EXPLANATORY MEMORANDUM TO

THE INCOME SUPPORT (WORK-RELATED ACTIVITY) AND MISCELLANEOUS AMENDMENTS REGULATIONS 2014

2014 No.

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

2.1 When Income Support (IS) is claimed solely on the basis of being a lone parent then the frequency and duration of work-focused interviews (WFI) for lone parents with a youngest child aged 1 – 4 can be determined by an adviser[1]. Advisers can no longer waive the requirement for lone parents to attend an IS work-focused interview. A safeguard against more than one sanction being applied to IS in any 2 week period is also introduced.

2.2 Advisers can require lone parents with a youngest child aged 3 or 4 to undertake mandatory work-related activity (WRA) if they are awarded Income Support (IS) solely on the basis of being a lone parent or Employment and Support Allowance (ESA) and are in the Work-related Activity Group (WRAG). Changes are also made for lone parents and nominated carers with a youngest child age 3 or 4 who are awarded Universal Credit (UC) or new-style ESA[2]. They can currently be required to attend a WFI. These Regulations allow them to be required to prepare for work too.

2.3 The regulations come into force on **28th April 2014** for new claimants and will be introduced for existing claimants at the next scheduled interview after that date.

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

None.

4 Legislative Context

4.1 The Government announced in the Spending Review 2013[3] its intention to strengthen conditionality for lone parents with a youngest child aged 3 or 4 to increase the support they receive to help them prepare for the time when they can return to work. For claimants entitled to Universal Credit this change will apply to lone parents and the nominated responsible carer in a couple with a youngest child aged 3 or 4.

4.2 In order to make the changes announced in the Spending Review we are amending the Social Security Regulations for Jobcentre Plus interviews[4] so that rather than being at fixed points during

[1] An officer acting on behalf of the Secretary of State
[2] New –style ESA means contributory ESA under the Employment and Support Allowance Regulations 2013 (No.379).
[3] https://www.gov.uk/government/topical-events/spending-round-2013
[4] http://www.dwp.gov.uk/docs/a1-8501.pdf and http://www.dwp.gov.uk/docs/a1-6283.pdf

the life of a claim the frequency of work-focused interviews (WFIs) for lone parents that are entitled to Income Support (IS) would be determined by an employment adviser as part of providing lone parents with an individually tailored package of support. This change to WFIs does not apply to those parents with a child under 1.

4.3 The Welfare Reform Act 2007[5] is being used to require old style Employment and Support Allowance (ESA) and IS claimants to undertake work-related activity (WRA) if their youngest child is aged 3 or 4. We are amending ESA Regulations[6] so those parents in scope of the change can be required to undertake WRA if their youngest child is aged 3 or 4, currently the age threshold is set in Regulations at age 5.

4.4 The regulations also amend the Universal Credit Regulations 2013 [7]and the Employment and Support Allowance Regulations 2013[8]. Those amendments mean lone parents and nominated responsible carers with a youngest child aged 3 or 4 on those benefits can be required to prepare for work. They currently can only be required to participate in a WFI.

4.5 The new requirements for claimants to undertake Work-related activity (WRA) or prepare for work can result in claimants carrying out various activities. These are activities which make it more likely that a claimant will obtain or remain in work. They are not activities which require claimants to undertake work or apply for a job. The activities may only be imposed where it is reasonable to do so, having regard to the claimant's circumstances. These changes for WRA and preparation for work do not apply to lone parents or nominated responsible carers who have children younger than 3.

5 Territorial Extent and Application

This instrument applies to Great Britain.

6 European Convention on Human Rights

The Minister for Employment, Esther McVey has made the following statement regarding Human Rights:

"In my view the provisions of the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 are compatible with the Convention rights".

7 Policy background

7.1 Currently, lone parents with a youngest child aged 1 or over who are awarded IS solely on the basis of being a lone parent are not required to seek work until their youngest child reaches age 5. Until then they are required to attend regular WFIs once their youngest child is aged one. IS lone parents with a youngest child age 1-3 are required to attend six-monthly WFIs. These interviews become quarterly when the youngest child is age 4. As part of these interviews, lone parents are required to agree an Action Plan with their adviser, but are not required to undertake those activities as a condition of continued receipt of benefit.

