

Title: The Jobseeker's Allowance (Habitual Residence) Amendment Regulations 2013 IA No: Lead department or agency: Department for Work and Pensions Other departments or agencies: none	Impact Assessment (IA)					
	Date: 16/12/2013					
	Stage: Final					
	Source of intervention: Domestic					
	Type of measure: Secondary - Regulations					
Contact for enquiries: Satish Parmar,						
Summary: Intervention and Options					RPC Opinion:	

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as	
n/a – not available	n/a – not available	n/a – not available	No	n/a	

What is the problem under consideration? Why is government intervention necessary?

EEA jobseekers and UK nationals returning from a period of residence abroad are entitled to claim income-related Jobseeker's Allowance only if they can satisfy the 'Habitual Residence Test'. This Test does not depend only on the length of time someone has spent in the country. Rather the Test is satisfied where a person can demonstrate they have sufficient links with the UK and a settled intention to remain. In some cases this means they may be entitled to benefit very quickly. Government policy is to protect the UK's predominantly taxpayer funded social security system from those who have made no contribution by means of taxation or social security contributions. For this reason it is legitimate for the UK to pay JSA only if there is a genuine link between the jobseeker and the UK's employment market and a clear period of residence can be appropriate to establish that link.

What are the policy objectives and the intended effects?

Introduce a new requirement to have been living in United Kingdom or the Common Travel Area (the Channel Islands, the Isle of Man or the Republic of Ireland) for a period of 3 months before an EEA national job seeker or a UK national who has lived or worked abroad can be treated as habitually resident.

The new provision only applies to claims to income-related JSA and "passported" entitlement to Housing Benefit. It is part of the Habitual Residence Test requirements at any time it is applied for claims to income-related JSA.

This will help to reduce claims to income-related JSA by people who have not established a genuine link with the labour market and by helping to discourage those migrants coming to the UK with the primary aim of claiming benefits.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing. Continue to rely on the existing Habitual Residence Test.
2. Introduce a new requirement to have been living in United Kingdom or the Common Travel Area (the Channel Islands, the Isle of Man or the Republic of Ireland) for a period of 3 months before an EEA national job seeker or a UK national who has lived or worked abroad can be treated as habitually resident. This will help avoid additional costs by reducing claims to JSA by people who have not established a genuine link with the labour market. and will help to discourage migrants coming to the UK with the primary aim of claiming benefits

Will the policy be reviewed? It will be reviewed. If applicable, set review date: N/A					
Does implementation go beyond minimum EU requirements?			n/a		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No

What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A	Non-traded: N/A
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I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Esther McVey _____ Date: 17/12/2013 _____

Summary: Analysis & Evidence

Policy Option 1

Description: Introduction of 3 month residence requirement

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: n/a

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	n/a– not available		n/a– not available

Description and scale of key monetised costs by 'main affected groups'

A monetary value has not been estimated due to the lack of detailed data and the uncertainties regarding future migration patterns.

Other key non-monetised costs by 'main affected groups'

EEA jobseekers and returning UK citizens will not be entitled to JSA for three months after entry. There will be an extra element of the Habitual Residence Test to administer.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			not available

Description and scale of key monetised benefits by 'main affected groups'

A monetary value has not been estimated due to the lack of detailed data and the uncertainties regarding future migration patterns.

Other key non-monetised benefits by 'main affected groups'

A monetary value has not been estimated due to the lack of detailed data and the uncertainties regarding future migration patterns. There are likely to be administrative savings as fewer applications will be made due to the greater clarity and tighter conditions.

Key assumptions/sensitivities/risks

The impact will depend heavily on individual behaviour in response to the policy, including future patterns of migration.

Discount rate (%) 3.5%

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: No impact	Benefits: No Impact	Net: No impact	No	not applicable

Background information

What is the current policy?

All migrants, including British citizens returning from living or working abroad, who apply for income-related benefits are subject to the Habitual Residence Test to assess their legal right of residence and whether they are factually habitually resident.

- EEA nationals who are in work or self-employed satisfy the right to reside element and are deemed to be factually habitually resident.
- EEA nationals with job seeker status can satisfy the right to reside element of the test by demonstrating that they are actively seeking work and have a genuine prospect of work.
- UK nationals can satisfy the right to reside element of the test where they are a British citizen with a right of abode.
- Decision Makers assess a wide variety of factors to determine whether someone is factually habitually resident. These include evidence of intention to remain and attachment to the UK. Each case is treated on its own merits, in the light of the person's individual circumstances.
- An EEA national job seeker who satisfies the Habitual Residence Test is entitled to claim income-related Jobseeker's Allowance (JSA) and Housing Benefit (HB). They are not entitled to claim, income-related Employment and Support Allowance (ESA), Income Support (IS), or Pension Credit (PC).

