

WELFARE REFORM ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Social Security

Section 25: Jobseeker’s allowance: sanctions for violent conduct etc. in connection with claim

143. This section inserts into the Jobseekers Act 1995 two new sections, new *section 20C* (sanctions for violent conduct in connection with claim) and new *section 20D* (*section 20C* supplementary).
144. *Subsection (1) of new section 20C* makes provision for a benefit sanction of one week to be applied to jobseeker’s allowance claimants who are successfully convicted of or, in England and Wales, cautioned for violent or threatening behaviour towards Jobcentre Plus or contracted out staff. In addition, for the sanction to apply it is necessary that –
- the violent conduct was towards Jobcentre Plus staff or contracted out staff at DWP providers;
 - the offence took place on the Jobcentre Plus premises or those of contracted out providers while the offender was there for the purpose of a jobseeker’s allowance claim;
 - the offender is a person or a member of a joint claim couple who satisfies the conditions of receiving jobseeker’s allowance.
145. *Subsection (2)* provides for (a) benefit not to be payable for a period of one week in the case where the jobseeker’s allowance claim is not a joint claim even if the conditions of entitlement are satisfied; and (b) the period of any other sanction also to be extended by five weeks on the first occasion that the other sanction applies to the claimant.
146. Under *subsection (3)*, for the purposes of *subsection (2)* the reference to another sanction is to any other sanction arising as a result of the Jobseekers Act 1995 and during which jobseeker’s allowance is not to be payable. It explains that the sanctions period which is to be extended by five weeks is the period of that other sanction arising out of the Jobseekers Act 1995.
147. Under *subsection (4)* for joint claim jobseeker’s allowance the offender will be treated in the same way as in *subsection (2)* above, namely a sanction of one week will be applied, and that if another sanction is imposed it will be increased by five weeks in the same way.
148. *Subsection (5)* explains in relation to a joint claim jobseeker’s allowance that the reference to another sanction is to any other sanction arising as a result of the Jobseekers Act 1995 and during which jobseeker’s allowance is not to be payable. It also explains that the sanctions period which is to be extended by five weeks is the period of that other sanction arising out of the Jobseekers Act 1995.

*These notes refer to the Welfare Reform Act 2009 (c.24)
which received Royal Assent on 12 November 2009*

149. *Subsection (6)* provides for regulations to set out that after a certain period the sanctions in *subsections (2) and (4)* will not apply to the claimant of jobseeker's allowance or that in certain circumstances the sanction will not apply to the claimant.
150. *Subsection (7)* makes provision for hardship payments to be made during the sanction period. This does not apply in the case of a sanction of a joint-claim jobseeker's allowance as in *subsection (4)*. Corresponding provision is made for them by section 20B(4).
151. *Subsection (8)* provides that regulations may be made for hardship payments in *subsection (7)* to be paid as follows –
- only if the information required from the claimant has been provided;
 - payable at a reduced rate;
 - payable only for part of the week.
152. *Subsection (9)* provides that where a conviction is subsequently overturned the amount of sanctioned benefit would be repaid as if the person had never been convicted of the offence in the first place.
153. *New section 20D* sets out in *subsection (1)* the offences involving violence in England and Wales in respect of which the sanction will be applied. These are–
- common assault or battery;
 - threats to kill, wounding with intent to do grievous bodily harm, inflicting bodily injury with or without a weapon, and assault occasioning bodily harm (under sections 16,18,20 or 47 of the Offences Against the Person Act 1861);
 - the offences of affray, fear or provocation of violence, intentional harassment, alarm or distress and harassment, alarm or distress (under sections 3, 4, 4A or 5 of the Public Order Act 1986);
 - the offence of harassment and putting people in fear of violence – (under sections 2 or 4 of the Protection from Harassment Act 1997);
 - racially or religiously aggravated assaults, public order offences or harassment (under sections 29, 31 or 32 of the Crime and Disorder Act 1998);
 - the ancillary or preparatory offences related to the offences above, namely aiding, abetting, counselling or procuring the commission of the offence, encouraging or assisting the commission of the offence, or attempting or conspiring to commit the offence.
154. *Subsection (3)* sets out that in Scotland the offences in respect of which the sanction will be applied are assault, a breach of the peace, and racially aggravated harassment under section 50A of the Criminal Law (Consolidation) Scotland Act 1995. The sanction will also be applied to the ancillary and preparatory offences in Scotland which are being art and part in the commission of the offence, inciting a person to commit the offence, or attempting or conspiring to commit the offence.
155. *Subsection (6)* explains the meaning of 'cautioned' in England and Wales only.
156. *Subsection (7)* provides for regulations to be made for requiring prescribed persons (such as the police or the prosecuting agencies) to notify the Secretary of State of any offences set out in new *section 20D* in respect of which a sanction may be applied, as in new *section 20C*.
157. *Subsection (8)* provides for amendments to be made by regulation to *subsections (1) to (5)* by removing or adding offences.

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158. *Subsection (3)* of section 20 amends section 37(1)(c) of the Jobseekers Act 1995 so that the regulation making power found in *subsection (8) of new section 20D* will be subject to the affirmative resolution procedure.
159. *Subsection (4)* makes a consequential amendment to paragraph 3(d) of Schedule 3 to the Social Security Act 1998. This will give those whose benefit is sanctioned a right of appeal about the payability of their benefit.