[5] http://www.legislation.gov.uk/ukpga/2007/5/contents
[6] http://www.dwp.gov.uk/docs/a13-5101.pdf
[7] http://www.legislation.gov.uk/ukdsi/2013/9780111531938/contents
[8] http://www.legislation.gov.uk/ukdsi/2013/9780111531877

7.2 Lone parents with children under age 5 may also be in receipt of old style Employment and Support Allowance (ESA) and be in the Work Related Activity Group (WRAG). These lone parents [9]are required to attend WFIs the frequency of which is already determined at the discretion of the employment adviser. These lone parents must agree an Action Plan with their adviser as a condition of continued receipt of benefit.

7.3 Currently there are no conditionality requirements for parents in scope of this change if they have a youngest child under age 1. These 2014 regulations do not change this position.

Work - Focused Interview changes

7.4 These 2014 regulations introduce changes to the lone parent regime so that the frequency and timing of Income Support (IS) work-focused interviews (WFIs) for lone parents with a youngest child aged 1 – 4 years can be determined at the discretion of an employment adviser instead of conducted at fixed points in the claim ("the WFI changes").

7.5 The WFI changes enable advisers to determine the frequency and duration of the interviews to tailor the services and engagement they have with lone parents at all points throughout their claim. The WRA changes are, in line with the IS WFI changes, expected to support lone parents, particularly in the year before they lose entitlement to claim IS solely on the basis of being a lone parent when their youngest child is age 5. However it will be for advisers to determine if a lone parent would benefit from WRA if they have barriers to employment. The changes mean that advisers will be able to offer them this support at the most appropriate point at which the individual needs it.

7.6 The work-focused interview changes will affect approximately 350,000 lone parents with a youngest child aged 1-4 receiving Income Support.

Work - Related Activity changes

7.7 In addition employment advisers would be able to require lone parents in IS or old style Employment Support Allowance (ESA) with a youngest child aged 3 or 4 to undertake mandatory work-related activity. Similarly, lone and responsible nominated carers in Universal Credit and new-style ESA with a youngest child aged 3 or 4 can be required to prepare for work. These requirements ("the WRA changes") will apply where WRA would improve the claimant's prospects of a return to work and/or sustaining such employment.

7.8 The work-related activity changes will affect approximately 80,000 lone parents and 50,000 nominated carers each year whose youngest child is aged 3 and approximately 70,000 lone parents and 40,000 nominated carers each year whose youngest child is aged 4. These estimates are based on current and forecast volumes of lone parents on Income Support and nominated carers who will be in the Keep in Touch conditionality group under UC (as at Autumn statement 2013).

7.9 These changes support the Government's aim of delivering a welfare system that recognises work as the primary route out of poverty. A child of a lone parent that works part-time is half as likely to be living in poverty than a child of a lone parent who is not working and a child of a lone parent that works full-time is less than a quarter as likely to be in poverty than a child of a lone parent who is

[9] With the exception of those with a youngest child under age 1, full-time carers, credits only and those over State Pension Age

not working (Households Below Average Income, 2011/12)[10]. The changes introduced by these regulations also reflect the Government's emphasis on personalised support into work. They recognise that in order to return to work, the level of the support required will vary from one person to the next, and acknowledge that advisers and local managers are best placed to identify the support and guidance that is appropriate to each claimant. Advisers will have the flexibility to engage with the diverse group of claimants both lone and couple parents in a way which best suits each individual.

7.10 Under Universal Credit and new style Employment and Support Allowance, there is a strong emphasis on adviser discretion in determining what type of activity is suitable for each claimant. We will include in guidance that we would normally expect any requirements placed on 16-17 year olds to reflect the government's focus on learning and skills for this age group.

Sanctions

7.11 The consequences for failing to attend a mandatory interview within Income Support (IS) without good cause will remain unchanged.[11] Lone parents who fail to attend a work-focused interview (WFI) face a 20% sanction of their personal allowance, which reduces benefit by an amount equal to 20% of the over age 25 single adult rate for IS and for every subsequent failure, up to 100% sanction (less 10 pence to protect passported benefits[12], such as free school meals, free prescriptions etc.) The regulations make changes such that this sanction rate will also apply within IS for failures to participate in work-related activity (WRA) without good cause.

