

**EXPLANATORY MEMORANDUM TO
THE JOBSEEKER'S ALLOWANCE (LONE PARENTS) (AVAILABILITY
FOR WORK) REGULATIONS 2010**

2010 No. (draft)

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

These Regulations will give lone parents receiving Jobseeker's Allowance ("JSA") who are responsible for, and a member of the same household as, a child of 12 or under the right to restrict their availability for work to the child's normal school hours.

3. **Matters of special interest to the Joint Committee on Statutory Instruments (JCSI)**

None.

4. **Legislative Context**

The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 amended the Income Support (General) Regulations 1987 so that lone parents with older children would no longer be entitled to claim benefit. However, they introduced flexibilities into the JSA regime for persons with caring responsibilities for children. The new right conferred by these Regulations build on those provisions and are also intended to form part of a framework of other family-friendly legislative measures aimed at helping lone parents claiming income-related benefits to fit work and work-related activities around their caring responsibilities. For example, the Welfare Reform Act 2009:

- ends the requirement for lone parents with a child under one in receipt of Income Support and Employment and Support Allowance to attend Work Focused Interviews;
- introduces an expectation that lone parents with children between three and six will take gradual steps to ensure that preparation for paid work becomes a natural step, helping lone parents to build up their readiness for the workplace by improving their skills and undertaking work-related activity. The first stage of implementation for these measures will be in October 2010;
- guarantees that lone parents with a youngest child under seven will not be required to actively seek work and that no lone parent with a youngest child under three will be required to undertake work-related activity.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State at the Department for Work and Pensions (Helen Goodman) has made the following statement regarding Human Rights:

‘In my view, the provisions of the draft Jobseeker’s Allowance (Lone Parents) (Availability for Work) Regulations 2010 are compatible with the Convention rights’

7. Policy Background

7.1 From November 2008 changes were introduced to the entitlement conditions for Income Support for certain lone parents. As a result of the changes increasing numbers of lone parents will be moving from Income Support to JSA. The measures require lone parents who are claiming benefit solely on the grounds of being a lone parent, and who are capable of work, to claim JSA when their youngest child is:

- aged 12 years or over from 24 November 2008
- aged 10 years or over from 26 October 2009; and
- aged 7 years or over from 25 October 2010

7.2 The changes implement the policy aim that once children are older, lone parents who are able to work and are claiming benefits should be expected to look for paid work to support themselves and their family. However, the new obligations were accompanied by additional safeguards and flexibilities so that lone parents would be able to balance their caring responsibilities and work; these safeguards are outlined in Annexe A.

7.3 The new right to be introduced by these regulations builds on an existing flexibility in regulation 13 of the Jobseekers Allowance Regulations 1996 (‘the JSA Regulations’) which allows parents with caring responsibilities for a child to restrict their availability for work to 16 hours a week in agreement with an adviser. Such customers may restrict their availability even if there is no reasonable prospect of finding employment within their restricted hours. The draft regulations extend this flexibility into a new right for lone parents with a youngest child aged 12 years and under to restrict their availability for work to their child’s normal school hours.

7.4 The policy intention is to provide a straight forward, unqualified right so as to help lone parents balance family and work life by enabling them to fit the required work related activity around caring responsibilities, including contact with the child’s school. The threshold of age 12 has been chosen because at this age virtually every child will have moved to secondary school and the family

will have made adjustments to this next stage of the child's life. For the large majority of lone parents whose children attend school regularly it makes sense to provide clarity that availability for work can and should be within that normal pattern of regular school attendance.

- 7.5 Lone parents receiving JSA would still be required to be available for work within the school holidays. However, if required they could make use of the existing JSA rules where if the adviser agrees that the lone parent cannot obtain appropriate affordable childcare during the school holidays then the lone parent can be treated as being available for work during that period.
- 7.6 The new regulations would apply to every benefit week in which the lone parent has responsibility for the relevant child. This means that the right will be linked to the parent receiving child benefit (see regulation 77 of the JSA Regulations). The right focuses on lone parents whose children attend school for regular standard hours which covers the large majority of lone parents. Lone parents who share care or whose children's hours fall outside the norm can instead make use of an existing flexibility under regulation 13 of the JSA Regulations 1996 under which they can discuss their individual circumstances with an adviser and agree hours tailored to their availability. Because the Government already have powers to agree suitable hours in circumstances that limit availability which fall outside regular school attendance there is no need to consider those circumstances anew.

