EXPLANATORY MEMORANDUM TO

THE JOBSEEKER'S ALLOWANCE (DOMESTIC VIOLENCE) (AMENDMENT) REGULATIONS 2013

2013 No. 2722

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

These Regulations amend regulation 14A of the Jobseeker's Allowance Regulations 1996 ("the JSA Regulations") so as to widen the definition of domestic violence. Regulation 14A makes provision for a JSA claimant to be treated as meeting the requirement to be available for work for a period of 4 weeks on notifying the Secretary of State that they have had domestic violence inflicted on or threatened against them at in time in the 26 weeks before the notification, by their partner, former partner or a family member. The updated definition will correspond with the new cross government definition of domestic violence and abuse.

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

None

4. Legislative Context

4.1 These Regulations are being made to give effect to the new cross-Government definition of domestic violence introduced by the Home Office with effect from 31 March 2013. The definition of domestic violence previously referred to abuse of a kind specified on page 11 of section 2.2. of "Responding to domestic abuse: a handbook for health professionals" published by the Department of Health in December 2005. However, the new cross-Government definition of domestic violence has been extended to include incidents of controlling, coercive or threatening behaviour or violence as well as abuse including, but not limited to psychological, physical, sexual, financial or emotional abuse, which were the kinds of abuse specified in the Department of Health handbook.

4.2 The amended definition of domestic violence within the 1996 regulations does not exactly reflect the Home Office's definition and it has been adjusted to reflect the powers in paragraph 8B of Schedule 1 to the Jobseekers Act 1995.

4.3 Guidance as to what amounts to psychological, physical, sexual, financial or emotional abuse will be set out in Decision Maker's Guidance.

5. Territorial Extent and Application

This instrument applies to all of Great Britain

6. European Convention on Human Rights

The Parliamentary Under-Secretary of State and the Minister for Disabled People, Esther McVey MP has made the following statement regarding Human Rights:

"In my view the provisions of the Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations 2013 are compatible with the Convention rights"

7. Policy background

- ***What is being done and why***

7.1 Regulation 14A was inserted into the 1996 Regulations on 23 April 2012. It makes provision for JSA claimants who are victims of actual or threatened domestic violence by a partner, former partner or a family member to be exempt from jobseeking conditions and requirements to be actively looking for employment for an initial 4 week period, which can extend to a total of 13 weeks where relevant evidence is provided. This period is intended to provide those who have been affected by domestic violence with time to focus on priorities like organising new accomodation or arranging alternative schooling for dependent children without having to also focus on meeting their jobseeking conditions.

7.2 We are updating the definition of domestic violence within the regulations so that it corresponds with the cross government definition. The new definition enables a single incident or a pattern of incidents to constitute domestic violence and includes 16 and 17 year olds; the existing regulations already give as much weight to a single incident of domestic violence as we do to multiple incidents and include 16 and 17 year olds under regulation 14A. However, the new definition also includes 'coercive behaviour and controlling behaviour' where as previously domestic violence was limited to specific types of abuse.

7.3 Extending the definition will send a clear message to victims about what does constitute domestic violence and abuse. Unless we amend the definition, it may be unclear to victims what counts as domestic violence, for example, it may be thought to include physical violence only. We know that the first incident reported to the police or other agencies is rarely the first incident to occur; often people have been subject to abuse on multiple occasions before they seek help.

7.4 "Domestic violence" was previously defined as abuse of a kind specified on page 11 in section 2.2 of the Department of Health's publication "Responding to domestic abuse: a handbook for health professionals" (2005) which covers the same types of abuse as the previous cross-government definition of domestic violence – that is, physical, emotional, sexual, psychological or financial abuse.

7.5 The new cross government definition of domestic violence and abuse, which was implemented on 31 March 2013, can be found on the Home Office website and states:

> "Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological, physical, sexual, financial and emotional.
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> "Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
>
> "Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim."

7.6 A copy of the guidance can be found on the link below:
https://www.gov.uk/domestic-violence-and-abuse

- **Consolidation**

7.7 There are no immediate plans to consolidate the 1996 Regulations. However, the Department for Work and Pensions publishes the "Blue Volumes" which are online and can be accessed by members of the public.
http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

The Blue Volumes contain the legislation for which the Department is responsible. The legislation is presented in a consolidated form and is updated regularly. The consolidated version including the changes made by these Regulations will be available in due course.

8. Consultation outcome

The Department has not consulted separately on the amendments made to the regulations. In September 2012, the Home Office announced that the definition of domestic violence would be widened to include those aged 16-17 and wording to reflect coercive control. The decision followed a Government consultation which saw respondents call overwhelmingly for this change. There has also been a change to the title of the definition to 'domestic violence and abuse'.

9. Guidance

Internal guidance has been developed and communicated to operational staff. We will publish a Decision Makers Guide (DMG) memo providing guidance on changes to the relevant law, which will contain examples of the types of abuse which can fall within the definition of domestic violence, and this will be later incorporated into the appropriate chapters of the DMG.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment (IA) has not been prepared for this instrument.

11. Regulating small business

This change has no impact on small businesses.

12. Monitoring & review

We collate monthly statistics on the number of JSA claimants who claim exemption under regulation 14A of the 1996 Regulations and have taken up the full 13 weeks of the exemption. We have conducted a small scale research which looked at the policy implementation and delivery, in order to help us to identify additional areas for improvement.

13. Contact

Ana Easton at the Department for Work and Pensions Tel: 0207 449 5202 or email: Ana.Easton@dwp.gsi.gov.uk can answer any queries regarding the instrument.