Draft Regulations laid before Parliament under section 8(3) of the Welfare Reform Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

SOCIAL SECURITY

The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014

Made - - - - 2014

Coming into force in accordance with regulation 1(1)

In accordance with section 8(3) of the Welfare Reform Act 2009(**1**) a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 2A(1), (3), (6) and (8), 2D(1), (4)(a), (b), (d), (f) and (h), and (5) to (9)(c), 2E(3)(a) and (b), (4), and (5)(a) and (d), 2G(2)(a) and (4), 2H, 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(**2**) ("the 1992 Act"), sections 9(1), 10(3) and (6) and 84 of the Social Security Act 1998(**3**), sections 11E(1)(a), 13(2)(a), 24(1) and 25(2) and (3) of the Welfare Reform Act 2007(**4**) and sections 20(1)(a), 21(1)(b) and (5), 40 and 42(2) and (3) of the Welfare Reform Act 2012(**5**).

In accordance with section 172(1) of the 1992 Act the Secretary of State has referred the proposals for these Regulations to the Social Security Advisory Committee.

(**1**) 2009 c.24 ("the 2009 Act"). Section 8 is repealed by Part 5 of Schedule 14 to the Welfare Reform Act 2012 (c.5) ("the 2012 Act") and article 7(1)(f) of S.I.2013/983 but by virtue of that article, remains in force until certain other provisions come into force.

(**2**) 1992 c. 5. Section 2A is inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by sections 3 and 35 of, and Schedule 7 to, the 2009 Act and paragraphs 44 and 45 of Schedule 1 to the Education and Skills Act 2008 (c. 25). Section 2D is inserted by section 2(2) of the 2009 Act and amended by paragraph 5 of Schedule 1 to the Pensions Act 2011 (c. 19). Sections 2E and 2G are inserted by section 2(2) of the 2009 Act. Section 2H was inserted by section 2 of the 2009 Act. Section 189 (1) of the 1992 Act was amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 189(5A) and (5B) were inserted by section 104(1) of the 2012 Act. Section 2D(9)(c) and section 191 is an interpretation provision and is cited for the meaning it gives to "prescribed"

(**3**) 1998 c. 14. Section 84 is an interpretation provision and is cited for the meaning it gives to "prescribe".

(**4**) 2007 c. 5. Section 11E is inserted by section 57(2) of the 2012 Act. Section 24(1) is cited for the meaning it gives to "prescribed" and "regulations".

(**5**) 2012 c. 5. Section 40 is an interpretation provision and is cited for the meaning it gives to "prescribed".

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 and come into force on the day after the day on which they are made.

(2) In these Regulations—

"action plan" means an action plan given in accordance with regulation 3;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**6**).

PART 2

Work-Related Activity

Requirement to undertake work-related activity

2.—(1) The Secretary of State may require a person who satisfies the conditions in paragraph (2) to undertake work-related activity(**7**) as a condition of continuing to be entitled to the full amount of income support payable apart from these Regulations.

(2) The conditions referred to in paragraph (1) are that the person—

(a) is entitled to income support;

(b) is subject to a requirement imposed under section 2A of the Social Security Administration Act 1992;

(c) is not a lone parent(**8**) of a child under the age of 3; and

(d) falls within paragraph 1(1) of Schedule 1B to the Income Support (General) Regulations 1987(**9**) and no other paragraph within that Schedule.

(3) A requirement imposed under paragraph (1)—

(a) must be reasonable in the view of the Secretary of State, having regard to the person's circumstances; and

(b) may not require the person to apply for a job or undertake work, whether as an employee or otherwise.

Notification of work-related activity

3.—(1) The Secretary of State must notify a person of a requirement to undertake work-related activity by including the requirement in a written action plan which is given to the person.

(2) The action plan must contain—

(a) particulars of the work-related activity which the person is to undertake; and

(b) any other information that the Secretary of State considers appropriate.

(**6**) 1971 c. 80.
(**7**) 'work-related activity' has the meaning given in section 2D(9)(d) of the 1992 Act.
(**8**) 'lone parent' has the meaning given in section 2D(9)(b) of the 1992 Act.
(**9**) S.I. 1987/1967; relevant amending instrument S.I. 2012/874.

Requirement to undertake work-related activity at a certain time not to apply

4. The Secretary of State may determine that a requirement as to the time at, or by, which work-related activity is to be undertaken is not to apply, or is to be treated as not having applied, if in the view of the Secretary of State it would be, or would have been, unreasonable to require the person to undertake the activity at or by that time.

Reconsideration of action plans

5.—(1) A person may request the reconsideration of an action plan.

(2) On receipt of a request the Secretary of State must reconsider the action plan.

(3) A decision of the Secretary of State following a request must be in writing and given to the person.

Failure to undertake work-related activity

6.—(1) A person who is required to undertake work-related activity but fails to do so must show good cause for the failure before the end of five working days beginning with the date on which the Secretary of State gives notice to the person of the failure.

(2) The Secretary of State must determine whether a person who is required to undertake work-related activity has failed to do so and, if so, whether the person has shown good cause for the failure.

(3) In a case where within one month of the date on which the Secretary of State gave notice to a person of their failure to undertake work-related activity—

(a) the person brings new facts to the attention of the Secretary of State which could not reasonably have been brought to the attention of the Secretary of State within the period specified in paragraph (1); and

(b) those facts show that the person had good cause for failing to undertake work-related activity,

paragraph (1) applies with the modification that for the words "five working days" there is substituted "one month".

