

EXPLANATORY MEMORANDUM TO
THE JOBSEEKER'S ALLOWANCE (SCHEMES FOR ASSISTING PERSONS TO
OBTAIN EMPLOYMENT) (AMENDMENT) REGULATIONS 2017

2017 No. 1020

1. Introduction

- 1.1 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

- 2.1 This instrument prescribes a further scheme, namely the Work and Health Programme (WHP), in addition to those schemes already prescribed in the Jobseeker's Allowance (Schemes to Assist Persons to Obtain Employment) Regulations 2013¹ ("the 2013 Regulations"). This provides the legal framework to enable the Secretary of State for Work and Pensions (SSWP) to require Jobseeker's Allowance (JSA) claimants who are long-term unemployed to attend and participate in the WHP. The effect of the instrument is that a claimant, who fails without good reason to comply with such a requirement to participate, can be liable to a benefit sanction, i.e. the reduction or loss of JSA for a period of several weeks.
- 2.2 This instrument also removes the following schemes that have now ceased:
- Day One Support for Young People;
 - The Derbyshire Mandatory Youth Activity Programme; and
 - Community Work Placements.
- 2.3 Finally, the instrument also removes definitions relating to ceased schemes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These Regulations are made under section 17A of the Jobseekers Act 1995², which was inserted by the Welfare Reform Act 2009³. Section 17A provides a power to impose on claimants in prescribed circumstances a requirement to participate in schemes of any prescribed description that are designed to assist them to obtain employment.

¹ <http://www.legislation.gov.uk/ukxi/2013/2584/contents/made>

² <http://www.legislation.gov.uk/ukpga/1995/18/contents>

³ <http://www.legislation.gov.uk/ukpga/2009/24/contents>

- 4.2 This section is repealed by Part 4 of Schedule 14 to the Welfare Reform Act 2012⁴, and that repeal has been partially commenced as part of the transition from JSA (and other income-related benefits) to Universal Credit, but section 17A remains in force in relation to claimants still in receipt of JSA.
- 4.3 These Regulations provide the legal basis to mandate legacy JSA claimants to participate in the WHP. Powers to mandate equivalent Universal Credit claimants are already in force under section 16 of the Welfare Reform Act 2012.
- 4.4 For JSA claimants failing to attend or participate in the WHP without good reason, their JSA benefit may be either stopped or reduced for an initial period of four weeks or a longer period of 13 weeks where failure to attend or participate continues. Sanctions for failing to take part in the schemes covered by the Regulations are dealt with by the Jobseeker's Allowance Regulations 1996⁵, as amended.
- 4.5 Where the Secretary of State for Work and Pensions has selected a claimant for participation in the WHP under regulation 4 of the 2013 Regulations, regulation 17 of those regulations provides that an authorised provider may send out the notification of the requirement to participate.
- 4.6 As part of the legislative context for this instrument, a Designation Order is also being prepared that designates the employees of WHP providers as 'employment officers' for the purpose of section 19(2)(c) of the Jobseekers Act 1995. This means that a higher level sanction can be imposed if a participant fails to apply for and/or accept a job offer as required/notified by a provider.
- 4.7 Where a claimant, without good reason, refuses to apply for or accept, if offered, such employment, a higher level sanction can be considered by DWP Labour Market Decision Makers. There is, however, no power within the Designation Order for providers to impose sanctions directly.
- 4.8 Providers will always need to refer WHP participants back to a DWP Labour Market Decision Maker for consideration of a sanction doubt.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 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 During the Spending Review 2015 it was announced that the WHP - a new employment support programme - would launch in 2017 following the end of referrals to Work Choice and the Work Programme.

