



# Jobseekers (Back to Work Schemes) Act 2013

2013 CHAPTER 17

**E+W+S**

An Act to make provision about the effect of certain provisions relating to participation in a scheme designed to assist persons to obtain employment and about notices relating to participation in such a scheme. [26th March 2013]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Regulations and notices requiring participation in a scheme** **E+W+S**

- (1) The 2011 Regulations are to be treated for all purposes as regulations that were made under section 17A of the Jobseekers Act 1995 and other provisions specified in the preamble to the 2011 Regulations and that came into force on the day specified in the 2011 Regulations.
- (2) The Employment, Skills and Enterprise Scheme mentioned in the 2011 Regulations is to be treated as having been, until the coming into force of the 2013 Regulations, a scheme within section 17A(1) of the Jobseekers Act 1995.
- (3) The following are to be treated as having been, until the coming into force of the 2013 Regulations, programmes of activities that are part of the Employment, Skills and Enterprise Scheme—
  - (a) the programmes described in regulation 3(2) to (8) of the 2013 Regulations, and
  - (b) the programme known as the Community Action Programme, and references to the scheme are to be read accordingly.

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- (4) A notice given for the purposes of regulation 4(1) of the 2011 Regulations (requirement to participate and notification) is to be treated as a notice that complied with regulation 4(2)(c) (details of what a person is required to do by way of participation in scheme) if it referred to—
  - (a) the Employment, Skills and Enterprise Scheme, or
  - (b) a programme of activities treated under subsection (3) as part of the scheme.
- (5) A notice given for the purposes of regulation 4(1) of the 2011 Regulations is to be treated as a notice that complied with regulation 4(2)(e) (information about the consequences of failing to participate) if it described an effect on payments of jobseeker's allowance as a consequence or possible consequence of not participating in the scheme or a programme of activities.
- (6) Regulation 4(3) of the 2011 Regulations (notice of changes in what a person is required to do by way of participation in scheme) is to be treated as if at all times—
  - (a) it required the person in question to be notified only if the changes in the requirements mentioned in regulation 4(2)(c) were such that the details relating to those requirements specified in—
    - (i) a notice given to the person under regulation 4(1), or
    - (ii) a notice given to the person under regulation 4(3) on an earlier occasion,were no longer accurate, and
  - (b) it required the person to be notified only of such changes as made the details inaccurate.
- (7) A notice given for the purposes of regulation 4(1) of the Mandatory Work Activity Scheme Regulations is to be treated as a notice that complied with regulation 4(2)(d) (details of what a person is required to do by way of participation in scheme) if it referred to—
  - (a) the Mandatory Work Activity Scheme, or
  - (b) a placement described as Mandatory Work Activity.
- (8) A notice given for the purposes of regulation 4(1) of the Mandatory Work Activity Scheme Regulations is to be treated as a notice that complied with regulation 4(2)(f) (information about the consequences of failing to participate) if it described an effect on payments of jobseeker's allowance as a consequence or possible consequence of not participating in the scheme or placement.
- (9) Regulation 4(3) of the Mandatory Work Activity Scheme Regulations is to be treated as if at all times—
  - (a) it required the person in question to be notified only if the changes in the requirements mentioned in regulation 4(2)(d) were such that the details relating to those requirements specified in—
    - (i) a notice given to the person under regulation 4(1), or
    - (ii) a notice given to the person under regulation 4(3) on an earlier occasion,were no longer accurate, and
  - (b) it required the person to be notified only of such changes as made the details inaccurate.
- (10) The penalty provisions are to be treated (notwithstanding the amendments made by the 2012 Regulations) as having effect after the relevant time as they did before the

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relevant time, in relation to a failure to comply with the 2011 Regulations or, as the case may be, the Mandatory Work Activity Scheme Regulations that occurred or began to occur before the relevant time.