(4) Where a notice under paragraph (1) is sent by post it is taken to have been received on the second working day after it is sent.

Good cause

7. Matters to be taken into account by the Secretary of State in determining whether a person has shown good cause for failing to undertake work-related activity for the purposes of regulation 6(2) include that—

(a) the person misunderstood the requirement to undertake work-related activity due to any learning, language or literacy difficulties of the person or any misleading information given to the person by the Secretary of State;

(b) the person was attending a medical or dental appointment, or accompanying someone for whom they have caring responsibilities to such an appointment, and that it would have been unreasonable, in the circumstances, for the person to undertake work-related activity;

(c) the person had difficulties with their normal mode of transport and that no reasonable alternative was available;

(d) the established customs and practices of the religion to which the person belongs prevented the person undertaking work-related activity on that day or at that time;

(e) the person was attending an interview with an employer with a view to obtaining employment;

(f) the person was pursuing employment opportunities as a self-employed earner;

(g) the person, a dependant of the person or someone for whom the person provides care suffered an accident, sudden illness or relapse of a physical or mental health condition;

(h) the person was attending the funeral of a close friend or relative on the day fixed for the work-related activity;

(i) a disability from which the person suffers made it impracticable to attend at the time fixed for the work-related activity;

(j) the availability of childcare.

Reduction of income support

8.—(1) Subject to paragraph (4), where the Secretary of State has determined that a person who was required to undertake work-related activity has failed to do so and has not shown good cause for that failure in accordance with regulation 6 (failure to undertake work-related activity) the amount of income support payable to the person is to be reduced in accordance with paragraph (2).

(2) Subject to paragraphs (3) and (4), the amount of the reduction of income support in relation to each failure is 20 per cent. of the amount applicable in respect of a single claimant for income support aged not less than 25 as prescribed in paragraph 1(1)(e) of Schedule 2 to the Income Support (General) Regulations 1987(**10**).

(3) In any benefit week, the amount of income support payable to a person is not, by virtue of paragraph (1), to be reduced below 10 pence.

(4) The amount of income support payable to a person is not to be reduced in accordance with paragraph (1) if that amount —

(a) is, at the time a determination falls to be made in respect of the current failure, being paid at a reduced rate in accordance with paragraphs (1) and (2), regulations 7(3)(b) and 8 of the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000(**11**) or regulation 12(2)(c) of the Social Security (Jobcentre Plus Interviews) Regulations 2002(**12**); and

(b) was last reduced not more than two weeks before the date of the current failure.

(5) In this regulation—

"benefit week" means any period of seven days corresponding to the week in respect of which income support is due to be paid;

"current failure" means a failure which, in relation to a person, may lead to a reduction in income support under paragraph (1) in relation to which the Secretary of State has not yet determined whether the amount of income support payable to the person is to be reduced in accordance with those paragraphs.

Circumstances where reduction under regulation 8(1) and (2) ceases to have effect

9.—(1) The reduction in income support set out in regulation 8(1) in respect of a failure to undertake work-related activity ceases to have effect in respect of a person from whichever is the earlier of—

(**10**) The relevant amending instruments are S.I. 1990/1168, 1996/206, 2007/719 and 2013/574.
(**11**) S.I. 2000/1926; relevant amending instrument is S.I. 2011/2428.
(**12**) S.I. 2002/1703; relevant amending instruments are S.I. 2005/2727, S.I. 2011/2425 and S.I. 2011/2428.

(a) the date on which the person is no longer required to take part in a work-related activity as a condition of continuing to be entitled to the full amount of benefit which is payable apart from these Regulations; or

(b) the first day of the benefit week in which the person satisfies a compliance condition.

(2) In paragraph (1)(b), "compliance condition" means a requirement to—

(a) undertake work-related activity; or

(b) take part in a work-focused interview.

Restrictions on availability

10.—(1) Subject to paragraph (2), a person to whom regulation 2 applies may restrict the times at which they are required to undertake work-related activity.

(2) A person may not restrict the times at which they are required to undertake work-related activity by virtue of paragraph (1) to exclude—

(a) their child's normal school hours; or

(b) any period during which the person entrusts temporary supervision of their child to a person over the age of 18, not including any form of health care for the child.

Contracting out

11.—(1) Any function of the Secretary of State under this Part specified in paragraph (2) may be exercised by, or by employees of, such person (if any) as the Secretary of State may authorise for that purpose.

(2) The functions are any function under—

(a) regulation 2 (requirement to undertake work-related activity);

(b) regulation 3 (notification of work-related activity);

(c) regulation 4 (requirement to undertake work-related activity at a certain time not to apply);

(d) regulation 5 (reconsideration of action plans).

PART 3

Miscellaneous Amendments

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

12.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(**13**) are amended as follows.

(2) In regulation 1(3) (citation, commencement, application and interpretation) in the appropriate place insert the following definition—

""Income Support Work-Related Activity Regulations" means the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014;".

(3) After regulation 3(7CC) (revision of decisions) insert—

"(7CD) A decision of the Secretary of State under section 10 of the Act made in consequence of a determination under regulation 6(2) of the Income Support Work-Related

(**13**) S.I. 1999/991 to which there are amendments not relevant to these Regulations