

These notes refer to the Welfare Reform Act (Northern Ireland) 2010 (c.13) which received Royal Assent on 13 August 2010

Welfare Reform Act (Northern Ireland) 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Social security

Section 2: Work-related activity: income support claimants and partners of claimants

This section amends the [Social Security Administration \(Northern Ireland\) Act 1992 \(c.8\)](#) by inserting new sections 2D to 2H.

New section 2D allows the Department for Social Development to make regulations which may require a person in receipt of income support, and who is not the lone parent of a child under the age of 3 (subsection (1)), or the partner of a person receiving income support, income-based jobseeker's allowance or income-related employment and support allowance (subsections (2) and (3)) to undertake work-related activity, as part of their progression to work outlined in Professor Gregg's recommendations, as a condition of continuing to receive the full amount of benefit.

The regulations made under this section will make provision for –

- the circumstances in which a person is to be subject to any requirement to undertake such activity;
- notifying a person of such a requirement;
- prescribing the time and amount of work-related activity which a person is required to undertake;
- detailing the circumstances in which a person is, or is not, to be regarded as undertaking such activity;
- determining, in the case of a claimant in a polygamous marriage, which of the partners is required to undertake work-related activity;
- imposing a sanction where a person required to undertake work-related activity has failed, without good cause, to comply with the requirement. The regulations will prescribe which matters are, or are not, to be taken into account when determining good cause for such failure. Where a sanction is imposed, the

regulations will make provision for benefit to be reduced, and prescribe the amount and period of the reduction;

- providing that lone parents entitled to income support can restrict the hours for which they will be required to undertake work-related activity;
- definitions for the purposes of this section and for *new sections 2E and 2F*. In particular ‘work-related activity’ is defined as activity which makes it more likely that the person will obtain or remain in work or be able to do so;
- information supplied under the regulations made under this section to be taken to be information relating to social security. This will enable the exchange of information with, for example, training providers.

New section 2E relates to persons in receipt of certain benefits and to the partners of such people who are required to attend work-focused interviews under the provisions of section 2A or section 2AA of the Social Security Administration (Northern Ireland) Act 1992. The benefits in question are income support, income-based jobseeker’s allowance or an income-related employment and support allowance.

The provision requires the Department or the Department for Employment and Learning, in circumstances to be specified in regulations, to provide such people with an action plan. Regulations made under this section will provide for the form, content and review and updating of action plans. Where a person is required under the provisions of section 2D to undertake work-related activity, the action plan will contain details of the activities which will allow that requirement to be met. The regulations will also allow a person provided with an action plan to ask for it be reconsidered, and set out the circumstances and time in which such a request may be made; the matters to be considered when deciding on reconsideration; notification of the reconsideration decision, and directions giving effect to the decision on reconsideration.

Subsection (6) provides that the well-being of the child should be taken into account when agreeing the activities that a parent will undertake as part of an action plan.

New section 2F allows the Department or the Department for Employment and Learning, in circumstances to be set out in regulations, to issue a direction to a person required to undertake work-related activity under section 2D. The direction will specify either –

- the *only* activity, in that case, which will be regarded as work-related activity, or
- activity which, in that person’s case, will *not* be treated as work-related activity.

The direction may not specify medical or surgical treatment as the only activity which is to be regarded as work-related activity.

The regulations will provide that any direction must be reasonable, taking into account an individual’s circumstances, must be included in an action plan given

under section 2E and may be varied or brought to an end by a subsequent direction made under section 2F(1). Where a direction is varied or ended by a subsequent direction, that change may have retrospective effect.

New section 2G will allow the Department and the Department for Employment and Learning to authorise staff of contracted out suppliers to carry out their functions in issuing action plans under new section 2E and issuing directions under new section 2F. In addition regulations may provide for those persons to carry out the functions of the Department in revising or superseding decisions made under those sections. However, they will not be able to make decisions about whether a person has failed to comply with a requirement to undertake work-related activity, whether that person had good cause for such a failure or whether benefit should be reduced as a result of that failure. Those decisions will remain with the Department.

Regulations made under new section 2G will further specify the extent to which a contractor and its staff may be authorised to carry out functions of the Department or the Department for Employment and Learning and the duration of the authorisation. The Department or the Department for Employment and Learning will be able to revoke the authorisation at any time, and will not be prevented from exercising any function itself. Any action or omission by the authorised person is to be treated as an action or omission of the Department or the Department for Employment and Learning, except where it relates to the exercise of the function, or where criminal proceedings are brought in respect of anything done by the authorised person.

New section 2H applies to any regulations made under sections 2A, 2AA or 2D of the Social Security Administration (Northern Ireland) Act 1992. This provides that circumstances are to be prescribed in regulations which will constitute good cause for failing to undertake mandatory activities. They must expressly state that availability of childcare and the claimant's physical or mental health or condition will always be considered.

Subsections (3) to (6) of section 2 make minor consequential amendments to the Social Security Administration (Northern Ireland) Act 1992 and the Welfare Reform and Pensions (Northern Ireland) Order 1999.