

## **WELFARE REFORM ACT 2012**

---

### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

#### **Part 2: Working-age benefits**

#### ***Section 57: Claimant responsibilities for employment and support allowance***

295. *Section 57* makes equivalent amendments to WRA 2007 as section 49 does to the JA 1995. As with the changes to JSA, these will be introduced in respect of any claimant once ESA is only available to them as a contributory benefit as a result of universal credit coming into force.
296. *Subsection (2)* inserts new sections which replace sections 11 to 16 of WRA 2007. In general these new sections mirror the provisions for universal credit claimants who are assessed as having limited capability for work or limited capability for work-related activity. No ESA claimant will be required to look for or be available for work so the new sections do not include a work search or work availability requirement. As a result the higher level sanctions which apply under universal credit (set out in section 26), do not apply to ESA.
297. *Sections 11B and 11C* set out the work-related requirements which may be imposed on a claimant: a work-focused interview requirement or a work preparation requirement. These mirror the equivalent provisions in universal credit.
298. *Sections 11D, 11E and 11F* explain what requirements may be imposed on different groups of ESA claimants. *Section 11D* provides that the Secretary of State may not impose either requirement on any person with limited capability for work and limited capability for work-related activity, lone parents with a child under one and any other group prescribed in regulations. The first regulations made under new section 11D(2) (d) will be subject to the affirmative resolution procedure. *Section 11E* provides that lone parents with a child who is at least one but below a prescribed age which may not be less than three can only be subject to a work-focused interview requirement, as well as any other prescribed categories of people. Under *section 11F* the Secretary of State may impose a work preparation requirement and a work-focused interview requirement on any person who does not fall into section 11D or 11E. In effect this will be claimants who have limited capability for work (but not those with limited capability for work-related activity).
299. Work-related requirements may be recorded in the claimant commitment under *section 11A*. *Section 11G* provides for other requirements which can be placed on claimants in connection to the work-related requirements, which include requiring claimants to participate in an interview with an adviser or providing evidence that they are meeting their work-related requirements. These provisions are the same as those which relate to universal credit in sections 14 and 23.
300. *Section 11J*, which mirrors section 27, provides for a claimant's award to be sanctioned if they fail without good reason to meet the requirements placed upon them. Claimants receiving ESA may be subject to a sanction for an open-ended period until a compliance

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

condition is met, for a fixed period of up to 26 weeks or a combination of both. The first regulations made under this new section will be subject to the affirmative resolution procedure.

301. *Section 11K* allows for functions relating to the imposition of work-related and connected requirements to be contracted out. Section 11K replicates section 29 which allows for contracting out in relation to universal credit.
302. *Subsection (3)* of section 57 amends the piloting provision in WRA 2007 to the effect that the purpose of a pilot scheme must be to test whether the provision being piloted is likely to promote people increasing their hours or finding better-paid work, as well as remaining in or obtaining work, or being able to do so. This mirrors the purpose of pilot schemes in relation to universal credit, set out in section 30.
303. *Subsection (7)* inserts a *new paragraph 10* into Schedule 2 of WRA 2007 which makes provision for regulations to set out the circumstances in which there is or is not be good reason and the factors which must or must not be considered when determining whether or not a person had good reason for a particular act or omission. This replaces similar provisions in WRA 2007 but changes references to good cause to good reason to be consistent with universal credit provisions.