



2010 CHAPTER 13

PART 1
SOCIAL SECURITY

Miscellaneous

Contracting out functions under Jobseekers (Northern Ireland) Order 1995

26.—(1) The Jobseekers Order is amended as follows.

(2) Before Article 23 (but after the italic heading immediately before that Article) insert—

“Contracting out

22E.—(1) The following functions of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) conducting interviews under Article 13A
- (b) providing documents under Article 13C;
- (c) giving, varying or revoking directions under Article 20B(5).

(2) The following functions of officers of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) specifying places and times, and being contacted, under Article 10;

- (b) entering into or varying any jobseeker's agreement under Article 11 or 12 and referring any proposed agreement or variation to the Department under Article 11 or 12;
 - (c) giving notifications under Article 18 or 20A;
 - (d) giving, varying or revoking directions under Article 20A.
- (3) Regulations may provide for any of the following functions of the Department or of the Department for Employment and Learning to be exercisable by, or by employees of, such person (if any) as that Department may authorise for the purpose—
- (a) any function under regulations under Article 10, 13A, 13C, 19A or 20B, except the making of an excluded decision (see paragraph (4));
 - (b) the function under Article 10(1) of the 1998 Order (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
 - (c) the function under Article 11(1) of the 1998 Order (superseding of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
 - (d) any function under Chapter 2 of Part 2 of the 1998 Order (social security decisions), except Article 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within sub-paragraphs (a) to (c).
- (4) Each of the following is an “excluded decision” for the purposes of paragraph (3)—
- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under Article 10, 13A or 19A;
 - (b) a decision about whether a person had good cause for failure to comply with such a requirement;
 - (c) a decision about not paying or reducing a jobseeker's allowance in consequence of a failure to comply with such a requirement.
- (5) Regulations under paragraph (3) may provide that a function to which that paragraph applies may be exercised
- (a) either wholly or to such extent as the regulations may provide,
 - (b) either generally or in such cases as the regulations may provide, and
 - (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.
- (6) An authorisation given by virtue of any provision made by or under this Article may authorise the exercise of the function concerned—
- (a) either wholly or to such extent as may be specified in the authorisation,

Status: This is the original version (as it was originally enacted).

- (b) either generally or in such cases as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;

but, in the case of an authorisation given by virtue of regulations under paragraph (3), this paragraph is subject to the regulations.

(7) An authorisation given by virtue of any provision made by or under this Article—

- (a) may specify its duration,
- (b) may be revoked at any time by the Department or the Department for Employment and Learning, and
- (c) does not prevent the Department or the Department for Employment and Learning or any other person from exercising the function to which the authorisation relates.

(8) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or the Department for Employment and Learning or (as the case may be) an officer of that Department.

(9) But paragraph (8) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person).

(10) Any decision which an authorised person makes in exercise of a function of the Department or of the Department for Employment and Learning has effect as a decision of the Department under Article 9 of the 1998 Order.

(11) Where—

- (a) the authorisation of an authorised person is revoked at any time, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Department or the Department for Employment and Learning as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department or the Department for Employment and Learning (and not as frustrated by reason of the revocation).

(12) In this Article—

- (a) “the 1998 Order” means the Social Security (Northern Ireland) Order 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this Article;
- (c) references to functions of the Department or of the Department for Employment and Learning under any statutory provision include functions which the Department has by virtue of the application of Article 9(1)(c) of the 1998 Order in relation to the statutory provision.”.

(3) In each of the following provisions for “employment officer” substitute “officer of the Department or of the Department for Employment and Learning”—

- (a) Article 10(1)(a),
- (b) Article 11(1), (5), (6) and (7)(b),
- (c) Article 12(1), (4), (5) and (6)(b)(ii),
- (d) Article 21(5)(b)(ii), (6)(c) and (10)(b) (as the Article has effect before its substitution by paragraph 6 of Schedule 1), and
- (e) Article 22A(2)(b)(ii) and (f) (as the Article has effect before its substitution by paragraph 7 of that Schedule).

(4) In Article 10(1A)(a), for “the Department” substitute “an officer of the Department or of the Department for Employment and Learning”.

(5) In relation to any time before paragraph 4 of Schedule 1 is fully in operation, Article 22E(2)(c) and (d) of the Jobseekers Order have effect as if they included references to the giving of notifications or directions under Article 21 or 22A of that Order.