definition; however it highlights the importance of recognising coercive

control as a complex pattern of overlapping and repeated abuse perpetrated within a context of power and control.

- 3.3 We are widening the existing definition of “domestic violence” to include “coercive behaviour and controlling behaviour”. The previous definition was limited to specific types of abuse – that is, psychological, physical, sexual, financial and emotional. An amendment to include 16-17 year olds is not required as they are already covered by the definition in regulation 14A.

“coercive behaviour” means an act of assault , humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim;

“controlling behaviour” means 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.

- 3.4 Extending the definition will send a clear message to victims about what does constitute domestic violence and abuse. Unless the definition is amended, it may be unclear to victims what counts as domestic violence, for example, it may be thought to include physical violence only. It is recognised that the first incident reported to the police or other agencies is rarely the first incident to occur; often people have been subject to abuse on multiple occasions before they seek help.
- 3.5 This easement under regulation 14A gives victims of domestic violence access to funds in their own right to help them achieve a stable position from which they can begin or resume looking for work. In some cases it will help victims maintain independence from their abuser in circumstances where lack of funds may have made them return to the relationship.

4. Consultation

- 4.1 The Social Security Advisory Committee discussed the corresponding Great Britain proposals at their meeting of 1st May 2013 and agreed to them proceeding without formal referral.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the introduction of the domestic violence easement in April 2012 and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

- 5.2 Further screening of this proposed broadening of the definition of “domestic violence” has not been conducted as it is not seen as contentious nor should it impact negatively on the section 75 groups of JSA claimants, indeed it is a positive change which will help raise awareness and potentially encourage more victims to seek help as well as sending out a strong message to victims and perpetrators on what constitutes unacceptable behaviour

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 No financial implications

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule –
- (a) is not incompatible with any of the Convention rights;
 - (b) is not incompatible with Community law;
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion; and
 - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The Regulations mirror the Great Britain Regulations and are in keeping with the principle of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

- 11.1 Not applicable