- (11) In subsection (10) and this subsection—
- “the penalty provisions” means—
- (a) in the case of a failure to comply with the 2011 Regulations, the provisions relating to the imposition of a penalty for such a failure that had effect before the relevant time;
  - (b) in the case of a failure to comply with the Mandatory Work Activity Scheme Regulations, the provisions relating to the imposition of a penalty for such a failure that had effect before the relevant time;
- “the relevant time” means the time at which the 2012 Regulations came into force.
- (12) A penalty imposed on a person before or after the coming into force of this Act for—
- (a) failing to participate in a scheme within section 17A(1) of the Jobseekers Act 1995, or
  - (b) failing to comply with regulations under section 17A of that Act,
- is to be treated as lawfully imposed if the only ground or grounds for treating it as unlawfully imposed is or are removed by subsections (1) to (10).
- (13) Subsection (12) does not affect a person's ability to apply for a revision or supersession of, or to appeal against, a decision to impose a penalty by reference to other grounds.
- (14) Subject to subsection (10), the 2011 Regulations are to be treated as having been revoked by the 2013 Regulations on the coming into force of the 2013 Regulations.
- (15) In this section—
- “the 2011 Regulations” means the provisions known as the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 (S.I. 2011/917);
- “the 2012 Regulations” means the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568);
- “the 2013 Regulations” means the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013 (S.I. 2013/276);
- “the Mandatory Work Activity Scheme Regulations” means the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011 (S.I. 2011/688).

#### [<sup>F1</sup>1A Certain appeals against penalties under the 2011 Regulations **E+W+S**

- (1) This section applies where—
- (a) the Secretary of State has made a decision imposing on a claimant for jobseeker's allowance a penalty for failing to comply with the 2011 Regulations (“the penalty decision”), and
  - (b) the claimant lodged an appeal against the penalty decision before 26 March 2013, and the appeal had not been finally determined, abandoned or withdrawn before 26 March 2013.
- (2) If the Secretary of State revises the penalty decision under section 9 of the Social Security Act 1998, in making the revised decision, the Secretary of State must

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- disregard subsections (1) to (6) of section 1 of this Act and subsection (12) of section 1 so far as it relates to those subsections.
- (3) Subsection (4) applies where a tribunal has decided the appeal before this section comes into force.
- (4) In a case where the tribunal decided to uphold the penalty decision (in whole or in part), the Secretary of State must make a decision superseding the tribunal's decision.
- (5) In making a superseding decision under subsection (4), the Secretary of State must disregard subsections (1) to (6) of section 1 and subsection (12) of section 1 so far as it relates to those subsections.
- (6) Section 10(1)(b) of the Social Security Act 1998 (power of the Secretary of State to supersede a tribunal decision) does not apply in a case where subsection (4) applies.
- (7) A superseding decision made under subsection (4) is to be treated for all purposes as if it were a superseding decision made under section 10 of the Social Security Act 1998.
- (8) Subsection (9) applies where, after this section has come into force, a court or tribunal is considering—
- (a) the appeal mentioned in subsection (1)(b),
  - (b) an appeal against a revised decision made under section 9 of the Social Security Act 1998 by virtue of subsection (2), or
  - (c) an appeal against a superseding decision made under subsection (4).
- (9) In considering the appeal, the court or tribunal must disregard subsections (1) to (6) of section 1 and subsection (12) of section 1 so far as it relates to those subsections.
- (10) A revised decision made by virtue of subsection (2) and a superseding decision made under subsection (4) are to be treated as having effect from the date on which the penalty decision had effect (other than for the purposes of any rule as to the time allowed for bringing an appeal).
- (11) In this section—
- “the 2011 Regulations” has the same meaning as in section 1;
  - “court” means the Court of Appeal, the Court of Session or the Supreme Court;
  - “tribunal” means the First-tier Tribunal or the Upper Tribunal.

