

EXPLANATORY MEMORANDUM TO
THE JOBSEEKER'S ALLOWANCE (MEMBERS OF THE FORCES) (NORTHERN
IRELAND) (AMENDMENT) REGULATIONS 2012

2012 No. 2569

1. This Explanatory Memorandum has been prepared by the Department for Social Development and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the instrument is to remove a provision from the Jobseekers (Northern Ireland) Order 1995 (“the 1995 Order”) that currently prevents serving members of the forces from receiving Jobseeker’s Allowance (except in certain circumstances) (JSA). This is to ensure that members of the reserve forces do not lose entitlement to a jobseeker’s allowance when taking part in annual continuous training of up to 15 days.

3. Matters of special interest to the Joint Committee on Statutory Instruments

Article 24 of the 1995 Order is the power relied on to make these Regulations. Under that Article, Regulations are made by the Secretary of State as a statutory instrument. They must be laid before each House of Parliament under the negative resolution procedure.

4. Legislative Context

4.1 The Department for Social Development (Northern Ireland) made regulations¹ to amend the Jobseeker’s Allowance Regulations (Northern Ireland) 1996, and laid the amending regulations before the Northern Ireland Assembly, to enable Jobseeker’s Allowance claimants, who are members of the reserve forces, to attend the 15 day annual continuous training period required of them without the need to terminate their claim to JSA. These Regulations are being made to support those changes.

4.2 The Jobseeker’s Allowance (Members of the Forces) (Northern Ireland) Regulations 1997 prohibit the payment of JSA to serving members of the armed forces. One exception to this rule is in the case of reserve forces members who are not training for more than 72 hours.

4.3 In a Written Ministerial Statement on 25th June 2012, the Government announced their intention to ensure that the rules for JSA do not create unnecessary bureaucracy for claimants who are members of the reserve forces and who currently do not receive similar exemptions for JSA purposes as, for example, part-time members of the Fire and Rescue Service and others involved in emergency duties for the benefit of others.

¹ The Jobseeker’s Allowance (Members of the Reserve Forces) Regulations (Northern Ireland) 2012 (S.R. 20012 No. 284).

4.4 Corresponding amendments have been made in Great Britain to the Jobseeker's Allowance Regulations 1996 and the Social Security (Benefit) (Members of the Forces) Regulations 1975².

5. Territorial Extent and Application

The Jobseeker's Allowance (Members of the Forces) (Northern Ireland) (Amendment) Regulations 2012 extend to Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The Government wishes to ensure that the JSA claimants who are members of the reserve forces³ do not lose entitlement to JSA when taking part in mandatory annual reserve forces training (of up to 15 days).

7.2 The Department for Social Development (Northern Ireland) made regulations⁴ to amend the Jobseeker's Allowance Regulations (Northern Ireland) 1996 to enable Jobseeker's Allowance claimants, who are members of the reserve forces, to attend the 15 day annual continuous training period required of them without the need to terminate their claim to JSA.

7.3 However, under other existing regulations⁵, serving members of the forces are not entitled to JSA except in certain circumstances – for example, if they are a member of the reserve forces and are taking part in training for less than 72 hours. Therefore, when a member of the reserve forces takes part in training for more than 72 hours, their entitlement to JSA ends. After the training is complete they then need to make a repeat claim for JSA.

7.4 The main change being made by these Regulations is to remove the prohibition on members of the forces being entitled to JSA except in limited circumstances, to give

² By the Jobseeker's Allowance (Members of the Reserve Forces) Regulations 2012 (S.I. 2012/1616) and the Social Security (Benefit) (Members of the Forces) Regulations 1975.

³ The UK reserve forces are the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marine Reserve, the Army Reserve, the Territorial Army (which includes members of the Royal Irish Regiment), the Air Force Reserve and the Royal Auxiliary Air Force.

⁴ The Jobseeker's Allowance (Members of the Reserve Forces) Regulations (Northern Ireland) 2012 (S.R. 2012 No. 284).

⁵ Jobseeker's Allowance (Members of the Forces) (Northern Ireland) Regulations 1997.

effect to the policy intention of enabling JSA claimants who are members of the reserve forces to remain entitled to JSA when they take part in annual mandatory training.

7.5 Serving members of the forces who are not reserve force members will not meet the conditions of entitlement to JSA, in particular the requirements that they be available for and actively seeking employment, and not be engaged in remunerative work, and so will not be affected by the change.

7.6 The other amendments being made by these Regulations are to bring the list of serving members of the forces up to date and to make an amendment that is consequential upon the change relating to entitlement to JSA.

- Consolidation

7.7 Informal consolidation of this instrument will be provided in due course in the “Law Relating to Social Security” (referred to as “The Blue Volumes”) which are updated at regular intervals. <http://www.dsdni.gov.uk/index/law-and-legislation/law-relating-to-social-security/>

8. Consultation outcome

8.1 The changes follow GB Ministerial discussions with the Duke of Westminster, Deputy Commander Army Reserves, who first raised the issue of what could be done to ensure JSA rules do not create unnecessary issues for JSA claimants when they attend their 15 day annual continuous training period. Department for Work and Pension officials have also worked closely with the Ministry of Defence (MoD) to ensure the changes will reduce the administrative burden of requiring reservists to make a repeat claim for JSA after their annual training has been completed, and to remove delays in the resumption of payment of benefit.

8.2 The Department for Work and Pensions presented the proposals for the Regulations that were made to achieve the policy aim in Great Britain to the Social Security Advisory Committee (SSAC) who decided not to require a formal referral of the Regulations. It is not necessary to refer these Regulations to SSAC because they only making provision corresponding to the Regulations made in relation to Great Britain.

9. Guidance

9.1 Current guidance will be amended to explain the new requirements in relation to members of the reserve forces. This includes guidance for all staff in Social Security/Jobs and Benefits Offices who advise claimants, determine JSA claims and administer awards. Instructional memos will also be issued to ensure all staff involved in relevant processes are aware of the guidance changes.

9.2 The Ministry of Defence (MoD) will inform members of the reserve forces by producing a Defence Instruction Notice that has world wide military distribution, sending a letter to the Reserves Single Service HQs who will then inform their reserves, updating

the MoD Supporting Britain's Reservists and Employers website and their helpline staff, and will also include information in their Reserve Unit briefing packs for the annual visit programme when the Armed Forces Pay Review Body discuss pay and allowances with reservists and regulars.

10. Impact

10.1 The change has no impact on business, or civil society organisations.

10.2 The impact on the public sector is negligible. The Department for Social Development does not record the number of JSA claimants in Northern Ireland who are members of the reserve forces. However, the MoD confirms that there are currently about 29,250 members of the reserve forces in total in the United Kingdom. Of that total 1,743 are not recorded as either employed, self-employed, students or retired.⁶ It is therefore assumed that no more than 1,743 will be unemployed. It is not known how many of these are on JSA but it is assumed some, although not all, will be unemployed.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Regulations will continue to be reviewed through normal avenues of guidance enquiries received from Department for Social Development and correspondence from members of the public.

13. Contact

Anne McCleary at the Department for Social Development Tel: 028 9081973 or email: Anne.McCleary@dndni.gov.uk can answer any queries regarding the instrument.

⁶ Figures drawn from the Service Personnel & Veterans Agency Joint Personnel Administration System