

*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

SCHEDULES

Schedule 1 - Amendments connected to section 4

Part 1

Paragraph 2 amends Article 10 of the Jobseekers (Northern Ireland) Order 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.

Paragraph 3 of Schedule 1 inserts new Articles 13A, 13B and 13C into the Jobseekers (Northern Ireland) Order 1995.

13A: Persons not required to meet the jobseeking conditions

This Article 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. This provision will not apply to lone parents with a child aged under the age of one. The purpose of the interview is to consider a person's existing and future employment and training prospects or needs.

13B: Provision which may be made by regulations under Article 13A

This Article details some of the things which can be specified in regulations made under new Article 13A. 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.

Paragraph (4) allows for the requirement to undertake a work-focused interview to be waived if it is not considered appropriate for the claimant. Under paragraph (6), benefit can still be awarded in this situation.

The meaning of 'relevant benefit' in paragraph (7) currently applies to income support, housing benefit, widows and bereavement benefits, carer's allowance, severe disablement allowance and incapacity benefit.

13C: Action plans in connection with work-focused interviews

This provision requires a person, in prescribed circumstances, to be provided with an action plan. In preparing this the well-being of any child which may be affected by it is to be taken into consideration.

Paragraph 4 of Schedule 1 inserts new Articles 20A and 20B into the Jobseekers (Northern Ireland) Order 1995.

20A: Requirements imposed on claimants by officers of the Departments etc.

This makes provision for jobseeker's directions to require the claimant to take part in any 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.

If the person is notified of a place on a training scheme, he or she can be required to apply for such a place and if offered it 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.

Paragraph (8) of new Article 20A 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.

Claimants who fail to comply with these requirements will incur a sanction.

20B: Work-related activity: Article 3A(4) claimants

This is a regulation-making power which allows for regulations to require those on jobseeker's allowance 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. Lone Parents with a child under the age of 3 will not be required to undertake work-related Activity. 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.

Paragraph (4) provides that lone parents (subject to meeting any prescribed conditions) can restrict the hours they are required to undertake work-related activity. This will enable lone parents to restrict the activities they will undertake to their child's hours of schooling and formal childcare.

Paragraph (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.

Provision is made in paragraph (6) that a person cannot be required to undertake medical or surgical treatment to meet their work-related activity requirement.

Claimants who fail to comply will incur a sanction.

Paragraph 5 of Schedule 1 inserts new Articles 20C and 20D before Article 21 of the Jobseekers (Northern Ireland) Order 1995.

20C: Definitions for purposes of Articles 21 and 22A

Article 20C to the Jobseekers (Northern Ireland) Order 1995 defines the circumstances in which claimants may be sanctioned for failing to satisfy conditionality requirements. Paragraph (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.

Paragraph (3) explains when a claimant will have failed to cooperate with a requirement to attend a training scheme and paragraph (4) explains when a claimant will be in breach of an employment programme requirement.

Paragraph (5) deals with those who have failed to fulfil an employment requirement, and paragraph (6) explains when a claimant will have failed to comply with a work-related activity requirement.

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.

20D: Article 20C: supplemental

Paragraph (2) of this Article states that those who are subject to a jobseeker's direction under Article 18 of the Jobseekers (Northern Ireland) Order 1995 are not regarded as having breached a direction under the requirements in Articles 20A and 20B of that Order. Article 18 allows the Department to provide jobseeker's allowance to 16 to 17 year olds on grounds of hardship, and Article 18(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 Article 19(3)(b) or (c) of the 1995 Order.

Regulations can prescribe circumstances in which a person can be considered not to have left employment voluntarily.

Regulations must provide that those claiming the form of jobseeker's allowance 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.

Paragraphs (7) and (8) of new Article 20C 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.

Paragraph 6 of Schedule 1 substitutes new provisions for Articles 21 and 22 of the Jobseekers (Northern Ireland) Order 1995.

