

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

Commentary

Supplementary provisions

Section 2B makes further provision as to how the power in section 2A will be used. It provides that any decision by a personal adviser that a claimant has, without good cause, failed to take part in an interview, may be revised or appealed against – whether the adviser is from the Benefits Agency, the Employment Service or a local authority. It also provides that any personal adviser may actually revise another’s decision.

Subsection (1) enables the decisions and appeals procedures in Chapter II of Part I of the Social Security Act 1998 to apply in relation to any “relevant decisions” taken by personal advisers.

Subsection (2) sets out what these “relevant decisions” are – namely, decisions that someone has failed, without good cause, to take part in an interview required under section 2A.

Subsections (3) and (4) provide that all “relevant decisions” by personal advisers should be treated as having been made by the Secretary of State – even if the personal adviser is not a civil servant. The powers in the Social Security Act to revise or supersede a decision will apply. *Subsection (5)* will enable all personal advisers to revise or supersede a previously-taken “relevant decision”.

Subsection (6) requires regulations to give a right of appeal, under section 12 of the Social Security Act, against any relevant decision.

This is intended to ensure that, in practice, all such decisions, whether made by a representative of the Secretary of State or otherwise, will be treated in the same way, with all appeals going to an independent appeals tribunal.

The subsection ensures that the right of appeal is against the personal adviser’s decision that the claimant had failed to take part in an interview, rather than the decision to stop or reduce benefit. It focuses on the one decision that causes a penalty to be imposed (which may potentially affect a number of benefits).

Subsection (8) extends the definition of “information relating to social security” to include information supplied as part of a work-focused interview (which might, for example, include such subjects as a person’s previous employment record and capacity to work). The intention is to ensure that information gathered about a client’s employability can be passed on to their personal adviser. The extended definition applies to:

section 3 of the Social Security Act 1998 (which allows information relating to social security, child support or war pensions to be exchanged and used for any of those purposes);
and

section 72 of this Act, which provides a framework for the use or supply of the information that underpins a number of social security and employment-related activities, including the ONE service. See the commentary on section 72 for further details.

Section 58: Optional work-focused interviews

Background

This section gives regulation-making powers that will enable new functions to be conferred on local authorities enabling them to undertake a range of work-related activities with claimants. This will allow local authorities to support the introduction of the ONE service into the benefits system (see section 57 above).

Local authorities currently have statutory responsibility for administering Housing Benefit and Council Tax Benefit. Under existing legislation, local authority staff can undertake activities and collect information only where it is relevant to the administration of those particular benefits. Various sections in this Act extend the functions of local authorities to allow them to play a full and active part in the ONE service process: for example, regulations under section 71 will enable local authorities to accept claims and collect information for other benefits. Regulations under section 72 will enable local authorities to use and disclose information about people's employability collected as part of the ONE process.

In addition, regulations under section 57 (which will come into effect in April 2000) will make it a condition of entitlement that claimants of certain benefits (including Housing Benefit and Council Tax Benefit) take part in work-focused interviews – both at the point of claim and at various points afterwards. Section 57 will also allow local authority staff to conduct these *compulsory* work-focused interviews.

However, all ONE service staff, including those working for local authorities, will also need to undertake *voluntary* work-related activities with claimants throughout the duration of the pilots.

The ONE service will be piloted in twelve areas, starting for those making new claims to benefit from the end of June 1999. For those making claims before the powers in section 57 come into force, taking part in this initiative, and having work-focused interviews with a personal adviser, will be voluntary on their part.

Once section 57 does come into effect, claimants will be required to take part in compulsory work-focused interviews in specified circumstances. However, the purpose of these compulsory interviews is to encourage claimants to take further action, including participation in additional, voluntary interviews to improve their job prospects.

Section 58 extends the statutory functions of local authorities to allow them to perform these functions. This will enable local authorities to play a full and active role in the operation of the ONE service, allowing them to provide appropriate support to those making claims to benefit both before and after the start of the compulsory phase in April 2000.

The Act also enables local authorities to be paid for this extra work (Schedule 12, paragraph 80). See the commentary after section 71 for details.