EXPLANATORY MEMORANDUM TO

The Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations (Northern Ireland) 2012

S.R. 2012 No. 155

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations (Northern Ireland) 2012 which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred by the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and is subject to the confirmatory resolution procedure before the Assembly.

1.3 The rule is due to come into operation on 23 April 2012.

2. Purpose

2.1 These Regulations amend the Jobseeker's Allowance Regulations (Northern Ireland) 1996 ("JSA Regulations") to provide that a jobseeker's allowance claimant who has been a victim of domestic violence can, in certain circumstances, be treated as available for employment and actively seeking work, and as having a jobseeker's agreement if they do not already have one, for a set 13 week exemption period (if they provide relevant evidence during an initial 4 week exemption period) and remain entitled to Jobseeker's Allowance provided they meet the other conditions of entitlement.

3. Background

3.1 Currently the JSA Regulations make allowance for domestic emergencies which enables victims of domestic violence to be treated as meeting conditionality requirements for 4 individual one week periods (1 period for each occurrence) in a 12 month period if they do not have dependent children and 3 individual 1 week periods and one 8 week period (1 period for each occurrence) in a 12 month period if they have caring responsibilities for a child. The deferral is at adviser discretion and no corroborating evidence is necessary.

3.2 The Welfare Reform Act (Northern Ireland) 2010 contains powers to make changes to the JSA Regulations to provide a right for a person who has been a victim of domestic violence to be treated as available for employment and actively seeking work for a period of 13 weeks. This period will not be subject to adviser discretion and will not prohibit victims from taking advantage of the current domestic emergency deferral

period. This will effectively give a possible 24 weeks Jobseeker's Allowance deferral in a 12 month period for those with dependent children or 17 weeks for those without dependent children.

3.3 The key changes that are being introduced provide that :-

- a person who notifies the Jobs and Benefits Office (JBO) or Social Security Office (SSO) that they have been threatened with or had domestic violence inflicted on them within the previous 26 weeks can be treated as available for employment and actively seeking work and as having a jobseeker's agreement (if they do not already have one), for a period of 4 consecutive weeks on one occasion in a 12 month period. They must not be living with the perpetrator of the threat or violence at the time of the notification;

- when evidence is provided during the 4 week period, they can then access the full 13 week deferral period, which will run from the beginning of the 4 week period;

- after the initial 4 week period, the claimant will be able to notify the JBO/SSO that they wish to suspend reliance on the 13 week deferral period until they again notify the JBO/SSO that they wish it to continue. Whilst the period is suspended the claimant can either not claim Jobseeker's Allowance or must meet the conditionality requirements;

- the 13 week period cannot be relied on for any period after 12 months from the date of the original notification.

3.4 Eligible claimants will be men or women who have been victims of domestic violence or threatened with domestic violence by a partner, former partner, or a family member, within the previous 26 weeks, including those with or without dependent children, pregnant women, and those who must leave their children with others temporarily whilst they find accommodation and financial support.

3.5 To avail of the easement the claimant must not be living with the person who inflicted or threatened the violence at the time of the notification. This should ensure that the claimant is no longer in circumstances where the abuse or threat of abuse is likely to continue. Domestic violence will include physical, emotional, sexual, psychological or financial abuse.

3.6 Victims will be treated as meeting the jobseeking conditions for an initial 4 week period during which time they must provide written evidence from a person acting in an official capacity confirming that they have contacted them about an incident or threat of domestic violence against them, or that their circumstances are consistent with them being a victim of domestic violence.

3.7 The evidence should relate to an incident that occurred within the 26 weeks before the initial notification of domestic violence and can be

provided by a health care professional, a police officer, a social worker, an employer, trade union representative or any public, voluntary or charitable body in direct contact with the victim. A form will be available from the JBOs and SSOs for this purpose.

3.8 On receipt of evidence the easement will continue for the full 13 week period. This period should allow the claimant time to address any immediate issues concerned with leaving the abusive relationship such as securing new accommodation, changing children's schools or taking legal advice.

3.9 The easement will be available once in any 12 month period and at any time after the initial 4 week period the claimant can ask for it to be suspended if they wish to meet full Jobseeker's Allowance conditionality. They can then opt to use the remaining weeks of the period within a 12 month period of their initial notification.

3.10 Prior to the introduction of Lone Parent Obligations a lone parent was not required to claim Jobseeker's Allowance until their youngest child reached the age of 16. Lone Parent Obligations currently mean that a lone parent can claim Income Support until their youngest child reaches 7. Domestic violence may be the reason for a person becoming a lone parent so the change will be particularly relevant to those with dependent children who would have previously claimed Income Support on the grounds of being a lone parent but owing to their youngest child being over the age of 7 years are no longer able to do so.

3.11 The changes will give victims of domestic violence access to funds in their own right to help them achieve a stable position from which they can begin or resume looking for work. In some cases it will help victims maintain independence from their abuser in circumstances where lack of funds may have made them return to the relationship.

4. Consultation

4.1 The Social Security Advisory Committee considered and cleared the corresponding Great Britain proposals at their meeting on 3 November 2011.

5. Equality Impact

5.1 Every social security policy by its very nature has a differential impact in that the policy is designed to meet a specific need. In this case to provide that a Jobseeker's Allowance claimant who has been a victim of domestic violence can, in certain circumstances, be treated as available for employment and actively seeking work, and as having a jobseeker's agreement if they do not already have one, for a set 13 week exemption period (if they provide relevant evidence during an initial 4 week exemption period) and remain entitled to Jobseeker's Allowance provided they meet the other conditions of entitlement. The change will apply to all

Jobseeker's Allowance claimants regardless of religious belief, political opinion, race, sexual orientation, gender or disability.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1 No financial implications

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Jobseeker's Allowance (Domestic Violence) (Amendment) Regulations (Northern Ireland) 2012 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Regulations mirror the Great Britain Regulations and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

11.1 Not applicable