EXPLANATORY MEMORANDUM TO

THE JOBSEEKER'S ALLOWANCE (MANDATORY WORK ACTIVITY SCHEME) REGULATIONS 2011

2011 No. 688

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 This instrument establishes the Mandatory Work Activity Scheme; a new employment scheme for certain individuals claiming Jobseeker's Allowance. It provides for Jobcentre Plus personal advisers to have discretion to require that a Jobseeker's Allowance customer participates in the Scheme. This scheme is aimed at those who require extra support to help them re-focus their approach to job search and gain work-related disciplines. The purpose of the Scheme is to provide work or work-related activity with a view to assisting the customer to improve their prospects of obtaining employment. For each person the Scheme will run for up to 30 hours a week over 4 consecutive weeks.

2.2 The instrument details:

- the circumstances where a customer can be selected for participation in the scheme;
- the definition of failure to participate in the scheme;
- the provisions for 'good cause' for failure to participate in the scheme;
- the consequences of failing to participate in the scheme;
- the arrangements for the payment of hardship to those sanctioned;
- consequential amendments required as a result of these Regulations;
- provision for contracting out certain functions of the scheme.

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

None

4. Legislative Context

4.1 The Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011 are being introduced in order to allow the introduction of mandatory work activity. This is one of a number of proposed legislative and policy changes that make up the *Get Britain Working* and wider Work Programme measures which aim to provide additional support to help individuals into employment.

4.2 These Regulations enable the Department for Work and Pensions or a contracted provider to require a customer to take part in mandatory work activity. They also establish

the circumstances where a customer can be sanctioned for failing to comply with this requirement, and what protections exist where this occurs.

5. Territorial Extent and Application

This instrument applies 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 have made a clear commitment that the receipt of benefits for those able to work is conditional on their willingness to work.

7.2 Jobcentre Plus advisers have identified characteristics in a small number of Jobseeker's Allowance customers who have little recent experience of employment. This group has little or no understanding of what behaviours are required to obtain and keep work.

7.3 The Mandatory Work Activity Scheme is being introduced to address the barriers to obtaining and retaining work demonstrated by this group. The aim is to help customers discover for themselves the expectations of work; attending on time and every day, following instructions, working in teams, and many other elements of full time work activity. Advisers will be able to require that a customer takes part in the Scheme, encouraging customers to develop the crucial disciplines associated with full time employment, while at the same time making a contribution to their community.

7.4 As part of participation in the Mandatory Work Activity Scheme, advisers may require customers to carry out specific tasks in a working environment so that they can develop an understanding of the discipline and focus that is required in employment. A placement will be for up to 30 hours a week, last for 4 weeks and deliver a contribution to the local community.

7.5 Although Jobcentre Plus advisers will refer customers to the Scheme, certain functions of the Secretary of State under these Regulations will be contracted out so that providers of mandatory work activity can use the powers in the Regulations to support the customer's participation in the Scheme. These functions are:

- The notification of requirement to participate, including details of the scheme's requirements.
- The notification that requirement to participate ceases.

Sanctions

7.6 Participation in the Scheme will be mandatory. Any failure without good cause to participate (including a failure to undertake any specified task), will lead to a sanction. For a first failure, the sanctions will last for thirteen weeks. Where a customer has recently (within the last twelve months) been sanctioned for a failure to participate in the Scheme and they again fail, without good cause, to participate they will receive a sanction for twenty six weeks.

7.7 These sanctions levels have been adopted in order to provide a direct and sufficient incentive for customers to engage with this additional support. These proposals make it clear to customers that if they fail to meet their most important job-seeking requirements, they will face a fixed period sanction that reflects the seriousness of that failure.

Other provision

7.8 The instrument replicates existing provision for hardship payments which are available to those sanctioned while claiming Jobseeker's Allowance.

7.9 The amendments ensure that expenses payments, paid as reimbursement for expenditure incurred whilst undertaking a mandatory work activity placement, do not affect customers' benefit entitlement.

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 separate full public consultation on the introduction of the Mandatory Work Activity Scheme has not been undertaken. The Mandatory Work Activity Scheme was announced in the Department for Work and Pensions White Paper, *Universal Credit: welfare that works* (November 2010)[*]. In response to the publication of the White Paper, the Department received feedback from several organisations. This, and other feedback the Department has received (including the report of the Social Security Advisory Committee) has been used to inform the development of mandatory work activity.

8.2 The need for the introduction of the Mandatory Work Activity Scheme was identified by Jobcentre Plus advisers. They raised this both through internal staff consultation exercises and also anecdotally, making it clear that they felt it would be useful for them to be able to mandate customers to a short period of work or work-related

[*] Copies of this White Paper can be found at http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/universal-credit/

activity. They felt this would help certain customers re-engage with the system, refocus their approach to job search and gain valuable work-related skills and disciplines. Additionally, the high-level principles of the proposed scheme were discussed at an early stage with over 60 organisations face to face, as part of consultation meetings on the Work Programme and the wider *Get Britain Working* measures. These groups included: customer representative groups; providers; think tanks and lobby groups.

8.3 This instrument, with an Explanatory Memorandum setting out the policy design, was presented to the Social Security Advisory Committee. The Committee has carried out a public consultation, and has issued a report to the Secretary of State for Work and Pensions.

8.4 The Committee's report clearly articulates a number of views, opinions and concerns about mandatory work activity. The Government do not accept the Committee's key recommendation that this scheme should not be introduced. The Government believe that mandatory work activity will have a positive impact on those who participate and that this is the right approach to take to help those who need this type of experience and motivation to enable them to be better equipped to find employment.

8.5 However, the Committee has made very helpful recommendations which have influenced and enhanced the development and delivery of the programme. The Secretary of State has considered the issues raised in the report, and has responded in writing. Of the Committee's eighteen recommendations, the Government has accepted, partially accepted or noted eleven of these. The Secretary of State's response includes a detailed response to the Committee's recommendations.

8.6 In accordance with section 174(2) of the Social Security Administration Act 1992, the Secretary of State has laid a copy of both the report and his response alongside this instrument.[†]

8.7 As is required with any change affecting Housing Benefits and Council Tax Benefits, representatives of the Local Authority Association were consulted on how the proposed Regulations impact on these areas. There were no comments from any of the representatives.

8.8 Representatives of the Scottish and Welsh Governments were formally advised of the detail of the Regulations on 17 December 2010.

9. Guidance

9.1 Jobcentre Plus advisers will be issued with guidance via the intranet, detailing how they will identify customers as being suitable for referral to mandatory work activity, as well as the process for passing customers to providers.

[†] Copies of the Act Paper laid alongside this instrument can be found at http://www.official-documents.gov.uk/menu/other2011.htm

9.2 Contracted providers will be given guidance alongside their contract, setting out the Department's minimum expectations for delivery, as well as the process for passing information to, and receiving it from, Jobcentre Plus.

9.3 The communications approach will include liaison between Jobcentre Plus and the Department for Work and Pensions to ensure consistency of communications for staff and providers. Where possible, communications to staff will be integrated with those of other welfare reform initiatives.

10. Impact

10.1 This instrument 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 published for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Department intends to carry out an evaluation of the policy as part of the pre-Work Programme, including (1) qualitative research, which will collect feedback from providers, customers, Jobcentre Plus advisers and others involved in delivering mandatory work activity, and (2) an assessment of the impact of mandatory work activity on employment and benefit outcomes, subject to identification of a suitable comparison group.

13. Contact

13.1 Vikki Knight at the Department for Work and Pensions (Tel: 020 7449 5684 or email: vikki.knight1@dwp.gsi.gov.uk) can answer any queries regarding the instrument.