EXPLANATORY MEMORANDUM TO

The Jobseeker's Allowance (Homeless Claimants) (Amendment) Regulations (Northern Ireland) 2014

S.R. 2014 No. 192

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) 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 and is subject to the confirmatory resolution procedure.

1.3 The rule is due to come into operation on 21st July 2014.

2. Purpose

2.1 The purpose of the regulations is to make amendments to the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (the JSA Regulations) to introduce an easement which will enable claimants who have recently become homeless to be treated as available and actively seeking employment, for a temporary period. The application of the easement will be conditional on the claimant taking reasonable steps to find living accommodation.

3. Background

3.1 In order to be entitled to a Jobseeker's Allowance, Article 3(2) of the Jobseekers (Northern Ireland) Order 1995 provides that claimants must satisfy the conditions of entitlement which include being available for and actively seeking employment – known as the 'jobseeking conditions'.

3.2 'Available for employment' generally means that the claimant will be able immediately to take up work for at least 40 hours per week. To be 'actively seeking employment', a claimant must take such steps as are reasonable in order to give him the best prospects of securing employment.

3.3 The steps a claimant should take to satisfy these conditions are those that are reasonable for the claimant to take in any week, and are detailed in their Jobseeker's agreement.

3.4 Homeless claimants are likely to face difficulties when attempting to satisfy the jobseeking conditions. For example, they may find it difficult to contact, or be contacted by prospective employers and they may also

have to spend a significant proportion of their time looking for somewhere to live.

3.5 Where an individual is homeless, when setting the Jobseeker's Agreement, advisers must consider how the homelessness situation – the need to find accommodation and other issues – affects the steps that are reasonable for them to take to find work in any given week (Advisers will also reflect on the broader issue of whether the person's situation might affect their underlying entitlement to JSA.)

3.6 Currently regulation 14(2)(b) of the JSA Regulations allows an individual affected by a domestic emergency to be treated as available for employment in order to deal with the emergency for a maximum of one week per emergency with a cap of 4 such emergencies in a year. Where a claimant has been treated as available under these circumstances for at least 3 days in any week, regulation 19(1)(n) of the JSA Regulations allows the claimant to be treated as actively seeking employment in that week.

What is being done and why

3.7 Following the Department for Work and Pensions informal discussions with stakeholders from the homeless and voluntary community e.g. Homeless Link and Crisis etc it was concluded that the existing domestic emergency provisions. (as detailed in paragraph 3.6) did not allow sufficient time for the claimant to address their homelessness situation. It was also concluded that because homeless individuals often lead very chaotic lives, a limit of 4 emergencies per year should not be placed on these individuals. The stakeholders were supportive of the principle of allowing homeless people to focus on finding accommodation as a preliminary to conducting jobsearch.

3.8 To enhance the scope that currently exists to support homeless claimants into sustainable living accommodation, the Regulations will amend the domestic emergency provisions of the JSA Regulations so that, if they are applied because of a claimant's homelessness, advisers are allowed reasonable flexibility to treat claimants as meeting the jobseeking conditions for periods of longer than one week with no cap on the number of occasions that it can be applied. The application of the easement is conditional upon the claimant taking reasonable action to find living accommodation. It is reasonable to expect a claimant to seek living accommodation when they have been granted a conditionality easement because of their homelessness.

Target Group

3.9 The principle intention is that advisers consider this easement for two specific groups of recently homeless individuals: rough sleepers and those in direct access hostels. However the regulations are not confined to these two groups, referring only to homelessness in the amendment will give

advisers more flexibility to consider individual circumstances on a case by case basis.

3.10 Claimants in these groups are unlikely to have ready access to essentials such as washing facilities; a clean change of clothes; a reliable means of communication e.g. postal address/telephone/email account. This makes it unlikely that such claimants could obtain or sustain work due to their personal presentation; or respond immediately to an offer of an interview or work.

3.11 These changes seek to support claimants who are recently homeless. The Regulations do not specify the timescales associated with "recently", it is intended leaving this to the discretion of advisers based on the circumstances of the individual. However, as JSA claimants are required to declare changes in circumstances and to attend a Jobs and Benefits/Social Security Office, usually on a fortnightly basis, we would expect that in most situations "recently" will mean that the person has become homeless since their last attendance at a Jobs and Benefits/Social Security Office. This will be made clear in guidance.

3.12 The decision to target this measure at the recently homeless rather than longer-term homeless is because the 'recently homeless' group is more likely to benefit from a temporary easement in conditionality requirements. This will allow these claimants time to resolve their accommodation issues sufficiently to enable them to focus on job-search activities. The aim is to prevent individuals becoming entrenched in a homelessness lifestyle.

Duration and frequency for the application of the easement

3.13 The regulations dis-apply the periods set out in the domestic emergency provisions which restrict the application of an easement to a maximum of a week on each occasion and to no more than 4 occasions over a 12 month period.

3.14 It will be for advisers to decide whether a claimant's homelessness constitutes a "domestic emergency" and the length of time that the emergency situation may continue, (though the courts and tribunals may over time produce case law on these matters).

3.15 However, to provide advisers with a framework to support their decision-making, it will be made clear in guidance that the suspension of the availability and actively seeking requirements must be for a temporary period and only whilst warranted by the claimants circumstances.

3.16 The amendments will not operate to allow claimants to be treated as available and actively seeking work for an indefinite period. As the amendments operate with the existing domestic emergency provisions, the Regulations will apply for such time as the emergency created by the

claimant becoming homeless exists. Emergencies are naturally of a limited duration and thus the application of the proposed provisions will have a finite lifespan and will be for no more than 4 weeks.

Requirement to take reasonable steps to find living accommodation

3.17 The application of the easement is conditional upon the claimant taking steps to find living accommodation. This is not imposing an additional benefit requirement on vulnerable claimants. It is reasonable to expect a claimant to seek living accommodation when they have been granted a conditionality easement because of their homelessness.

3.18 What steps are reasonable will depend on each claimant's circumstances and capabilities and will be determined on a case-by-case basis.

3.19 'Living accommodation' isn't defined in the Regulations and will be left to adviser discretion to determine. Homeless claimants may have access to some form of sleeping accommodation for example a friend's sofa, or to accommodation that is not intended for that purpose, for example a car, or accommodation where they cannot stay during the day. The term 'living accommodation' will be taken to mean accommodation intended for that purpose with the resident having 24 hour access to the premises.

4. Consultation

4.1 The Social Security Advisory Committee discussed the corresponding Great Britain Regulations at their meeting on 2nd April 2014 and after careful consideration agreed that they did not require them to be formally referred.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have any significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

5.2 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 allow for certain homeless claimants to be treated as available for and actively seeking employment for a temporary period while they focus on activities to secure accommodation and will apply to all JSA 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 (Homeless Claimants) (Amendment) Regulations (Northern Ireland) 2014 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 which are to come into force on 21st July 2014.

11. Additional Information

11.1 Not applicable