

WELFARE REFORM ACT 2009

EXPLANATORY NOTES

SCHEDULES

Schedule 1: Amendments connected to section 4

Part 1

273. *Paragraph 2* amends section 8 of the Jobseekers Act 1995 so that only those persons on jobseeker's allowance who are required to meet the jobseeking conditions, rather than those who have moved from income support, will be required to attend an interview with an employment officer and provide information and evidence of their circumstances, availability for employment and the extent to which they are actively seeking work.
274. *Paragraph 3 of Schedule 1* inserts *new sections 11A, 11B and 11C* into the Jobseekers Act 1995.

11A Persons not required to meet the jobseeking conditions

275. This section provides for regulations to be made which would require people who are not required to meet the jobseeking conditions, and who are not a member of a joint-claim couple, to undertake work-focused interviews. The purpose of the interview is to consider a person's existing and future employment and training prospects or needs. *Subsection (3)* provides that a lone parent with a child aged under one will not be required to undertake work-focused interviews.

11B Provision which may be made by regulations under section 11A

276. This section details some of the things which can be specified in regulations made under *new section 11A*. This includes provision to sanction people who fail to comply and do not take part in a work-focused interview without having good cause. Matters to be considered as relevant in determining whether a person has shown good cause are to be prescribed in regulations. Where a person does not meet an interview requirement that is made as a condition of becoming entitled to benefit, the appropriate sanction will be to treat that person as not having made a claim. Where compliance with an interview requirement applies as a condition of entitlement to benefit continuing, the appropriate sanction will be to reduce the benefits paid to that person by an amount specified in regulations.
277. *Subsection (4)* allows for the requirement to undertake a work-focused interview to be waived if it is not considered appropriate for the claimant. Under *subsection (6)*, benefit can still be awarded in this situation.
278. The meaning of 'relevant benefit' in *subsection (7)* currently applies to income support, housing benefit, council tax benefit, widows and bereavement benefits, carer's allowance, severe disablement allowance and incapacity benefit.

11C Action plans in connection with work-focused interviews

279. This provision requires a person, in prescribed circumstances, to be provided with an action plan. In preparing an action plan, the Secretary of State must have regard to the well-being of any child who may be affected by it.
280. *Paragraph 4 of Schedule 1* inserts *new sections 18A and 18B* into the Jobseekers Act 1995.

18A: Requirements imposed on claimants by officers of the Secretary of State

281. This makes provision for jobseeker's directions to require the claimant to take part in any reasonable activity, particularly some form of activity related to finding employment, becoming more employable or remaining in employment, such as improving skills, which an employment officer considers relevant. This direction can be included in an action plan or a jobseeker's agreement.
282. If the person is notified of a place on a training scheme, he or she can be required to apply for such a vacancy and if offered a position the person can be required to accept and attend. A person required to meet the jobseeking conditions can be required to apply for a place on an employment programme, or for a vacant job. This can also apply to those who are not required to meet the jobseeking conditions if they so agree.
283. *Subsection (8) of new section 18A* makes provision to allow for the requirement for those not required to meet the jobseeking conditions to undertake a direction to be suspended in particular circumstances.
284. Claimants who fail to comply with these requirements may incur a sanction.

18B: Work-related activity: section 1A(4) claimants

285. This is a regulation-making power which allows for regulations to require those on jobseeker's allowance ('JSA') who do not have to meet the jobseeking conditions to undertake work-related activity as a condition of continuing to receive their full amount of benefit. This does not apply if the claimant is a lone parent with a child aged under three (*subsection 18B(1)(b) refers*). Work-related activity will be detailed in an action plan, and will be reasonable and have due consideration to a person's circumstances. The requirement to undertake such activity can be suspended in specific circumstances, which will also be prescribed in regulations.
286. *Subsection (4)* provides that regulations made under this section must provide that lone parents are entitled to restrict the hours for which they will be required to undertake work-related activity. For example they could restrict such activities to their child's hours of schooling or formal childcare.
287. *Subsection (5)* provides that in circumstances prescribed in regulations, only a specific activity specified in the direction is to be regarded as a work-related activity. The provision also allows for specified activities to be deemed not to be work-related activity.
288. *Subsection (6)* provides that a person cannot be required to undertake medical or surgical treatment to meet their work-related activity requirement.
289. Claimants who fail to comply may incur a sanction.
290. *Paragraph 5 of Schedule 1* inserts *new sections 18C and 18D* before section 19 of the Jobseekers Act 1995.

18C: Definitions for purposes of sections 19 and 20A

291. *Section 18C* to the Jobseekers Act 1995 defines the circumstances in which claimants may be sanctioned for failing to satisfy specified conditionality requirements.

Subsection (2) provides that a claimant is in breach of a jobseeker's direction if he or she has without good cause, refused or failed to carry out a direction. *Subsection (3)* explains when a claimant will have failed to cooperate with a requirement to attend a training scheme and *subsection (4)* explains when a claimant will be in breach of an employment programme requirement. *Subsection (5)* deals with those who have failed to fulfil an employment requirement, and *subsection (6)* explains when a claimant will have failed to comply with a work-related activity requirement.

292. The circumstances in which people who are required to satisfy jobseeking conditions may be sanctioned are the same as they are now. People who are not required to satisfy jobseeking conditions will only be liable to sanctions if they are in breach of a jobseeker's direction, a training scheme requirement, or a work-related activity requirement.