7.12 Lone parents and nominated responsible carers awarded Universal Credit/ Employment Support Allowance new-style whose youngest child is aged 3 or 4 will move into the Work Preparation Group as a result of these Regulations. Consequently, they may be subject to a low level sanction if they fail without good reason to comply with a work related requirement. At present, they may only be subject to a lowest level sanction. A low level sanction has two components - an open ended period which lasts for the number of days until the claimant does something which they are required to do and a fixed period of 1, 2 or 4 weeks depending on the number of failures over the last 365 days. The sanction amount which is deducted from the claimant's award is calculated to be broadly equivalent to, and no more than, the standard allowance amount (or half that amount for a joint claimant).

Safeguards

7.13 The regulations specify matters to be taken into account when determining good cause when a lone parent in receipt of IS fails to meet requirements to attend/participate in a WFI or WRA. We have also specified in regulations that where a notification is sent by post, the 5 days in which the person has to demonstrate good cause for not meeting a requirement will be counted as starting two days after the notification was posted, to provide the person with reasonable opportunity to establish good cause for not meeting a requirement. This mirrors arrangements in the Employment and

[10] Table 4.14ts, Households Below Average Income (HBAI) 1994/95-2011/12, Department for Work and Pensions (https://www.gov.uk/government/publications/households-below-average-income-hbai-199495-to-201112)

[11] The consequences within Employment and Support Allowance (ESA) for failing to attend a mandatory WFI or participate in WRA also remain unchanged by these regulations. This is one open-ended sanction of 100% of their prescribed amount (they retain the work-related activity component (WRAC) of their benefit) followed by a fixed period of 1, 2 or 4 weeks upon re-compliance. The length of the fixed period sanction depends on how many failures there have been in the past year

[12] Passported benefits are benefits or schemes which some groups of people are entitled to because of their entitlement to certain benefits or tax credits.

Support Allowance Regulations 2008[13]. These Regulations remove the provision to waive the next scheduled WFI as this will now be arranged at the advisers' discretion. They retain the safeguard that enables advisers to defer a WFI in instances where it would not be of assistance to the person or appropriate in their circumstances.

7.14 We have also included a safeguard in regulations so that Income Support (IS) lone parents can restrict their availability for WRA unless this falls within their child's normal school hours or any time when they have entrusted the care of their child to a person over the age of 18, not including any form of healthcare. We will ensure that guidance reflects the policy intention that this provision applies to all claimants affected by this change.

7.15 The evidence to date on the impact of introducing work-focused interviews (WFIs) shows that ensuring that content and timing of the interviews are flexible to the individual needs of lone parents and building a relationship with advisers are critical to them being effective. However, it is not possible to quantify that the degree of flexibility contributes to the overall effectiveness of such interviews in helping lone parents to leave IS and to move into employment; this is because these elements of the regime are relatively small and are some what qualitative in their nature, making their effect very difficult to isolate in any evaluation. There is widespread recognition that a degree of flexibility is required with lone parents to meet the diversity of their needs, and research with lone parents and Jobcentre Plus advisers showed that they value flexible support.[14]

Timing

7.16 The changes will take effect from **28 April 2014** for all new and repeat lone parent and nominated carer claimants in scope of the change. Changes will be implemented for existing claimants at their next scheduled WFI. Changes for existing claimants will be substantially complete by October 2014.

Consolidation

7.17 Informal consolidation of this instrument will be provided in due course in the 'Law Relating to Social Security' (referred to as "The Blue Books") which are regularly updated and are available to the public at no cost via the internet at:
http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/ http://www.legislation.gov.uk/

8. Consultation outcome

8.1 The Social Security Advisory Committee (SSAC) considered the proposal to make the regulations and decided to formally refer these for consultation between 11 July to 13 September 2013. There were six responses; two were broadly supportive of the changes. The remainder raised a number of concerns mainly around the mandatory nature of the change and the financial impact for parents if sanctions were applied for failing to meet requirements. Several respondents advocated the use of specialist lone parents advisers to maximise opportunities to prepare for work. The report

[13] http://www.dwp.gov.uk/docs/a13-5101.pdf see regulation 65.

