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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the provisions in Part 1 of the Welfare Reform Act 2007 (“the Act”).

Section 13 of the Act introduced work-related activity requirements for claimants of employment and support allowance (ESA) who are not in the “support group” (defined in section 24(4) as persons in respect of whom it is determined that they have, or are to be treated as having, limited capability for work-related activity).

Regulation 3 sets out the circumstances in which the Secretary of State may require such a person to undertake work-related activity and who such a requirement may be applied to. It also makes clear that a requirement must be reasonable in the view of the Secretary of State, having regard to the person’s circumstances and may not require the person to apply for a job, undertake work or undergo medical treatment as part of the work-related activity requirement. It also provides that a lone parent with a child under the age of 13 may only be required to undertake work related activity during normal school hours.

Regulation 4 sets out the circumstances in which the Secretary of State may exercise the power to give a direction under section 15 of the Act.

Regulation 5 sets out the way in which the Secretary of State must notify a person of a requirement to undertake work-related activity, by including the requirement in a written action plan.

Regulation 6 provides that the requirement to undertake work-related activity at or by a particular time may be adjusted in certain circumstances.

Regulation 7 sets out a right to request reconsideration of the action plan. On receipt of the request the action plan must be reconsidered and a decision notified to the person.

Regulation 8 sets out what happens if a person fails to undertake work-related activity and provides an opportunity to show good cause for the failure. If good cause is not shown, a sanction may be given under regulation 63 of the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) “the ESA Regulations” as amended by regulation 17 of these Regulations.

Regulation 9 makes provision for contracting out the work-related activity functions (with the exception of functions relating to the consideration of good cause and the imposition of sanctions).

Regulations 10-21 make certain consequential and miscellaneous amendments to the ESA Regulations:

Regulations 10, 13(4), 14 and 16 revoke regulations regarding action plans relating to work focused interviews. Action plans will only be required if work related activity is imposed under these Regulations.

Regulation 11 revokes provisions relating to work-focused health related assessments which are no longer required of ESA claimants.

Regulations 12 and 13 allow for work-focused interviews to be carried out other than in person and regulation 15 substitutes new good cause provisions for failures to take part in a work-focused interview, to align with regulations in relation to failures to undertake work-related activity.

Regulations 17 and 18 apply the existing ESA sanctions regime for failure to take part in a work-focused interview to a failure to undertake work-related activity and provide for when a sanction will cease.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Employment and Support Allowance (Work-Related Activity) Regulations 2011 No. 1349*

Regulations 19 and 20 provide that travel and other expenses paid to persons in connection with their undertaking of work-related activity are disregarded as income and capital for the purposes of income related ESA.

Regulation 21 makes consequential amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ([S.I. 1999/991](#)).

A full impact assessment has not been produced for this instrument as it has no impact on the voluntary or private sectors.