18D: Section 18C: supplemental

293. *Subsection (2)* states that those who are subject to a jobseeker's direction under section 16 of the Jobseekers Act 1995 are not regarded as having breached a direction under the requirements in *sections 18A and 18B* of that Act. Section 16 allows the Secretary of State to provide JSA to 16 to 17 year olds on grounds of hardship, and section 16(3)(b) allows that payment to be revoked if the person is seen to have failed to avail himself or herself of a place on a training scheme, or has lost that place, without demonstrating good cause for doing so, under section 17(3)(b) of the 1995 Act.
294. Regulations can prescribe circumstances in which a person can be considered not to have left employment voluntarily.
295. Regulations must provide that those claiming the form of JSA where they do not have to satisfy the jobseeking conditions are not sanctioned for leaving employment after taking a job and may provide that they are not sanctioned for not completing a training scheme.
296. *Subsections (7) and (8) of new section 18C* are regulation-making powers which will prescribe what can be considered good cause for failing to carry out a jobseeker's direction. The amount of payment for the employment cannot be considered good cause through regulations made under these powers.
297. *Paragraph 6 of Schedule 1* substitutes new provisions for sections 19 and 20 of the Jobseekers Act 1995.

19: Certain circumstances in which a jobseeker's allowance is not payable

298. *New section 19* of the Jobseekers Act 1995 describes circumstances in which JSA can be disallowed for a 'relevant period' because the claimant has failed to satisfy the requirements under *sections 18A and 18B* of that Act even though the claimant may meet the other conditions for entitlement to the benefit. This applies to claims which are not part of a joint-claim.
299. *Subsections (2) and (3)* list the circumstances in which JSA can be disallowed under this section with respect to claimants who are required to meet the jobseeking conditions and to those claimants who are not so required.
300. *Subsections (4) and (5)* provide a power that will enable regulations to be made to determine the 'relevant period' over which the sanction is to apply for claimants not required to meet the jobseeking conditions. The sanction period must be at least one week and not more than 26 weeks.
301. *Subsection (6)* provides for regulations to prescribe circumstances which must be taken into account and those which must not be taken into account in determining the sanction period for claimants required to meet the jobseeking conditions.

20: Exemptions from section 19

302. *New section 20* provides for regulations to be made to prescribe possible exemptions from *new section 19*. *Paragraph 7 of Schedule 1* replaces sections 20 and 20B of the Jobseekers Act 1995 with new provisions.

20A: Certain circumstances in which a jobseeker's allowance is not payable: joint-claim jobseeker's allowance

303. *New section 20A* prescribes conditions in which a member of a joint-claim couple may be sanctioned for a breach of a requirement under *section 18A* of the Jobseekers Act 1995.
304. If both members of the couple are sanctioned, no allowance is paid. If one member is sanctioned the amount paid is reduced by the method prescribed in *subsection (6)*. Other provisions are similar to those that apply under *new section 19* of the 1995 Act.

20B: Exemptions from section 20A

305. *New section 20B* of the 1995 Act makes exemptions from *new section 20A*, in the same manner that *new section 20* makes exemptions from *new section 19*.
306. *Paragraphs 8 to 13 of Schedule 1* amend the Jobseekers Act 1995 so that the new provisions are properly cross-referenced throughout that Act and deal with some consequential matters.
307. *Paragraph 15 of Schedule 1* amends section 14 of the Jobseekers Act to provide that persons in prescribed circumstances will not be affected by the current provisions that a single person who is involved in a trades dispute will not qualify for jobseeker's allowance. The exceptions to the general rule are to be prescribed in regulations.
308. *Paragraphs 16 and 17 of Schedule 1* amend sections 15 and 15A of the Jobseekers Act 1995 to provide that in trades dispute cases involving couples a claim may be accepted from either member of the couple subject to the other conditions in those provisions applying. The claimant can only receive a reduced amount of benefit while either member of a couple is involved in the trades dispute.
309. *Paragraph 18 of Schedule 1* inserts *new section 15B* into the Jobseekers Act 1995. The provisions will specify that when the person involved in a trades dispute returns to work, the person (or the person's partner) may be able to receive the full normal rate of jobseeker's allowance that would apply to his or her circumstances for the first 15 days following the person's return to work. The normal rules which prevent jobseeker's allowance being paid when a person is in remunerative work are suspended for the 15 day period to ensure that the claimant cannot be excluded under those provisions. Any benefit awarded under this rule will be recoverable from the claimant or, where the claim is from a couple, the other member of the couple. These provisions are similar to those which currently apply in respect of income support.
310. *Paragraphs 19 to 22 of Schedule 1* make further minor amendments to the Jobseekers Act 1995 to take account of the new provision.
311. *Paragraph 23(2) of Schedule 1* inserts provision into the 1995 Act to allow regulations to be made to ensure that in some circumstances a person who has limited capability for work can claim jobseeker's allowance ('JSA'). There are some people who do not have to meet the jobseeking conditions who will have a choice over which benefit to claim. For example, a disabled lone parent who has a child under seven years of age could claim either employment and support allowance ('ESA'), and be subject to full ESA conditionality, or he or she could claim JSA without the jobseeking conditions. The regulations will give these groups a choice as to which benefit they would prefer to claim.

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

312. *Paragraph 23(3) of Schedule 1* is intended to amend an existing provision in Schedule 1 of the Jobseekers Act 1995, which allows people to continue to receive JSA temporarily without being available for work, having entered into a jobseeker's agreement, or actively seeking employment. The amendment reflects the fact that in the future these conditions are going to be referred to as the jobseeking conditions.
313. *Paragraph 23(5)(b) of Schedule 1* provides for regulations to prescribe circumstances in which a person who is in relevant education and who is not required to meet the jobseeking conditions may claim jobseeker's allowance. There are similar provisions relating to income support for this group of persons.
314. *Paragraph 23(6) of Schedule 1* provides for regulations to prescribe circumstances in which people who are not required to meet the jobseeking conditions will be required to be under the qualifying age for state pension credit in order to qualify for jobseeker's allowance. These rules are similar to those that apply in relation to income support.