EXPLANATORY MEMORANDUM TO

THE JOBSEEKER'S ALLOWANCE (AMENDMENT) REGULATIONS 2012

2012 No. 1135

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

The policy intention of the regulation change is to ensure that Jobseeker's Allowance (JSA) claimants are able to cite excessive travel time in support of a claim that they had good cause for:

- failing to comply with a jobseeker's direction;
- refusing or failing to apply for or accept a job vacancy notified to them by an employment officer; or
- failing to avail themselves of an opportunity of employment which was a qualifying former employment[1]

only where the normal travel time to and from the place of employment or place specified in a jobseeker's direction (by a route and means appropriate to the claimant's circumstances and those of the employment or jobseeker's direction) is 90 minutes or more either way. There is an exception in cases where travel time of 90 minutes (or less) would be unreasonable in view of the claimant's health or caring responsibilities.

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

None.

4. Legislative Context

4.1 Existing legislation (regulation 72(6)(b) of the Jobseeker's Allowance Regulations 1996) states that a claimant will not be regarded as having good cause for failing to apply for or refusing employment notified by an employment officer, qualifying former employment[2] or for failing to comply with a jobseeker's direction on grounds of travel time where the travel time is less than 60 minutes each way during the first 13 weeks of entitlement to JSA or, after that period, less than 90 minutes each way. In both cases the condition does not apply if the required travel time would be unreasonable in view of any health or caring responsibilities of the claimant.

1 Qualifying former employment means employment with an employer for whom the claimant previously worked, or with an employer who has succeeded that employer, where not more than 12 months have elapsed between the date on which the claimant last worked for the employer and the date when the failure to apply for.

2 See footnote 1.

4.2 Existing rules which enable claimants to place restrictions in relation to the general requirements to be available for and actively seeking work will also not be affected by the change.

4.3 The amendment will ensure that all claimants cannot cite travel time below 90 minutes as the reason why they had good cause for the types of failure referred to in paragraph 2 except in those cases where travel time of less than 90 minutes would not be reasonable in view of the claimant's health or caring responsibilities.

5. Territorial Extent and Application

The Regulations extend and apply 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 The Government are aiming to make work pay by reforming the benefit system. On 6 October 2011, Lord Freud, Minister for Welfare Reform, made a Written Ministerial Statement[3] that announced a number of measures the Government intended to introduce to strengthen the requirements placed on JSA claimants and the support provided to help them obtain employment, including an expectation that individuals would look for work that is within a 90 minute commuting distance from home from day one of their claim.

7.2 The change to the Jobseeker's Allowance Regulations 1996 relates to this expectation. The amendment will ensure that all claimants cannot cite travel time below 90 minutes as the reason why they had good cause for certain specific types of failure (see paragraph 2) except in those cases where travel time of less than 90 minutes would not be reasonable in view of the claimant's health or caring responsibilities This already applies in relation to those claiming JSA after 13 weeks. In future, JSA claimants will not generally be treated differently during the first 13 weeks of their entitlement to JSA. The change brings the requirement forward to day one of the claim.

7.3 JSA claimants are required to be available for and to actively seek employment in return for JSA and they are also required to comply with specific requirements when these are imposed on them. The Department for Work and Pensions has good evidence that labour market conditionality encourages people to find work quickly[4]. The Government believe that it is important to support individuals to move off benefit and into work as quickly as possible and that this can be better achieved if JSA claimants are encouraged to give consideration to vacancies in a wider geographical area.

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[3] http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/111006-wms0001.htm

[4] Sweeney, Kate and Denis McMahon (1998) "The effect of Jobseeker's Allowance on the claimant count", Labour Market Trends, 106, 195-203

7.4 The Government consider that this change will encourage individuals from the beginning of their entitlement to JSA to consider opportunities in a slightly wider geographical area than they might otherwise consider, and so broaden their chances of finding work quickly. Whilst many claimants are already active in their own jobsearch and will initiate their own entry to work, the change means that JSA advisers will be able to encourage all claimants to consider opportunities in a wider geographical area from day one of their JSA claim.

7.5 The wider employability support offered by Jobcentre Plus has moved away from treating people by routine process and length of claim, towards a more personalised approach, stepping in from day one where an adviser identifies that upfront help is what a particular claimant requires. Advisers have more freedom to determine the level and type of support that should be given to individual claimants based on the understanding that they have about the labour market and their knowledge of, and working relationship with, individuals. For those identified as focused and engaged in their job search and as having a realistic chance of finding work quickly then the support will be light touch. This recognises the capability of individuals as well as allowing advisers to focus more time on those that are at risk of longer unemployment.

7.6 There is evidence to demonstrate how benefit claimants drift further from the labour market the longer they remain on benefits[5]. Evidence shows how unemployed people gradually get out of the routine of work, lose skills, become unfamiliar with modern job search techniques and any work experience they have becomes less relevant. Early intervention is therefore a priority for public employment services to ensure that as many individuals as possible move into, or back into the labour market, and are able to take advantage of the many personal, financial and health related benefits gained from entering work. It is therefore important that advisers are able to encourage individuals to think broadly about the opportunities that may be available to them and, where appropriate, require them to apply for vacancies in a wider geographical area, with a view to helping them move into work as quickly as possible.

7.7 Provisions in the Regulations which enable claimants to place restrictions on their availability for work will remain unaffected. For example, a claimant will still be able to restrict the locations within which they are available for work, provided, as now, the claimant has reasonable prospects of finding employment taking account all of the restrictions they have applied on their availability.