8. Consultation outcome

- 8.1 Draft regulations, together with an explanation of the policy intent and information about other related changes to legislation that the Government intended to introduce, was published to Parliament in November 2009 in a ministerial letter to the Chairman of the Work and Pensions Select Committee, Annexe B. The letter was also copied at the same time to members of the Lone Parent Voluntary Group. As required by section 172 of the Social Security Administration Act 1992 proposals in respect of the Regulations were submitted to the Social Security Advisory Committee (SSAC) and considered by the Committee on 9 December 2009. SSAC did not require the Regulations to be referred formally.
- 8.2 Officials also sought the views of the Lone Parent Voluntary Group (LPVG). This Group regularly meets the Department of Work and Pensions officials to discuss topical issues that affect lone parents; its members also advise on the development of Regulations and the practical implementation of lone parent policy. The Group includes Child Poverty Action Group, Gingerbread, Single Parent Action Network and the Citizen's Advice Bureau. The Group had a number of questions around the detail of the regulations which we have addressed; however, in general it was content with the proposals. As a result of these discussions the draft regulations were amended slightly.
- 8.3 Additional public consultation was not conducted. Ministers have concluded that, starting in November 2009, by providing wide circulation of the policy

intent and a draft of the proposed secondary legislation among legislators and expert groups and, in accordance with the relevant legislation, submitting the draft to the Advisory Committee for consideration the Regulations would and did receive sufficient and appropriate external scrutiny.

9. Guidance

9.1 The strategy for communicating this measure and full communication plan is being prepared. Activity will rely on existing channels, making full use of Jobcentre Plus's operational network and interfaces. It is vital that the new right is explained fully to lone parents and Jobcentre Plus Advisers so that both sides are aware of the full range of support available to help balance family and work life.

9.2 Planning will include appropriate use of the following activity:

- Updating messages online directgov and current campaigns e.g. Find your way back to work;
- Using partnership managers for getting information out to partners who support vulnerable groups;
- Utilising Childcare partnership managers – for example: presentations to Sure start leaders/Local authorities
- Employer messaging – as we want to tell employers we support the lone parent agenda and flexible hrs/working school hrs only (linking in to the Employer Taskforce work)
- Revised Jobcentre Plus lone parent literature and guidance to reflect any changes in customer responsibilities.

10. Impact

The impact on business, charities or voluntary bodies is nil. The impact on the public sector is negligible. Consequently, a full impact assessment has not been prepared for this instrument.

11. Regulating small business

This Regulation does not apply to small business.

12. Monitoring and review

12.1 A comprehensive, multi-method evaluation of the new Lone Parent Obligations is underway, including in-depth interviews with customers and staff, large-scale surveys tracking customers over a three year period, as well as analysis of in-house and other data sources to assess the impact of the changes. The new right will be evaluated as part of this programme.

12.2 The evaluation will begin to report from February 2010, with the publication of a review of recent evidence on the work-related requirements within the benefit systems of different countries, which helped inform our evaluation strategy for

LPO. The final evaluation report will be in 2014.

The first interviews with customers and staff were carried out in the summer/autumn of 2009, looking at the early implementation of LPO and the experiences of customers in the early stage of their claim for Jobseeker's Allowance. The next wave of interviews is currently taking place and will explore how the implementation of LPO is progressing, what has happened to customers since their entitlement to Income Support was due to end and the experience of those further into their claim for Jobseeker's Allowance. The longitudinal survey of customers will be starting in summer 2010 and will be carried out annually until 2013. A decision on a possible impact assessment of LPO will be taken later in the summer.