⁴ <http://www.legislation.gov.uk/ukpga/2012/5/contents>

⁵ <http://www.legislation.gov.uk/uksi/1996/207/contents/made>

- 7.2 The WHP will commence from November 2017 under a phased roll-out until February 2018. It will primarily be an outsourced employment programme, in which third-party providers will deliver support to specific customer groups in England and Wales:
- A person with a disability, as defined in the Equality Act 2010, who can volunteer to join the programme at any time;
 - Early Access Disadvantaged Groups (EADGs) who can volunteer to join the programme at any time; and
 - Long Term Unemployed (LTU) – these will be claimants in the intensive work search regime in Universal Credit or legacy Jobseekers Allowance (JSA) claimants who have not moved into employment within 24 months of their claim. They will be eligible for referral to the programme on a mandatory basis at this point.
- 7.3 The programme has been designed to offer individualised support to the specific customer groups above, where places are available. We expect that around 245,000 people will be supported in England and Wales during the life of the programme. In line with the original funding envelope for the programme, it is anticipated that 75% of places will be for disabled people, 15-25% for the LTU and up to 10% for EADGs. Participation on the programme will be voluntary for both disabled people and EADGs. Participation will be mandatory for the LTU.
- 7.4 The WHP will complement the Work Coach Delivery Model and provide enhanced specialist support for those who need it. It is designed to ensure providers work in partnership with local areas, including supporting local growth priorities; particularly in areas which have agreed devolution deals regarding employment support. A WHP Public Sector Comparator (PSC) will run alongside the WHP and will be delivered by Jobcentre Plus (JCP). The PSC will enable us to evaluate whether, Jobcentre Plus can deliver a similar level of performance as our contracted employment providers when given similar resources and freedoms. This will enhance the current evaluation approach planned for the WHP programme and inform future investment decisions.
- 7.5 The WHP has been developed on the basis of a number of key principles:
- Resources should focus on those who really need extra support – with a stronger labour market this now needs to focus on those needing most help to access or return to work. This programme will support claimants with needs greater than those which can usually be met through JCP;
 - DWP will better target support – sending claimants who are prepared and motivated for the intensive support the new programme will offer, and ensuring claimants are referred who have a genuine chance of moving into work whilst on the programme;
 - Supporting localism (a Government priority). This gives local areas a role in shaping how the programme is designed so that it meets local needs and is tailored to the local labour market to afford claimants the best chance of moving into employment.

Consolidation

- 7.6 These Regulations are available to the public at no cost from the National Archives via the internet at: www.legislation.gov.uk where informal consolidated text is also available.

8. Consultation outcome

- 8.1 The Social Security Advisory Committee agreed that the Regulations should not be referred to it for formal consultation. During the design phase of the WHP, there was general support from stakeholders consulted for the emerging intent and policy direction of the programme including mandation to support for the long term unemployed cohort. There was strong support however that referrals for disabled people and disadvantaged groups should be on a voluntary basis.

9. Guidance

- 9.1 Guidance for externally contracted providers has been produced and a draft has been shared with them through departmental systems. This Provider Guidance will be available in the public domain from the point the programme commences and participants will be able to access this information, which is pitched at a technical level for delivery bodies. With regard to sanctions, workshops have also been delivered to providers to understand their role in respect of referrals.
- 9.2 Guidance and awareness products will be made available to Departmental employees responsible for referring claimants to the programme. The Department does not routinely produce guidance for participants because sufficient information will be made available to them at the point of referral by Jobcentre staff and this will be supplemented by additional information communicated by the WHP provider. Because the majority of starts on the programme are expected to be from the voluntary cohort, it is expected that the exchange of information at the beginning of the referral process will be part of a staged consensual dialogue firstly between the participant and DWP, then between the provider and the participant. In addition, publically accessible material will be available on GOV.UK summarising the purpose of the Work and Health Programme.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is negligible impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Department monitors and evaluates its policies through a combination of: statistics on performance and delivery volumes; qualitative research with participants and people responsible for delivering our services to examine the quality of customer experience and opportunities to improve delivery; and quantitative research and analysis to understand the impacts of individual policy interventions.

13. Contact

- 13.1 Deborah Nuttall at the Department of Work and Pensions Telephone: 0113 208 3175 email: deborah.nuttall2@dwp.gsi.gov.uk can answer any queries regarding the instrument.