

EXPLANATORY MEMORANDUM TO

THE JOBSEEKER'S ALLOWANCE (HOMELESS CLAIMANTS) AMENDMENT REGULATIONS 2014

2014 No. 1623

1. This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1. This instrument amends the Jobseeker's Allowance Regulations 1996/207 (the 1996 Regulations) to enable claimants who have recently become homeless to be treated as available and actively seeking work for a temporary period, subject to the claimant taking reasonable steps to find living accommodation.
 - 2.2. The amendments come into force on 21 July 2014.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None.
4. **Legislative Context**
 - 4.1. In order to be entitled to a Jobseeker's Allowance, section 1(2) of the Jobseekers Act 1995 provides that claimants must (amongst other things) be 'available for' and 'actively seeking employment' - known as the 'jobseeking conditions'.
 - 4.2. 'Available for employment' generally means that the claimant will be able immediately to take up work for at least 40 hours per week. To be 'actively seeking employment', a claimant must take such steps as are reasonable in order to give them the best prospects of securing employment.
 - 4.3. Regulation 14(2)(b) of the 1996 Regulations allows an individual affected by a domestic emergency to be treated as available for employment in order to deal with the emergency, to a maximum of one week per emergency, and with a total of four such emergencies permitted in a year.
 - 4.4. Where a claimant has been treated as available under these circumstances for at least 3 days in any week, regulation 19(1)(o) of the 1996 Regulations allows the claimant to be treated as actively seeking employment in that week.
 - 4.5. The amendments apply only to claimants who have recently become homeless and who, as a result, suffer a domestic emergency. Provided that these claimants take reasonable steps to find living accommodation, they can be treated as available and actively seeking work for periods of longer than one week and on more than four occasions in any twelve month period.

5. Territorial Extent and Application

This instrument applies to Great Britain.

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. Homeless claimants are likely to face difficulties when attempting to satisfy the jobseeking conditions (see paragraph 4.1). For example, they may find it difficult to contact, or be contacted by prospective employers and they may also have to spend a significant proportion of their time looking for somewhere to live.
- 7.2. Although there are various restrictions a claimant may place on their availability, generally speaking, recently homeless claimants must be available to take up employment immediately. They must also be ‘actively seeking employment’.
- 7.3. When setting the Jobseeker’s Agreement, Work Coaches must consider how the claimant’s homelessness affects their ability to actively seek employment. Work Coaches would look at what steps it is reasonable for the claimant to take to seek employment in any week, having regard to their domestic situation. Generally, recently homeless claimants must take more than two steps unless one or two steps are all that is reasonable.
- 7.4. Despite these considerations, two research reports¹² and the Work and Pensions Select Committee³ illustrate that the domestic circumstances of homeless claimants may prevent them from complying with the steps to seek employment set out in their Jobseeker’s Agreement. The more chaotic a claimant’s circumstances – for example rough-sleeping – the more likely it is that the claimant would fail to satisfy the jobseeking conditions and therefore lose entitlement. Following publication of these reports we considered what more could be done to address the challenging circumstances faced by some homeless claimants.
- 7.5. Following our discussions with stakeholders from the homelessness and voluntary community we concluded that the existing domestic emergency provisions (detailed at 4.3) do not allow sufficient time for the claimant to address their homelessness situation. We also concluded that because homeless

¹ “A high cost to pay: the impact of benefit sanctions on homeless people”
http://homeless.org.uk/sites/default/files/site-downloads/A%20High%20Cost%20to%20Pay%20Sept13_0.pdf

² “The Programme’s Not Working” <http://homeless.org.uk/sites/default/files/attached-downloads/The%20Programme's%20Not%20Working.pdf>

³ Work and Pensions Committee - The role of Jobcentre Plus in the reformed welfare system
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmworpen/479/47902.htm>

individuals often lead very chaotic lives, a limit of four emergencies per year should not be placed on these individuals.

- 7.6. Consequently, the Regulations allow for claimants to be treated as available and actively seeking work for periods of longer than one week and on more than four occasions and gives Work Coaches the scope to allow recently homeless claimants to focus for a temporary period on finding accommodation.

Target Group

- 7.7. We are seeking to support claimants who are recently homeless. The regulations do not specify the timescales associated with “recently” as we intend leaving this to the discretion of Work Coaches based on the circumstances of the individual. However as JSA claimants are required to declare changes in circumstances and to attend Jobcentres, usually on a fortnightly basis, we would expect that in most situations “recently” will mean that the person has become homeless since their last attendance at a Jobcentre. We will make this clear in DWP Guidance.
- 7.8. The decision to target this measure at the recently homeless rather than longer-term homeless is because we believe the ‘recently homeless’ group is more likely to benefit from a temporary easement in conditionality requirements. This view was shared by stakeholders from the homelessness and voluntary community with whom we discussed this proposal. This will allow these claimants time to resolve their accommodation issues sufficiently to enable them to focus on job-search activities. Our aim is to prevent individuals becoming entrenched in a homelessness lifestyle and aligns with interventions such as No Second Night Out which targets new rough-sleepers and aims to help them off the streets as quickly as possible¹.
- 7.9. The principal intention is that Work Coaches consider this easement for two specific groups of recently homeless individuals: rough sleepers and those in direct access hostels².
- 7.10. Claimants in these groups are unlikely to have ready access to essentials such as washing facilities; a clean change of clothes; a reliable means of communication e.g. postal address/telephone/email account. This makes it unlikely that such claimants could obtain or sustain work due to their personal presentation; or respond immediately to an offer of an interview or work.
- 7.11. However, the regulations are not confined to these two groups as we want Work Coaches to have the discretion to consider individual circumstances on a case-by-case basis.

