
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose a requirement on certain persons who claim incapacity benefit, income support on the grounds of incapacity, income support whilst they are appealing against a decision which embodies a determination that they are not incapable of work, or severe disablement allowance (“specified benefit”) to take part in work-focused interviews.

Regulation 2 provides for interpretation. In particular it provides for these Regulations to apply only to persons who reside in certain areas of the country which are identified in the Schedule.

Regulation 3 specifies those persons who are required to take part in a work-focused interview.

In particular, regulation 3(2) provides that a person who has taken part in a work-focused interview under that regulation and whose entitlement to a specified benefit ends shall not be required to take part in another interview under that regulation if he becomes entitled to another specified benefit or if he regains entitlement to the original specified benefit. Regulation 3(2) does not apply, however, if the person has done some paid work or made a claim for a jobseeker’s allowance after his entitlement to a specified benefit ceased and before he became entitled to another specified benefit or regained entitlement to the original specified benefit.

Regulation 4 prescribes when a person shall be required to take part in five further work-focused interviews and any subsequent interviews as a condition of his continuing entitlement to the full amount of a specified benefit.

In particular, regulation 4(2) provides that a person who has taken part in one or more interviews under that regulation and whose entitlement to a specified benefit ends shall be required to continue to take part in the sequence of interviews under that regulation until he has taken part in a total of five such interviews if he becomes entitled to another specified benefit or if he regains entitlement to the original specified benefit. Regulation 4(2) does not apply, however, if the person has done some paid work or made a claim for a jobseeker’s allowance after his entitlement to a specified benefit ceased and before he became entitled to another specified benefit or regained entitlement to the original specified benefit.

Regulation 3(2) or 4(2) would apply where a person’s entitlement to incapacity benefit ends and he then becomes entitled to income support whilst he is appealing against the decision which embodies a determination that he is not incapable of work. The effect of regulations 3(2) and 4(2) is that he continues with the work-focused interview process from the stage he reached before his original entitlement ceased without having to start the whole interview process again.

Regulation 5 provides for the person to be advised of the time and place of the work-focused interview and provides that such an interview can take place in the person’s home if the officer considers that it would be unreasonable to require the person to attend elsewhere.

Regulation 6 provides that the requirement to take part in a work-focused interview can be waived where an interview would not be of assistance to the person or it would not be appropriate in the circumstances of the case.

Regulation 7 provides that a work-focused interview can be deferred.

Regulation 8 provides that a person who is deemed to be exempt from undergoing a personal capability assessment shall be exempt from the requirement to take part in any of the five further work-focused interviews under regulation 4(1).

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

Regulation 9 prescribes the circumstances where a person is to be regarded as having taken part in a work-focused interview.

Regulation 10 sets out the consequences of a failure to take part in a work-focused interview, including how benefit shall be reduced for every failure to take part in such an interview and it specifies the circumstances where those consequences do not apply.

Regulation 11 specifies examples of matters to be taken into account in determining whether a person had good cause for his failure to take part in a work-focused interview.

Regulation 12 provides that a decision that a person has failed to take part in a work-focused interview without good cause can be appealed to an appeal tribunal under section 12 of the Social Security Act 1998 (c. 14).

Regulations 13 and 16 amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) respectively to provide that any payment made under the Return to Work Credit Scheme to a claimant's partner shall be disregarded in the calculation of income or capital for the purposes of determining entitlement to income support or jobseeker's allowance.

Regulations 14 and 15 amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) respectively to provide that any payment made under the Return to Work Credit Scheme to a claimant or his partner shall be disregarded in the calculation of income or capital for the purposes of determining entitlement to housing benefit or council tax benefit.

The Return to Work Credit Scheme is a scheme set up under section 2 of the Employment and Training Act 1973 (c. 50) for a person to whom these Regulations apply who stops claiming a specified benefit because he has found paid work of at least 16 hours per week and whose earnings do not exceed £15,000 per year. The credit is payable for 52 weeks following the end of the person's entitlement to a specified benefit. A leaflet describing the scheme can be obtained by writing to room 4S25, Quarry House, Quarry Hill, Leeds LS2 7UA.

Regulation 17 amends the Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703) to provide that those Regulations shall not apply to a person to whom these Regulations apply.

The Report of the Social Security Advisory Committee dated 14th August 2003 on the proposals referred to them in respect of these Regulations, together with a statement showing the extent to which the proposals give effect to the Recommendations of the Committee, and in so far as they do not give effect to them, the reasons why not, are contained in Command Paper Cm. 5969 published by The Stationery Office Ltd.

These Regulations do not impose a charge on business.