7.8 Also, claimants with health conditions or caring responsibilities will still not be prevented from raising travel time of any duration as a reason for the types of failure set out in paragraph 2 if the travel time required to comply with the relevant requirement would have been unreasonable in view of their health or caring responsibilities. This will be taken into account by the decision maker when determining whether the claimant had good cause for the relevant failure.

7.9 Personal advisers discuss in detail with claimants the content of their jobseeker's agreement at the start of a claim, and when the agreement is reviewed, making clear the requirements they are expected to meet, the consequences of failing to meet those requirements and the flexibilities available given a claimant's circumstances. In addition where advisers are considering referring a claimant for a particular vacancy, they will

[5] Thomas, Andrew and Pemberton, Alison (2011) "Qualitative Research into enhanced Jobseeker's Allowance provision for the 50+)", DWP Research Report 766

consider all of the facts of the case, including any availability restrictions that have been agreed, the suitability and practicalities of the job, and travelling time and expense. Advisers will also provide claimants with information on how to obtain travel advice and potentially, if deemed appropriate, support with cost of the travel to interview.

Consolidation

7.10 Informal consolidation will be included in due course in the Department's "the Law Relating to Social Security" (the Blue Volumes) which are available on the internet at: http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/ at no cost to the public.

8. Consultation outcome

8.1 A formal consultation has not been carried out by the Department for Work and Pensions in relation to this change. Before 2004, JSA claimants were able to cite excessive travel time as a reason for failing to comply with the requirements in paragraph 2 only if the travel time exceeded one hour or if travel time of less than one hour would be unreasonable in view of their childcare responsibilities or health. In 2004, the legislation was changed so that those claiming JSA for longer than 13 weeks are not able to cite excessive travel time as a reason for failing to comply with the requirements in paragraph 2 unless the travel time exceeds 90 minutes (except where the travel time is unreasonable in view of the claimant's health or childcare responsibilities). The Social Security Advisory Committee (SSAC) formally considered the change before it was made in 2004 and conducted a formal consultation[6]. When formulating the current change, the Government gave consideration to the recommendations SSAC made following the 2004 consultation, in particular in relation to the impact of the change on claimants' travel costs, health and well-being, and work-life balance, and in relation to the availability of public transport.

8.2 In addition, the Department presented to SSAC in February 2012 the proposal to make the current change and addressed the concerns that SSAC had raised following the 2004 consultation as they might arise in relation to the current change:

- Advisers will take travel costs into account when considering whether to issue a jobseeker's direction or notify a claimant about a vacancy and continue to routinely carry out "better-off calculation", which will identify if costs of travelling to a job would be disproportionate. The Regulations specifically provide that disproportionate travel costs can be taken into account by a decision maker when considering whether a claimant has good cause for failing to meet one of the requirements in paragraph 2.1.
- Advisers experience an accredited learning programme and receive a package of information on health-related support which helps them to provide advice on restrictions that it may be appropriate to include on the claimant's jobseeker's agreement, which will inform the types of specific requirement that will be placed on the claimant. Health impacts and caring responsibilities can also be taken into account when assessing good cause if travel time below 90 minutes would be

[6] Cm. 6145. Draft Jobseeker's Allowance (Amendment) Regulations 2004. Report by the Social Security Advisory Committee. http://www.publications.parliament.uk/pa/ld/ldsess04/l8.htm

unreasonable because of the claimant's health issues or any caring responsibilities. There is a large body of evidence showing that work is generally good for physical and mental well-being and that unemployment can lead to poor health and other negative outcomes[7].

- In relation to public transport, that the Regulations provide for an assessment to be made of how far it is possible for a claimant to travel within 90 minutes by a route and means suitable to the claimant's circumstances and the circumstances of the employer. The adviser would also take this into account, if relevant, when determining whether to issue the jobseeker's direction or notify the claimant about a particular vacancy.
- In relation to work-life balance, that whilst JSA generally requires claimants to be available for work for at least 40 hours each week and is a benefit which has conditionality aimed at assisting the claimant to obtain work, there are, within the JSA rules, flexibilities and protections to help those with health issues or caring responsibilities to meet the conditions of entitlement for JSA.

8.3 SSAC confirmed that it was content for the Regulations to proceed without formal referral.

9. Guidance

9.1 Jobcentre Plus advisers will inform claimants during initial interviews and review interviews about the changes and will explain how the provisions apply, in particular if the claimant has caring responsibilities or health issues. Notes about such conversations will be recorded in the claimant's jobseeker's agreement as well as on the labour market system.

9.2 Necessary revisions to the JSA decision makers' guidance will be identified and made to meet implementation timescales. Staff will be informed of the change, and revisions will be made to guidance and appropriate learning and development products via established internal communications routeways in advance of full implementation.

9.3 Additionally, the products underpinning the sanctions process, such as forms and leaflets will be reviewed and any changes required will be made.

10. Impact

10.1 The change has no impact on business or civil society organisations.

10.2 The impact on the public sector is negligible.

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

11. Regulating small business

The legislation does not apply to small business.

[7] Waddell, Gordon, Burton, A Kim (2006), "Is Work Good For Your Health And Well-Being?", The Stationery Office

12. Monitoring & review

The Department for Work and Pensions will gather feedback on the changes via the evaluation of the Jobcentre Plus Offer, which will evaluate the support provided to claimants' pre-work programme incorporating qualitative research and claimant surveys. If this raises issues with the 90 minute travel to work change the Department will consider commissioning further work to review this.

13. Contact

Olu Abe at the Department for Work and Pensions (Tel: 020 7340 4012) or email: olu.abe@dwp.gsi.gov.uk) can answer any queries regarding the instrument.