[14] Coulter, A, day, N et al (2012) ,The Jobcentre Plus Offer: Findings from the first year of the evaluation, DWP research Report 814; Gloster, R, Casebourne, J et al (2010) lone Parent Obligations: early findings of implementation as well as experiences of the Income Support and Jobseeker's Allowance regimes, DWP research report 645 ; Thomas, A (2007) Lone Parent Work Focused Interviews: Synthesis of findings, DWP research report 443

recommended enacting secondary legislation to provide for the welfare of a child because the change impacts on claimants with caring responsibilities for a child. The majority questioned the rationale for removing from Income Support (IS) a list of matters to be considered when determining whether a parent had good cause for failing to attend work-focused interviews or attend WRA. Other matters for concern included the accessibility and affordability of childcare to support attendance and participation in WFIs and WRA. Feedback was that parents should have access to funds to cover additional costs incurred as part of this proposal, for example those associated with travel costs to attend more frequent interviews, childcare and training.

8.2 The Government believes it is reasonable to require claimants in receipt of welfare benefits to take up support where this will help them prepare for the time they can return to work. It has due regard to the welfare of the child and it is satisfied that existing legislation together with the regulations themselves already provide safeguards. In response to concerns about increased conditionality we have included an easement in the regulations to prevent lone parents that claim IS being subject to more than one sanction for failing to participate in a work-focused interview or failing to undertake work-related activity in any two week period. This is takes into account the fact that, unlike other parents in scope of this change lone parents do not have access to Hardship Payments if their benefit is reduced by a sanction if they fail to meet a requirement without good cause. We will retain in IS the list of matters to be considered when determining good cause if a claimant fails to undertake a requirement to attend a work-focused interview or undertake work-related activity. The Government recognises that childcare is a key enabler in supporting parents to successfully undertake work- related activity and return to work. We will ensure employment advisers receive timely awareness training with access to guidance to help them support parents affected by the change. We will use guidance to encourage advisers to tell parents about the Department for Education (DfE) offer of 15 hours of fully funded childcare for 3 and 4 year olds (England only) and its equivalent offer in Scotland and Wales. This information will form part of any discussions with parents about work-related activity. Not all work-related activity will require a parent to secure childcare but where this is needed the parent can restrict their availability for such activity if their child is not in childcare or school. A Government response to the SSAC report is being laid with the regulations.

9 Guidance

9.1 Jobcentre staff will receive information about the change via Implementation products by March 2014 thus ensuring they have time to be familiar with the changes and consolidate learning before implementation on 28 April 2014. From 28th April 2014 updated guidance will be available on the Jobcentre Plus intranet. All new and repeat claimants will be told about the change at their first contact with Jobcentre Plus. They will be able to discuss the changes further with an adviser when they first attend the Jobcentre. Existing claimants will be told about the change, and how it affects them, at their next scheduled work-focused interview (WFI) after the change date. All claimants will receive a Fact Sheet explaining the change either when they first attend the Jobcentre or at their first scheduled interview after the change takes place.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2 There will be some public sector costs/costs to the Department as a result of DWP providing extra support to lone parents and nominated responsible carers with younger children to help them reconnect with the labour market. See Annex 1.

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 revised Income Support (IS) lone parent work-focused interview regime and changes to work-related activity for lone parents and responsible nominated carers with a youngest child age 3 or 4 will be monitored and evaluated through administrative datasets, including the Department for Work and Pension's Work and Pensions Longitudinal Study (WPLS), to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups. Where it is practical we will endeavour to incorporate information for the other protected groups.

12.2 Qualitative research and feedback from stakeholder groups will help to assess whether there are 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.

12.4 We will draw on broader DWP research where appropriate, as well as consider the need for any research to be commissioned specifically to evaluate the measure.

13. Contact

Jane Porter at the Department for Work and Pensions Tel: [020 7449 5663] or email: Jane.Porter1@dwp.gsi.gov.uk can answer any queries regarding the instrument.

Department Expenditure Limit related costs

The following (Table1) provides details of the **estimated** costs/savings for the Lone Parent conditionality changes introduced by these Regulations. The costs and savings of £14m/£2m are subject to volume changes.

Table 1.

		13/14	14/15	15/16	16/17	17/18	18/19
Lone Parent Conditionality (UC)	AME[15]	-	2	2	2	2	2
	DEL[16]	-	-14	-14	-14	-14	-14

[15] Annually Managed Expenditure

[16] Departmental Expenditure Limit