

*These notes refer to the Welfare Reform Act (Northern Ireland)
2010 (c.13) which received Royal Assent on 13 August 2010*

Welfare Reform Act (Northern Ireland) 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Social security

Section 20: Jobseeker's allowance: sanctions for violent conduct etc. in connection with claim

This section inserts two new Articles into the Jobseekers (Northern Ireland) Order 1995, Article 22C (sanctions for violent conduct etc. in connection with claim) and Article 22D (Article 22C supplementary).

Paragraph (1) of new Article 22C makes provision for a benefit sanction of one week to be applied to jobseeker's allowance claimants who are successfully convicted of or, cautioned for violent or threatening behaviour towards staff of Social Security Offices or Jobs and Benefits Offices or contracted out staff. In addition, for the sanction to apply it is necessary that –

- the violent conduct was towards staff of Social Security Offices or Jobs and Benefits Offices or contracted out staff;
- the offence took place on the Social Security Office or Jobs and Benefits Office premises while the offender was there for the purpose of a jobseeker's allowance claim;
- the offender is a person or a member of a joint-claim couple who satisfies the conditions of receiving jobseeker's allowance.

Paragraph (2) provides for:-

- (a) benefit not to be payable for a period of one week in the case where the jobseeker's allowance claim is not a joint-claim even if the conditions of entitlement are satisfied; and
- (b) the period of any other sanction also to be extended by five weeks on the first occasion that the other sanction applies to the claimant.

The reference to another sanction is to any other sanction arising as a result of the Jobseekers (Northern Ireland) Order 1995 and during which jobseeker's allowance is not to be payable. It explains that the sanctions period which is to

be extended by five weeks is the period of that other sanction arising out of the Jobseekers (Northern Ireland) Order 1995.

Under paragraph (4) in the case of a joint-claim jobseeker's allowance, the offender will be treated in the same way as in paragraph (2), namely that a sanction of one week will be applied. If another sanction is imposed the sanction period will be increased by five weeks.

Paragraph (5) explains in relation to a joint-claim jobseeker's allowance that the reference to another sanction is to any other sanction arising as a result of the Jobseekers (Northern Ireland) Order 1995 and during which jobseeker's allowance is not to be payable. It also explains that the sanctions period which is to be extended by five weeks is the period of that other sanction arising out of the Jobseekers (Northern Ireland) Order 1995.

Paragraph (6) provides for regulations to set out that after a certain period the sanctions in paragraphs (2) and (4) will not apply to the claimant of jobseeker's allowance or that in certain circumstances the sanction will not apply to the claimant.

Paragraph (7) makes provision for hardship payments to be made during the sanction period. This does not apply in the case of a sanction of a joint-claim jobseeker's allowance as in paragraph (4). Corresponding provision is made for them by Article 22B(4).

Paragraph (8) provides that regulations may be made for hardship payments in paragraph (7) to be paid as follows:-

- only if the information required from the claimant has been provided;
- payable at a prescribed rate;
- payable only for part of the week.

Paragraph (9) provides that where a conviction is subsequently overturned the amount of sanctioned benefit would be repaid as if the person had never been convicted of the offence in the first place.

New Article 22D sets out in paragraph (1) the offences involving violence or harassment in respect of which the sanction will be applied. These are-

- (a) common assault, battery or affray;
- (b) an offence under section 16, 18, 20, 42 or 47 of the Offences Against the Person Act 1861;
- (c) an offence under Article 9 or 10 of the Public Order (Northern Ireland) Order 1987;
- (d) an offence under Article 4 or 6 of the Protection from Harassment (Northern Ireland) Order 1997;

- (e) an ancillary offence in relation to an offence within any of sub-paragraphs (a) to (d).

In paragraph 1(e) “ancillary offence”, in relation to an offence means any of the following –

- (a) aiding, abetting, counselling or procuring the commission of the offence;
- (b) attempting or conspiring to commit the offence.

Paragraph (4) explains the meaning of ‘cautioned’.

Paragraph (5) provides for regulations to be made for requiring prescribed persons (such as the police or the prosecuting agencies) to notify the Department of any offences set out in new Article 22D in respect of which a sanction may be applied, as in new Article 22C.

Paragraph (6) provides for amendments to be made by regulation to paragraphs (1) or (2) by removing or adding offences.

Subsection (3) of section 20 amends Article 37(1)(c) of the Jobseekers (Northern Ireland) Order 1995 so that the regulation making power found in paragraph (6) of new Article 22D will be subject to the confirmatory resolution procedure.

Subsection (4) makes a consequential amendment to paragraph 3(d) of Schedule 3 to the Social Security (Northern Ireland) Order 1998. This will give those whose benefit is sanctioned a right of appeal about the payability of their benefit.