EXPLANATORY MEMORANDUM TO

THE JOBSEEKER'S ALLOWANCE (WORK EXPERIENCE) (AMENDMENT) REGULATIONS 2011

2011 No. 789

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

This instrument amends the Jobseeker's Allowance Regulations 1996 so as to set out rules on entitlement to Jobseekers' Allowance for claimants who are offered a place on a "Work Experience" programme. This is an employment programme established under section 2 of the Employment and Training Act 1973 which aims to offer Jobseeker's Allowance claimants aged 18 and over the opportunity to gain experience in a workplace for between 2 and 8 weeks.

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

None.

4. Legislative Context

4.1 The Jobseeker's Allowance (Work Experience) (Amendment) Regulations 2011 are part of a package of proposed legislative changes that make up the *Get Britain Working* and wider Work Programme measures which aim to provide additional support to help individuals into employment. The intention to develop this programme was set out in "The Coalition: our programme for government", which explicitly committed to:

"seek ways to support the creation of apprenticeships, internships, work pairings, and college and workplace training places as part of our wider programme to get Britain working"[1].

4.2 The proposed legislative changes include:

- The Jobseeker's Allowance (Work Programme Scheme) Regulations 2011;
- The Jobseeker's Allowance (Mandatory Work Activity) Regulations 2011; and
- The Employment and Support Allowance (Work-Related Activity, Action Plans and Directions) Regulations 2011.

4.3 It is necessary to amend existing legislation to ensure appropriate conditions for entitlement to Jobseeker's Allowance (including provisions on benefit sanctions) for claimants who are offered a place on a Work Experience programme.

5. Territorial Extent and Application

This instrument applies to Great Britain.

[1] At page 31 of The Coalition: our programme for government, which can be found at: http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf

6. European Convention on Human Rights

The Minister of State for Employment, the Rt Hon Chris Grayling MP, has made the following statement regarding Human Rights:

"In my view the provisions of The Jobseeker's Allowance (Work Experience) (Amendment) Regulations 2011 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Recent evidence shows that employers who recruited young people found them poorly prepared and often concluded that this was down to 'poor understanding of the working world'. The longer young recruits had been in education, the better their work readiness was perceived by employers.[2] This suggests that a lack of work experience may be more of a problem amongst young people with less education. This is supported by a 2009 survey of employers which found that the main barriers to recruiting young people are a lack of experience (72 per cent) and the availability of more suitable candidates (65 per cent). A third of respondents said that young people have poor soft skills or poor attitude (31 per cent).[3]

7.2 The evidence therefore suggests that there is a small minority of young people who struggle to make the transition from school to work, and for some within this group, a lack of work experience can be a significant barrier to work (particularly when combined with low skills).This can make them less marketable to employers, and this group can be particularly vulnerable when there is strong competition for jobs. The Government consider that it is essential that these individuals have access to support that helps to enable them to find employment, to prevent them from becoming long-term unemployed or even withdrawing from the labour market.

7.3 The intention of Work Experience is to give young jobseekers the chance to experience a real working environment. Participants of the programme will be able to use the skills they acquire to market themselves to potential employers.

7.4 Participants of Work Experience will remain on Jobseeker's Allowance for the duration of their placement. The Government intend that all the eligibility conditions for Jobseeker's Allowance will apply, so participants will be required to continue to actively seek work, to be available for employment, and to attend regular face-to-face interviews at Jobcentre Plus. The intention behind this is to remove the risk of the individual becoming distanced from the job seeking support afforded by regular contact with Jobcentre Plus, and from becoming detached from the labour market in general.

7.5 The regulations therefore amend the Jobseeker's Allowance regulations to make clear that participants of Work Experience are not exempted from the requirement to actively seeking employment to remain eligible to claim and receive their benefit.

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[2] *National Employer Skills Survey for England*
www.ukces.org.uk/upload/pdf/NESS%20Key%20findings%202009_2.pdf

[3] Chartered Institute of Personnel and Development Labour Market Outlook, August 2009:
www.cipd.co.uk/NR/rdonlyres/B825A8B2-7022-4D8A-B321-1AB38F1999B2/0/Labour_Market_Outlook_summer_09.pdf

7.6 The Government intend that an individual's decision to participate in Work Experience should be voluntary; however once they have agreed to take part, if a claimant fails to attend or gives up a placement without good cause, or loses a place due to misconduct, then the claimant will be liable to benefit sanctions.

7.7 By amending the Jobseeker's Allowance regulations so as to classify Work Experience as an employment programme, fixed term sanctions will apply. Existing legislation provides for fixed sanction periods of 1, 2, 4 and 26 weeks depending on the type of programme or scheme to which a claimant was referred, during which Jobseeker's Allowance will not be paid. As Work Experience placements will run from 2 – 8 weeks, fixed sanctions of 2 weeks for a first breach, and 4 weeks for a second breach occurring within the next 12 months will apply for participants of this programme. This will ensure that sanctionable periods are proportionate to the duration of the placement. As with sanctions for other employment programmes, the regulations ensure that sanctions can be imposed only if a Jobcentre Plus official has previously provided the claimant with written notice informing them of the implications of failing to complete Work Experience without good cause.