13. Contact

Contact Harsha Parmar, Department for Work and Pensions, 020 7449 5923, email: harsha.parmar@dwp.gsi.gov.uk if you have any queries on this Memorandum.

**Flexibilities already in place in Jobseeker's Allowance for all parents
(introduced by the Social Security (Lone Parents and Miscellaneous
Amendments) Regulations 2008 (S.I. 2008/3051))**

Previous rules	Change
<p>Restrictions on availability</p> <p>No specific regulations relating to parenting contracts or orders or cases where a child has been excluded from school.</p>	<p>Where a parent with childcare responsibilities is subject to a parenting order or has entered into a parenting contract or where a child is excluded from school, they can restrict their availability if the restrictions in a contract or order are reasonable and be treated as available for work where no other reasonable childcare arrangements are available.</p> <p>They will also be treated as having good cause for not attending Jobcentre Plus offices during this period.</p>
<p>Reasonable prospects of employment</p> <p>A person in this group is required to be available for employment for as many hours as their caring responsibilities allow, and for at least 16 hours each week. However, this restriction of hours is only on the condition that the jobseeker can still show that they have reasonable prospects of finding work in spite of the restrictions that they wish to place on their availability.</p> <p>If they cannot show this they would not currently be entitled to JSA but may qualify for reduced payments on the grounds of hardship. In a small number of areas, there may be few or no jobs available which would fit within the restricted patterns of employment sought so there is a risk they may not readily be able to demonstrate that they could comply with this requirement.</p>	<p>Where a parent with caring responsibilities to a child who has agreed restrictions on their availability (i.e. only available for 16 hours) will not have a reasonable prospects of employment because the types of jobs that fit this criteria are not available locally, (e.g. lack of part time jobs).</p> <p>In such circumstances, and where there would be no reasonable prospect of obtaining suitable jobs in the area a parent will still be able to restrict their hours to a minimum of 16 hours.</p>
<p>Just Cause and Good Cause for appropriate/affordable childcare</p> <p>They would be treated as not available for work and therefore not entitled to JSA.</p>	<p>Where a parent with childcare responsibilities refuses or fails to carry out a jobseekers direction or refuses to apply for or accept a job because these responsibilities make it unreasonable for them to stay in a job, take up a job or carry out a jobseekers</p>

Previous rules	Change
	<p>direction. These will be taken into account for good cause and just cause.</p> <p>Consideration must also be given for the availability and suitability of childcare and consideration of any childcare costs incurred that represent an unreasonable amount of the person's earnings.</p>
<p>Availability and actively seeking work restrictions in certain circumstances - dealing with a bereavement or domestic emergency</p> <p>Where person with childcare responsibilities had suffered a bereavement or domestic emergency they are treated as available and actively seeking work for 1 week (for a maximum of 4 such periods) in any 12 months.</p>	<p>Where a person with childcare responsibilities suffer a bereavement or domestic emergency they can be treated as available and actively seeking work once in any 12 month period for a maximum of 8 weeks where a bereavement/ domestic emergency has occurred. This will count towards the four separate occasions.</p>
<p>Reasonable prospects on the time to take up employment or attend an interview</p> <p>A parent is required to take up a job:</p> <ul style="list-style-type: none"> • interview within 48 hours; and • offer within 7 days. 	<p>Where a parent would experience difficulty with the usual timescales for attending an interview or taking up a job if it takes longer to arrange appropriate child care.</p> <p>In circumstances where a parent can show that the usual period is unreasonable because of caring responsibilities for a child. They will be able to take up a job:</p> <ul style="list-style-type: none"> • interview within 7 days; and • offer within 28 days.
<p>Availability and actively seeking work during the school holidays & affordable/ appropriate childcare</p> <p>They would be treated as not available for work and therefore not entitled to JSA.</p>	<p>Where parents may not be able to obtain, affordable and appropriate childcare during school holidays (or similar vacation periods).</p> <p>In such circumstances, and where it is agreed that no appropriate, affordable childcare is available in school holidays, parents faced with these difficulties may be treated as available for work and having good cause for not attending their FJR during this period.</p>
<p>Fortnightly attendance during school holidays</p>	