Problem and solution

The current system allows individuals to make a claim to benefits from the date of arrival in the UK, and to become entitled to income related benefits provided they satisfy the habitual resident test.

The proposed change is to introduce a new requirement to have been living in United Kingdom or the Common Travel Area (the Channel Islands, the Isle of Man or the Republic of Ireland) for a period of 3 months before an EEA national job seeker or a UK nationals who has lived or worked abroad can be treated as habitually resident.

The new provision will only apply to claims to income-related JSA and "passported" entitlement to Housing Benefit. It is part of the Habitual Residence Test requirements at any time it is applied for claims to income-related JSA.

This will mean that EEA jobseekers and returning UK nationals can be habitually resident only after they have been living in the UK continuously for 3 months. EEA national workers and self-employed will not be affected by this policy change.

Policy rationale

This policy change will ensure that migrants have established a genuine link with the labour market before they are entitled to claim income related Jobseeker's Allowance

Policy options

1. Do nothing
2. Introduce a new requirement to have been living in United Kingdom or the Common Travel Area (the Channel Islands, the Isle of Man or the Republic of Ireland) for a period of 3 months before an EEA national job seeker or a UK nationals who has lived or worked abroad can be treated as habitually resident.

Do nothing

This option will allow EEA jobseekers and returning UK nationals to continue to make an immediate claim as the existing Habitual Residence Test does not require a specified length of residence to establish a genuine link with the labour market before claiming Jobseeker's Allowance.

Introduce a three-month residence requirement

This approach is designed to protect the UK's predominantly taxpayer funded social security system from those who have made no contribution by means of taxation or social security contributions. It is aimed at discouraging EEA migrants coming to the UK with the primary aim of claiming benefits and therefore lead to cost reductions by reducing claims to income related JSA. It is legitimate for the UK to pay JSA only if there is a genuine link between the jobseeker and the UK's employment market.

If this change is made, some claims will still be accepted within three months of entry – for example workers and the self employed may be entitled to claim – but some claims will no longer be allowed.

Data based on non-UK EU nationals applying for a National Insurance Number (NINO) in 2012/13 suggests that 20,000 of these individuals received JSA within three months of applying for a NINO¹; however this figure does not include UK nationals who would be affected; nor does it make any allowance for future migration patterns.

Exact estimates of the numbers of those likely to be affected by this policy at any one time are difficult as

- Jobseekers may not apply for a NINO until they apply for a benefit, so may have been in the UK for longer than three months by the time they apply
- It gives the number of individuals who have received JSA at any point within the 3 month period between NINO registration and start of JSA claim over the course of a year. More than a quarter of new JSA claims end within a month and over half within three months.
- Some, such as workers or the self-employed, will continue to be eligible for benefit after less than three months residence. Claims to contributory JSA will also continue as now.

Assuming a hypothetical scenario where 1000 individuals were affected by the policy at a point in time and

- each lost standard JSA (£71.70)
- 58% also lost passported HB of £91.81²

The saving to the exchequer would be around £6 million per year.

This does not take into account the cost of any alternative provision or impacts on other entitlement restrictions, for instance, in certain circumstances people may be able to apply for support from the Local Authority. Local Authority support is subject to statutory criteria, e.g. under section 17 of the Children Act 1989 (for a child in need and their family) or section 21 of the National Assistance Act 1948 (provision of accommodation in certain circumstances)³. Conversely savings would be increased if the policy discouraged those who would otherwise have claimed benefits coming to the UK.

¹ Source: Nino registrations and DWP administration data.

² Number of HB claims passported from JSA(IB) from SHBE (May 2013) / All JSA(IB) claims (from the 5% data on the tab tool, May 2013)

³ Data on the numbers assessed by Local Authorities under these conditions and the total costs to Local Authorities were not available, and thus not included in the costing.

The maximum impact on any individuals will be a delay of three months in gaining entitlement to benefit.

Risks

The analysis above shows a scenario based on 1000 people being affected. In practice the policy may affect more or fewer than this number.

It takes no account of potential behavioural change, either in people's decisions to move between countries or not, or the likelihood of them taking up a job.

No analysis has been undertaken of the costs of implementing the change to the Habitual Residence Test or of potential administration savings if fewer applications for benefits are made.

Conclusion

Option 2: Introduce a three month residence requirement is preferred. This will reduce the potential for high exchequer costs for supporting those with little history of attachment to the UK.