

## WELFARE REFORM ACT 2012

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### EXPLANATORY NOTES

#### COMMENTARY ON SECTIONS

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

#### *Section 46: Sanctions*

228. *Section 46(1)* inserts new sections 19, 19A and 19B into the JA 1995, to replace current sanctions provisions, and provide for a new sanctions system which may be applied to claimants or joint claimants of JSA in the event that they fail to meet requirements. It also inserts new section 19C which enables regulations to be made providing for hardship payments to be payable where JSA is reduced under sections 19 to 19B.
229. These changes will take effect until income-based JSA is superseded by universal credit.
230. New *section 19* of JA 1995 provides for a claimant's award of jobseeker's allowance or joint-claim jobseeker's allowance to be reduced for up to three years in respect of any one failure where they have failed to meet the most important requirements placed upon them.
231. The failures which may be sanctioned for up to this duration are:
- losing a job through misconduct or leaving voluntarily;
  - refusing or failing to apply for or accept a job of which an employment officer has informed the claimant;
  - neglecting to avail themselves of a reasonable opportunity of employment, (for example, people who do not take an opportunity to return to work after being temporarily laid off); and
  - failing to participate in prescribed schemes to assist them to obtain employment under section 17A(1) of JA 1995, inserted by section 1 of WRA 2009.
232. In all cases except losing a job through misconduct, a claimant will not be sanctioned if they can demonstrate good reason for the failure. A person will be treated as not having left work voluntarily in prescribed circumstances, which will include cases where the person has accepted voluntary redundancy.
233. The amount by which a claimant's award may be reduced, and the duration of any reduction will be specified in regulations under *subsection (4)* of the new section 19. A reduction for any single failure under this section may not last for longer than three years. The duration of a reduction may be determined by reference to previous failures within a prescribed period under *subsection (5)*. For example, regulations may provide that second and third failures will result in a longer-lasting reduction if they occur within a particular period of time after the previous failure.
234. Regulations under *subsection (6)* may set out circumstances in which a claimant's benefit will not be reduced despite a sanctionable failure, and may allow for a sanction

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to be transferred to a new award of jobseeker's allowance if a claimant's award is terminated.

235. *Subsection (7)* makes provision for cases where joint-claim jobseeker's allowance is to be reduced under subsection (1), enabling a reduced amount of JSA to be paid to the other member of the couple where one member of the couple has been sanctioned for a failure.
236. New *section 19A* allows for a claimant's or joint-claimants' award to be reduced in the event that they fail to meet other requirements.
237. Failures which may be sanctionable under this provision are:
- failing to attend an interview or to provide information or evidence relating to the claimant's circumstances, availability for work and efforts to find work under section 8(1) or (1A) of JA 1995;
  - failing to participate in schemes to assist them to obtain employment under section 17A, other than any schemes prescribed under the new section 19;
  - refusing or failing to comply with a reasonable jobseeker's direction;
  - neglecting to avail themselves of a reasonable opportunity to take part in a training scheme or employment programme;
  - refusing or failing to apply for or accept a place on such a scheme which has been notified to him by an employment officer; or
  - giving up a place or failing to attend a training scheme or employment programme, or losing a place through misconduct.
238. As with requirements under the new section 19, a sanction will not be applied if the claimant can demonstrate good reason for the failure (except in cases where the claimant loses a place on a training scheme or employment programme through misconduct). Any requirement which is sanctionable under section 19 cannot also be sanctioned under this section.
239. The amount of any reduction will be set out in regulations, along with the period for which a reduction is to apply. A sanction may be applied for an open-ended period until a claimant meets a particular compliance condition, for a fixed period up to a maximum of 26 weeks, or a combination of the two. The compliance condition may be to meet the original requirement; or relate to future compliance with a jobseeker's direction or any requirement under section 8(1),(1A) or 17(A); or relate to future avoidance of a failure which would be sanctionable under sections 19A(2)(d) to (g). For example, a person may be required to attend a training course and ensure that they do not give up their place or lose it as a result of their behaviour. This condition may be revoked or varied, and will be notified to the claimant in such manner as the Secretary of State may determine.
240. Under *subsection (8)* of section 19A the duration of a fixed period sanction may be determined by reference to previous failures under this section and the period between these failures. It is envisaged that second and third failures will result in a longer-lasting reduction, up to a maximum of 26 weeks for a single failure, if they occur within a particular period after the previous failure.
241. *Subsection (9)* makes equivalent provision to that in section 19(6) so that regulations may provide for a reduction not to be applied despite a sanctionable failure, and for a reduction period to apply to a new award of JSA made within a prescribed period, if the original award is terminated for any reason.
242. *Subsection (10)* makes equivalent provision to that in section 19(7) relating to sanctions applied to joint-claim couples.

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243. The new *section 19B* allows for regulations to specify circumstances in which a claimant or joint claimant's award is to be reduced if, under a previous award as a single person or part of a joint-claim couple, they were disentitled for failing to comply with the jobseeking conditions to be available for and actively seeking employment.
244. The amount and period of a sanction will be set out in regulations. A reduction under this section cannot continue for longer than 13 weeks from the day on which the claimant's previous entitlement ceased.
245. Under *subsection (6)* of section 19B the duration of a fixed period sanction may be determined by reference to previous failures under this section and the period between these failures. It is envisaged that second failures will result in a longer-lasting reduction.
246. *Subsection (7)* makes provision for a reduction period to apply to a new award of JSA made within a prescribed period, where the original award was terminated.
247. New *section 19C* enables regulations to make provision for payments of JSA to be made in cases where a claimant or joint-claimant's award has been reduced under sections 19 to 19B and they can demonstrate that they are, or will be, in hardship. As with the universal credit provisions in section 28, regulations may provide for circumstances in which such payments will be recoverable. This replaces the current provisions for payment of hardship payments in circumstances where a person is subject to a sanction under the JA 1995.
248. *Subsection (2)* amends section 37 of JA 1995 to provide that the first regulations made under sections 19 to 19C will be subject to the affirmative resolution procedure.
249. *Subsection (3)* of the section inserts a new *paragraph 14AA* into Schedule 1 of JA 1995 to provide for regulations to prescribe factors to be considered when determining whether or not a person had good reason for a particular act or omission. This replaces current provisions in the JA 1995 and changes references to good cause to good reason to align with the rules for the universal credit. Regulations may also prescribe circumstances in which a person is to be treated as having or not having good reason.
250. *Subsection (4)* repeals provisions in Schedule 3 of SSA 1998. Schedule 3 lists decisions against which an appeal lies and includes decisions to impose a sanction pursuant to section 19 or 17A JA 1995. Sanctions imposed under the new provisions will still be appealable under section 12(1)(a) of SSA 1998.