

**EXPLANATORY MEMORANDUM TO
THE WELFARE REFORM ACT 2009 (SECTION 26) (CONSEQUENTIAL
AMENDMENTS) REGULATIONS 2010**

2010 No. 424

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

These regulations remove obsolete references in the relevant legislation, resulting from the decision to bring to an end the pilots, where a benefit sanction was applied to individuals who were in breach of their community order. The pilots are due to come to an end on 22 March 2010. The pilots were jointly run by the Department for Work and Pensions (DWP) and Ministry of Justice (MOJ) in four probation areas: Derbyshire, Hertfordshire, Teesside and West Midlands.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Context**

4.1 These regulations remove obsolete references in the relevant legislation. The 'withdrawal of benefits for breach of a community order' pilots were introduced in 2001, under powers contained in the Child Support, Pensions and Social Security Act 2000. These powers will be repealed on 22 March 2010, with the commencement of the relevant section in the Welfare Reform Act 2009. We therefore need to ensure the legislation is updated to reflect this change.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of Great Britain.

5.2 This instrument applies to those persons to whom relevant community orders are made and who fall to be supervised in the probation areas of Derbyshire, Hertfordshire, Teesside and West Midlands.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The “Withdrawal of Benefits for Breach of Community Order” pilots have been running since October 2001. The objective of the pilots was to link the receipt of benefit to the fulfilment of responsibilities to society, thereby encouraging greater compliance with community sentences. Those failing to comply had benefit entitlement sanctioned for four weeks. Initial evaluation research showed a modest improvement in compliance by sanctioned offenders, directly attributable to the impact of the policy.

However in measuring the overall cost effectiveness of the continuation, it does not provide sufficient value for money. In addition new measures introduced since the introduction of the pilots have proved to be more effective in holding offenders to account for non compliance of community schemes. In particular the Criminal Justice Act 2003, introduced measures to strengthen compliance and enforcement. This includes the power to amend the order and make it more demanding or by revoking it altogether and dealing with the offence afresh, which includes the power to send the offender to prison for up to 51 weeks.

In light of these findings, it was agreed to end the “Withdrawal of Benefits for Breach of Community Order” pilots which have been running in four probation areas (Derbyshire, Hertfordshire, Teesside and West Midlands). A written ministerial statement was made on 27th February 2009, announcing the intention to end the pilots:

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090227/wmstext/90227m0001.htm#09022739000014> .

The closure of the pilots will simplify public administration in the four probation areas involved and has no impact upon other areas. These regulations remove references to the pilots in the relevant legislation.

Consolidation

7.2 It is not intended to consolidate the regulations. Informal consolidation will be included, in due course, in the Department’s “the Law Relating to Social Security” (the Blue Volumes) which are available online via the DWP website. It is accessible to the public free of charge and can be accessed through the following link <http://www.dwp.gov.uk/advisers>

8. Consultation outcome

8.1 Ministers decided to end the pilots last year, and announced this on the 27 February 2009, by way of a written ministerial statement. As this legislation simply allows us to end the pilots, and a decision has already been made to do so, formal public consultation is not appropriate.

8.2 In addition, the Social Security Advisory Committee was made aware of the intention to end the pilots prior to the announcement and were supportive of the decision.

9. Guidance

Guidance on the changes made by these regulations will be provided to decision-makers within Jobcentre Plus and the National Offender Management Service as soon as possible. Those individuals who have a sanction applied to them will be made aware of the increase to their benefit.

10. Impact

10.1 There is no impact on business, charities and voluntary bodies.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has therefore not been produced for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The pilots will come to an end on 22 March 2010. Therefore, there are no plans to perform any further monitoring.

13. Contact

Ismay MacDonald at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 0114 267 7225 or email: Ismay.MacDonald@dwp.gsi.gov.uk