#### Textual Amendments

- F1** Ss. 1A, 1B inserted (3.10.2020) by [The Jobseekers \(Back to Work Schemes\) Act 2013 \(Remedial Order 2020 \(S.I. 2020/1085\)](#), arts. 1(1), 2

### **1B Certain appeals against penalties under the Mandatory Work Activity Scheme Regulations** **E+W+S**

- (1) This section applies where—
- (a) the Secretary of State has made a decision imposing on a claimant for jobseeker's allowance a penalty for failing to comply with the Mandatory Work Activity Scheme Regulations (“the penalty decision”), and

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- (b) the claimant lodged an appeal against the penalty decision before 26 March 2013, and the appeal had not been finally determined, abandoned or withdrawn before 26 March 2013.
- (2) If the Secretary of State revises the penalty decision under section 9 of the Social Security Act 1998, in making the revised decision, the Secretary of State must disregard subsections (7) to (9) of section 1 of this Act and subsection (12) of section 1 so far as it relates to those subsections.
- (3) Subsection (4) applies where a tribunal has decided the appeal before this section comes into force.
- (4) In a case where—
- (a) the tribunal decided to uphold the penalty decision (in whole or in part), and
  - (b) the Secretary of State decides that subsection (7), (8) or (9) of section 1 or subsection (12) of section 1 so far as it relates to those subsections may be relevant to the tribunal’s decision,
- the Secretary of State must make a decision superseding the tribunal’s decision.
- (5) In making a superseding decision under subsection (4), the Secretary of State must disregard subsections (7) to (9) of section 1 and subsection (12) of section 1 so far as it relates to those subsections.
- (6) Section 10(1)(b) of the Social Security Act 1998 (power of the Secretary of State to supersede a tribunal decision) does not apply in a case where subsection (4) applies.
- (7) A superseding decision made under subsection (4) is to be treated for all purposes as if it were a superseding decision made under section 10 of the Social Security Act 1998.
- (8) Subsection (9) applies where, after this section has come into force, a court or tribunal is considering—
- (a) the appeal mentioned in subsection (1)(b),
  - (b) an appeal against a revised decision made under section 9 of the Social Security Act 1998 by virtue of subsection (2), or
  - (c) an appeal against a superseding decision made under subsection (4).
- (9) In considering the appeal, the court or tribunal must disregard subsections (7) to (9) of section 1 and subsection (12) of section 1 so far as it relates to those subsections.
- (10) A revised decision made by virtue of subsection (2) and a superseding decision made under subsection (4) are to be treated as having effect from the date on which the penalty decision had effect (other than for the purposes of any rule as to the time allowed for bringing an appeal).
- (11) In this section—
- “the Mandatory Work Activity Scheme Regulations” has the same meaning as in section 1;
  - “court” has the same meaning as in section 1A; and
  - “tribunal” has the same meaning as in section 1A.]

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**Textual Amendments**

**F1** Ss. 1A, 1B inserted (3.10.2020) by [The Jobseekers \(Back to Work Schemes\) Act 2013 \(Remedial\) Order 2020 \(S.I. 2020/1085\)](#), arts. 1(1), 2

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## 2 Report **E+W+S**

- (1) The Secretary of State must appoint an independent person to prepare a report on the operation of the provisions relating to the imposition of a penalty during the period of a year beginning with the day on which this Act comes into force, so far as that operation relates to relevant penalties.
- (2) The person must complete the preparation of the report and send it to the Secretary of State as soon as reasonably practicable after the end of the period mentioned in subsection (1).
- (3) On receiving the report, the Secretary of State must lay a copy of it before Parliament.
- (4) In this section—
  - “penalty” means a penalty that may be imposed for—
    - (a) failing to participate in a scheme within section 17A(1) of the Jobseekers Act 1995, or
    - (b) failing to comply with regulations under section 17A of that Act;
  - “relevant penalty” means a penalty that, but for section 1 of this Act, would not be or would not have been lawfully imposed on a person.

## 3 Extent, commencement and short title **E+W+S**

- (1) This Act extends to England and Wales and Scotland.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Jobseekers (Back to Work Schemes) Act 2013.

**Changes to legislation:**

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