

# WELFARE REFORM ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1: Universal credit

##### *Section 26: Higher-level sanctions*

91. *Section 26* provides for a reduction of the amount of a claimant's award in the event of certain failures. A failure under this section may be sanctionable for up to three years.
92. *Subsection (2)* sets out the failures by those subject to all work-related requirements which may be sanctioned for up to this duration:
  - failing to comply with a work preparation requirement to take part in a prescribed type of work placement, such as Mandatory Work Activity;
  - failing to comply with a work search requirement to apply for a particular vacancy when required to do so;
  - failing to comply with a work availability requirement to take up an offer of paid work; and
  - leaving paid work or reducing pay voluntarily or because of misconduct.
93. *Subsection (3)* allows for a sanction to be applied under this section when a claimant who is in work at a level above a threshold set by regulations under section 19(3) leaves their job or reduces their pay through misconduct or voluntarily, and as a result moves into the group subject to all work-related requirements.
94. *Subsection (4)* allows for a sanction to be applied under this section when a claimant leaves their job or reduces their pay voluntarily and without good reason or as a result of misconduct, or fails to take up an offer of paid work without good reason, if such failures occur before they make a claim for universal credit and when the resulting award is made they fall into the group who may be subject to all work-related requirements.
95. In all cases (except leaving work through misconduct), a claimant will not be sanctioned if they can demonstrate that they had good reason for the failure. Regulations under *paragraph 8 of Schedule 1* may set out the circumstances in which a person is to be treated as having or not having a good reason and the matters which are or are not to be taken into account in determining whether a claimant has good reason.
96. Under *subsection (5)(a)* regulations may prescribe circumstances in which a person is to be treated as not having ceased work or reduced pay voluntarily or because of misconduct. *Subsection (5)(b)* allows for reductions in pay below a prescribed level to be disregarded.
97. Regulations under *subsection (6)(a)* will set out the amount by which a claimant's award will be reduced. *Subsection (6)(b)* allows for regulations to prescribe the duration of a sanction, up to the three year maximum for any single failure.

*These notes refer to the Welfare Reform Act 2012  
(c.5) which received Royal Assent on 8 March 2012*

98. *Subsection (7)* provides that regulations setting the duration of sanctions under this section may in particular allow for it to be decided with reference to any other failures and the period between failures. For example, regulations may provide that second and third failures after a first will result in a longer-lasting reduction if they occur within a particular period of time after the previous one.
99. *Subsection (8)(a)* provides for regulations to prescribe circumstances in which a sanction will not be applied. *Subsection (8)(b)* makes provision for a sanction to be carried over if a person's award ceases during the period of sanction and a new award is made within a prescribed period.
100. Regulations under *subsection (8)(c)* may allow for a sanction to be suspended or terminated in certain circumstances, such as if the work-related requirements that the claimant may be subject to change. Where a sanction is suspended, it may be reinstated in accordance with regulations.
101. To impose a sanction, a decision under section 10 of SSA 1998 will be made to supersede the original award decision so as to reduce the award amount for a particular period. This superseding decision will be appealable under section 12(1)(a) of that Act. Other determinations made before the sanction decision (such as the imposition of work-related or connected requirements, or whether the claimant has good reason for a failure) and which are made under the relevant sections of this Act, are not appealable. This is the case currently in relation to, for example, JSA.
102. The first regulations made under this section will be subject to the affirmative resolution procedure.