Previous rules	Change
<p>- Postal signing</p> <p>Parents would have to attend the Jobcentre Plus office or lose entitlement to JSA.</p>	<p>In cases where parents on JSA cannot attend a Jobcentre Plus office for a Fortnightly Jobsearch Review (FJR) during the school holidays because, for example, they are unable to make arrangements for short-term childcare to cover their attendance.</p> <p>In such circumstances, and where the adviser agrees that no appropriate, affordable childcare is available to cover the attendance at a FJR, parents will be allowed to sign by post during the school holiday period.</p>
<p>JSA Hardship</p> <p>Jobseekers may be entitled to hardship payments during the period of a JSA sanction. The definition of hardship does not extend to a single person responsible for a child. So a single person responsible for a “child” would not be treated as a person in hardship.</p>	<p>A definition of hardship was included for lone parents so that it applies to all parents so they can claim JSA hardship and receive a reduced applicable amount of JSA.</p> <p>Operationally we will also make at least one attempt at contact by telephone on the day a jobseeker FTAs their Jobcentre Plus interview. We will also send a letter to advise them of the need to make urgent contact within five working days or that their benefit will be affected. If they do not respond their benefit will end after five working days.</p>

Operational Flexibilities

1. As well as legislative changes we also introduced changes to Jobcentre Plus operational processes.

Previous rules	Change
<p>Fail to attend (FTA) a FJR or WFI</p> <p>No contact made if the lone parent failed to attend. Claim closed within 5 working days.</p>	<p>Operationally we will make at least one attempt at contact by telephone on the day a jobseeker FTAs their Jobcentre Plus interview. We will also send a letter that day to advise them of the need to make urgent contact within five working days of their planned attendance advising them that their benefit will be affected. If they do not respond their benefit will end after five working days.</p>
<p>FJR attendance during school holidays - Postal signing</p> <p>No postal signing during school holidays if childcare is not available unless for the prescribed circumstances:</p> <ul style="list-style-type: none"> • Where a claimant lives more than one hour, door to door, by public transport, in either direction, from the nearest jobcentre, or • Attendance would result in an absence from home in excess of 4 hours or • A claimant has a mental or physical disability, which restricts their mobility. • If no public transport is available, postal status is determined by whether or not the customer can reasonably be expected to walk from home to the jobcentre, within one hour. Customers must not be asked to walk more than 3 miles. This will depend on things like their age, health and the terrain over which they must walk. 	<p>Where the Adviser agrees that no appropriate, affordable short term childcare is available to cover the attendance at a FJR, a person with caring responsibilities will be allowed to sign by post during the school holiday period.</p>
<p>Travelling Time</p> <p>Travelling time to school or childcare was not formally considered by an adviser when taking into account travelling time.</p>	<p>Jobcentre Plus staff to consider whether travel time to a job is reasonable, taking health or caring responsibilities into account, and would include any reasonable time required to drop off and pick up children from school or childcare.</p>

November 2009

Terry Rooney MP
Chair, Work and Pensions Select Committee
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Lone Parents and Work

Following the Written Statement by Helen Goodman on Monday 26th October I thought it would be helpful to provide for you, because of your Committee's interest in these matters, further details of the recent developments in the framework of support for lone parents.

As you're aware, our policy intention has always been that benefit conditionality should support lone parents to progressively move towards work as their child gets older, because we know that families and children are better off when parents work and the benefits of work are not just financial. Work can give a sense of well-being and can allow parents to be a positive role model for their children. In order to ensure that work pays we have made significant changes to the tax credit system. A lone parent with two children who has been out of work for over a year now receives over £200 on top of their wages when they move into work. This includes the In Work Credit which has now helped over 135,000 lone parents.

But we also believe it is important to help parents look after their children and balance work and family life. That is why we are ensuring our welfare to work programme is family friendly by taking steps outlined below.

Lone parents with older children

As you will be aware, since 26th October lone parents whose youngest child is aged 10 or over are now expected to seek work. From next year that will be extended to lone parents whose youngest child is 7 or over.