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

New Article 21 of the Jobseekers (Northern Ireland) Order 1995 describes circumstances in which jobseeker's allowance can be disallowed for a 'relevant period' because the claimant has failed to satisfy the requirements under Articles 20A and 20B of that Order 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.

Paragraphs (2) and (3) list the circumstances in which jobseeker's allowance can be disallowed under this Article with respect to claimants who are required to meet the jobseeking conditions and to those claimants who are not so required.

Paragraphs (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. That period must be at least one week and not more than 26 weeks.

Paragraph (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.

22: Exemptions from Article 21

New Article 22 provides for regulations to be made to prescribe possible exemptions from new Article 21.

Paragraph 7 of Schedule 1 replaces Articles 22A and 22B of the Jobseekers (Northern Ireland) Order 1995 with new provisions.

22A: Certain circumstances in which a joint-claim jobseeker's allowance is not payable

New Article 22A prescribes conditions in which a member of a joint-claim couple may be sanctioned for a breach of a requirement under Article 20A of the Jobseekers (Northern Ireland) Order 1995.

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 paragraph (6). Other provisions are similar to those that apply under new Article 21 of the Jobseekers (Northern Ireland) Order 1995.

22B: Exemptions from Article 22A

New Article 22B of the 1995 Order makes exemptions from new Article 22A, in the same manner that new Article 22 makes exemptions from new Article 21.

Paragraphs 8 to 15 (Other amendments) of Schedule 1 amend the Jobseekers (Northern Ireland) Order 1995 so that the new provisions are properly cross-referenced throughout that Order and deal with some consequential matters.

Paragraph 16 of Schedule 1 amends Article 16 of the Jobseekers (Northern Ireland) Order to provide that except in prescribed circumstances 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.

Paragraphs 17 and 18 of Schedule 1 amend Articles 17 and 17A of the Jobseekers (Northern Ireland) Order 1995 to provide that in trade 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 trade dispute.

Paragraph 19 of Schedule 1 inserts new Article 17B into the Jobseekers (Northern Ireland) Order 1995. The provisions will specify that when the person involved in a trade 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.

Paragraphs 20 to 22 of Schedule 1 make further minor amendments to the Jobseekers (Northern Ireland) Order 1995 to take account of the new provision.

Paragraph 23(2) of Schedule 1 inserts provision into the 1995 Order 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. 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, and be subject to full employment and support allowance conditionality, or he or she could claim jobseeker's allowance without the jobseeking conditions. The

regulations will give these groups a choice as to which benefit they would prefer to claim.

Paragraph 23(3) of Schedule 1 is intended to amend an existing provision in Schedule 1 of the Jobseekers (Northern Ireland) Order 1995, which allows people to continue to receive jobseeker's allowance 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.

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.

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.

Part 2

Part 2 makes consequential amendments to other Acts and Orders, including the Social Security Administration (Northern Ireland) Act 1992, the Social Security (Northern Ireland) Order 1998 and the Welfare Reform Act (Northern Ireland) 2007.

Schedule 2 - Abolition of income support: consequential amendments

Schedule 2 makes consequential amendments that are required for the abolition of income support. It amends references to income support in a number of Acts and Orders and where appropriate, inserts a new reference to jobseeker's allowance instead.

Schedule 3 - Loss of benefit provisions: further amendments

Part 1 of Schedule 3 makes further amendments to sections 6 to 10 and 12 of the Social Security Fraud Act (Northern Ireland) 2001. These are related to the amendments made by section 18.

Part 2 of Schedule 3 makes consequential amendments to other statutory provisions.

Paragraph 7 amends the Social Security Administration (Northern Ireland) Act 1992. Paragraph 8 amends the Social Security (Northern Ireland) Order 1998 to ensure that there is a right of appeal against the decision under the new section 5B of the Social Security Fraud Act (Northern Ireland) 2001 that a benefit is to be reduced or withdrawn.

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Schedule 4 – Repeals

This Schedule provides for repeals consequential on the provisions in the Act.