Duration and frequency for the application of the easement

¹ The No Second Night Out initiative was launched in London in April 2011 as a pilot project aimed at ensuring that first time rough-sleepers need not spend a second night on the streets. The Ministerial Working Group on preventing and tackling homelessness published a report “Making every contact count” (2012) which challenged local authorities to introduce NSNO (or a local alternative). All English local authorities committed to launching local versions by the end of 2013

- 7.12. The JSA (Homeless Claimants) Amendment Regulations dis-apply the periods set out in the domestic emergency provisions which restrict the application of an easement to a maximum of a week on each occasion and to no more than four occasions over a twelve month period.
- 7.13. This means that Work Coaches may decide whether a claimant's homelessness constitutes a "domestic emergency" and the length of time that the emergency situation may continue, (though the courts and tribunals may over time produce case law on these matters).
- 7.14. The proposed amendments will not operate to allow claimants to be treated as available and actively seeking work for an indefinite period. As the amendments operate with the existing domestic emergency provisions, the proposed Regulations will apply for such time as the emergency created by the claimant becoming homeless exists. Emergencies are naturally of a limited duration and thus the application of the proposed provisions will have a finite lifespan.
- 7.15. To provide Work Coaches with a framework to support their decision-making, it will be made clear in guidance that the suspension of the availability and actively seeking requirements must be for a temporary period and only whilst warranted by the claimant's circumstances.

Requirement to take reasonable steps to find living accommodation

- 7.16. The application of the easement is conditional upon the claimant taking steps to find living accommodation. We do not believe this imposes an additional benefit requirement on vulnerable claimants. It is reasonable to expect a claimant to seek living accommodation when they have been granted a conditionality easement because of their homelessness.
- 7.17. What steps are reasonable will depend on each claimant's circumstances and capabilities and will be determined on a case-by-case basis.
- 7.18. 'Living accommodation' isn't defined in the Regulations and will be left to adviser discretion to determine. Homeless claimants may have access to some form of sleeping accommodation for example a friend's sofa, or to accommodation that is not intended for that purpose, for example a car, or accommodation where they cannot stay during the day. We use the term living accommodation to refer to accommodation intended for that purpose with the resident having 24 hour access to the premise

Consolidation

7.19. Informal consolidated text of instruments will be available to the public free of charge via “The Law Relating to Social Security” (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk . An explanation as to which instruments are maintained on each site is available [here](#).

8. Consultation outcome

- 8.1. We have not conducted a formal public consultation on this proposal. We have though consulted informally with stakeholders from the homelessness voluntary and community sector¹ and they are supportive of the principle of allowing homeless people to focus on finding accommodation as a preliminary to conducting jobsearch activities.
- 8.2. In addition to the two specified groups² stakeholders also proposed those in bed and breakfast accommodation should also be specifically considered for the easement. We considered this at length but concluded that as those living in this type of temporary accommodation had access to essentials such as food, clean clothing, and a means of contact (to receive notification of job interviews or work offers) their lifestyle was less chaotic and as such should not specifically be included as part of the target group. The stakeholder group accepted the rationale for that decision.
- 8.3. The draft regulations were referred to the Social Security Advisory Committee, which after careful consideration, decided that the proposals for regulations could proceed without the need for formal reference. However, the Committee did ask for the draft guidance to be shared more widely with front line staff and others outside of the DWP. As a result front line staff and Homeless Link were asked to comment on later iterations of the guidance. A working draft of the guidance was also shared with the Committee.

¹ Organisations we consulted included: Homeless Link, the principal representative body for 500+ homelessness support agencies in England; Crisis, who have a high profile in the homelessness sector as both a deliverer of services to homeless people and as lobbying organisation; and St Mungo's Broadway, who manage more than 100 housing, health and employment projects across London and the south.

² Rough sleepers and those in direct access hostels

9. Guidance

- 9.1. Guidance has been produced for DWP Work Coaches and will be our principal mechanism for ensuring that the conditionality easement is applied consistently and fairly in line with policy intent.
- 9.2. Whilst DWP Operational guidance is only published internally the Decision Makers Guide is available [here](#)

10. Impact

- 10.1. The instrument has no impact on businesses and civil society organisations.
- 10.2. The instrument has no impact on the public sector.
- 10.3. An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1. The legislation does not apply to small business.

12. Monitoring & review

- 12.1. The guidance for Work Coaches is the principal means of ensuring that the easement is applied consistently and fairly and will be subject to regular review.
- 12.2. As we anticipate that only a relatively small number of claimants will be treated as available and actively seeking work at any one time we do not plan to conduct any formal evaluation. However, we will use qualitative research and feedback from stakeholders within the homelessness and voluntary community to assess whether there are any unintended consequences for the protected groups, and whether the policy is likely to result in adverse consequences for particular groups.
- 12.3. We will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of complaints in order to assess the broader impact of the policy.

13. Contact

Diane Taylor at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 0114 2934836 or email: DIANE.TAYLOR@DWP.GSI.GOV.UK