It is important that lone parents get proper support and help alongside the new obligations – including advice on childcare and benefits. For that reason we will ensure that all lone parents with older children see a New Deal for Lone Parents adviser within the first two weeks of moving onto the JSA regime as the flexible, personalised support has been proven to help lone parents move into work.

We are also introducing further measures to ensure that these changes are family friendly and to ensure that lone parents can seek work that fits with school hours if they want to do that. We are using our existing primary powers under section 6 of the Jobseeker's Act 1995 to introduce regulations to enable lone parents with a youngest child of 12 and under to restrict their availability for work to normal school hours. I attach draft regulations which we intend to bring forward for debate in the next parliamentary Session. I felt it would be helpful to share an early draft of the Statutory Instrument at this stage although it will be subject to some revision on cross-

references to other regulations, for instance, as we move towards formal referral to the Social Security Advisory Committee.

We will also set up a family friendly working hours taskforce. This will bring together a range of employers and organisations that act on behalf of businesses and employees (such as the CBI and the TUC) to discuss how we can improve the availability and quality of family friendly working practices, with a particular focus on part time work. I will keep you informed about the work of the taskforce.

Lone Parents with younger children: Progression to Work

Currently lone parents on Income Support are required to attend regular work-focused interviews and agree action plans – however, any activities they undertake are on a voluntary basis.

Based on the approach in the Gregg Review, we intend to develop earlier support for lone parents with younger children to help them get ready for work in future. The Progression to Work pilots will build on the current regime of regular interviews and action planning, but lone parents with children aged 3-6 will also be expected to undertake work-related activity as part of their own journey towards employment.

The Progression to Work model will not require people to apply for, or take up, a specific job offer. In addition, to ensure that parents can combine preparation for work with their important family responsibilities, we have put forward further government amendments in the House of Lords. These make clear that work related activity would not be expected of parents with children under 3, and also that the obligations will be limited to within the available hours of the free nursery education or school.

The policy starts when the youngest child is 3 because that is when the free offer of nursery education begins, therefore parents have more time available and it is reasonable to expect them to take up some of the support that is on offer as a condition of their benefit. In addition it allows parents who are furthest from the labour market or who face particular difficulties such as in numeracy or literacy to have time to progressively tackle their problems and prepare for work in the future

Initially, we will pilot the Progression to Work model for up to five years. I have laid an amendment to be debated at CCLA which will mean that there will need to be a further vote under the affirmative procedure before any national roll-out.

Family Friendly Measures

Reforming welfare to get more lone parents into work, and more children out of workless households, is extremely important for supporting families and cutting child poverty. Since 1997 the lone parent employment rate has increased by 12.1 percentage points to 56.9 % but if we could increase this to 70% then this would lift a further 300,000 children out of poverty.

But the measures are designed to help parents manage their family responsibilities alongside work. This includes ensuring that all Action Plans and Jobseeker's Agreements must be made with regard given to the 'well-being of the child'. In

addition, when considering 'good cause' a decision maker must take into account the availability of suitable childcare and any health issues or disabilities of the claimant or child. We have also set out on the face of the Bill, as recommended by the Gregg Review, that lone parents with children under one will no longer be required to attend Work Focused Interviews although they will continue to be available on a voluntary basis. Lone parents with children under 7 cannot be required to seek work and lone parents with children under 3 cannot be required to take up work related activity.

New sanctions model

For lone parents on Income Support, this new regime will be supported by a significantly reformed sanctions regime which will ensure that parents are not penalised because of their caring responsibilities.

The new regime will introduce greater checks and safeguards, including further opportunities for lone parents to come to a work focused interview or take up work related activity. The new regime will include formal written warnings and individual case reviews, including home visits, before it reaches the stage of financial sanctions. I have attached a Statement of Policy Intent which will provide further details of the new regime.

I hope and the Committee find this information useful. I am arranging for a copy of the this letter to go to Sir Richard Tilt at the Social Security Advisory Committee and members of the Lone Parent Voluntary Group whose work in the past has been so valuable in this area.

Yvette Cooper