7.8 However the regulations include provision to ensure that if a claimant leaves the placement during the first week he or she will not be subject to the sanctioning regime (unless the claimant failed to attend the placement at all or lost the place through misconduct).

7.9 The Government take the view that the inclusion of a sanctions regime within Work Experience will strengthen the message to the participants that work involves responsibility and personal disciplines such as reliability. A sanctions regime also provides assurance to host businesses that investing time and resources is backed up by a system of consequences for those who deliberately avoid their responsibilities.

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: www.dwp.gov.uk/publications/specialist-guides/law-volumes/ at no cost to the public.

8. Consultation

8.1 Draft regulations were referred to the Social Security Advisory Committee on 18 November 2010, who decided not to refer them for formal consultation.

8.2 The Department decided that it was not necessary to undertake a full formal consultation for these regulations because they do not involve a major policy shift. Participants of Work Experience will remain subject to existing legislation in terms of eligibility to benefit and sanctions and it is within the existing sanctions regime that changes have been made. However, the Department consulted employers, employer representatives, and voluntary and community sector organisations on a number of occasions over a 12 week period, to get initial thoughts and reactions to the Work Experience policy. Some of the organisations, such as The Prince's Trust, were running their own work experience programmes and part of the Department's objective was to explore how these were run, what risks were involved and to establish any methods of best practice from which valuable lessons could be learned for the Work Experience programme.

8.3 The organisations welcomed the proposal to introduce additional support for young unemployed people, and key issues that were raised over the course of the meetings have been taken forward into the design of the Work Experience policy. These are:

- Work Experience should provide a real job experience which is essential to creating a sense of independence and ownership for the individual taking part.
- Managing expectations of the individual about what can be expected from Work Experience.
- Using the right pitch to employers and business hosts and thinking about what will encourage them to offer opportunities. Making sure their contributions are acknowledged to ensure they remain engaged with the programme and continue to offer placements.
- Giving Jobcentre Plus responsibility to operate to local demand.
- Ensuring that a careful process is in place for matching participants to placements – the right person in the right placement offers them the opportunity to become invaluable to that business and therefore increase their chances of being kept on permanently once the placement is over.

8.4 The Department also interviewed fifty-eight young claimants of Jobseeker's Allowance in September 2010 to obtain their views on work experience and its impact on their employment prospects. Interviews were undertaken at Lewisham, Birmingham, Leeds and Liverpool Jobcentre Plus offices. Their responses were also used to shape the Work Experience policy, such as the length of placements, with the policy design reflecting the majority view that a productive period of work experience should last anywhere between 3 and 8 weeks. Claimants' responses also helped to steer the final decision about how participants should be paid while on a placement; there were several different options on the table at this time, i.e. payment by Jobcentre Plus, by the host business, or by both. When asked, most of these claimants said that payment should continue by Jobcentre Plus, as this would avoid any complications or potential gaps in payment. This reflected the Department's preference for the same reasons, and was taken forward in discussion with Jobcentre Plus colleagues. Another good example of how the claimants' responses were used was in how the policy around sourcing placements was designed. Responses included an even mix of claimants' preference to source their own placements, Jobcentre Plus sourcing them, or a combination of both. As such, the policy was designed to offer as much flexibility as possible, with all three options possible to maximise participants being able to take up the best opportunities for their own personal circumstances.

8.5 Following the claimant interviews, the top three benefits of work experience were ranked as:

1. Increased employability.
2. Gained insight into a chosen employment sector.
3. Increase in confidence.

Fifty-three young claimants said they felt that a period of work experience would benefit them in finding paid employment, and when asked, fifty said that they would want to continue active job search while on a placement.

9. Guidance

9.1 A marketing and information strategy has been developed to ensure that the right message gets to the right people at the right time, to support successful implementation of Work Experience.

9.2 The Department for Work and Pensions will develop good practice guidance for the referral and matching processes, but the precise design will be at the discretion of Jobcentre Plus districts. As a minimum they must:

- ensure that advisers do not concentrate on customers who are easiest to help at the expense of those for whom there may be greater barriers to participation;
- select people with the right attitude(s);
- achieve buy-in from host businesses;
- ensure both employers and young people understand what will be required of them

9.3 Additionally, in order to support hosts to deliver high quality placements, a toolkit will be provided which will supplement guidance on how to deliver quality placements.

10. Impact

10.1 The regulations impose no regulatory burdens on the private sector, or civil society organisations although their voluntary participation will help build on the existing *Get Britain Working* employer engagement strategy.

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

This legislation does not apply to small business.

12. Monitoring & review

As one of the *Get Britain Working* strands, data recorded on Work Experience will be built into the overarching assessment of pre-Work Programme support, in line with the new Jobcentre Plus Performance Framework.

13. Contact

Alison Humberstone at the Department for Work and Pensions (Tel: 020 7449 5132); email: alison.humberstone1@dwp.gsi.gov.uk can answer any queries regarding this instrument.