

**EXPLANATORY MEMORANDUM TO  
THE SOCIAL SECURITY (INCAPACITY BENEFIT WORK-FOCUSED  
INTERVIEWS) REGULATIONS 2008**

**2008 No. 2928**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 Work-focused interviews for people in receipt of Incapacity Benefit have been carried out since 2000 when pilot schemes were introduced. Building on the success of the pilots, the Incapacity Benefit Pathways to Work regime was introduced in 2003 and the Employment and Support Allowance work-focused interview regime builds on that process and has simplified the legislative framework. It was therefore decided to introduce incapacity benefit work-focused interview legislation to bring the Incapacity Benefit process in line with the Employment and Support Allowance process. This instrument replaces earlier Incapacity Benefit work-focused interview legislation and at the same time aligns it with the relevant Employment and Support Allowance legislation, where possible.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Employment and Support Allowance includes a work-focused interview conditionality regime that builds on Pathways to Work which was introduced in 2003. This means that receipt of the full rate of benefit is conditional upon the claimant attending a series of work-focused interviews. These regulations replace The Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2003, and amend existing legislation that originally introduced the requirement to participate in work-focused interviews for incapacity benefits claimants. The affected legislation is shown at Annex 1. The intention is, where possible, to align incapacity benefits work-focused interview conditionality with Employment and Support Allowance work-focused interview conditionality.

4.2 These regulations align those parts of the Pathways work-focused interview regime which are currently different. They include:-

- Conditionality for claimants returning to benefit
- Those exempt from undertaking the Personal Capability Assessment in Incapacity Benefit
- Deferring the work-focused interview
- Notification of failure to take part in a work-focused interview
- Sanctions

## **5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- ***What is being done and why***

7.1 Employment and Support Allowance claimants are expected to attend a series of work-focused interviews where the claimant has a dedicated advisor who will discuss their work aspirations and help them take the necessary steps to move into work.

7.2 Although Employment and Support Allowance has been introduced Incapacity Benefit regulations will still apply to existing claimants. In addition, people who were previously in receipt of Incapacity Benefit can re-qualify if they re-claim within specified time limits. These claimants, as now, will be subject to a series of work-focused interviews as a condition of receipt of their full benefit entitlement.

7.3 The previous regulations governing Incapacity Benefit work-focused interviews set out precise timings for the interviews whereas the new provisions allow greater flexibility in line with the Employment and Support Allowance process.

7.4 Some Incapacity Benefit claimants are exempt from any requirement to have medical testing; these people will not be required to attend work-focused interviews.

7.5 Where a claimant does not attend or participate in a work-focused interview and cannot show good cause reasons for not doing so, their benefit may be reduced.

7.6 Certain transitional arrangements have been included which cover those claimants who are part way through the Pathways work-focused interview process since the introduction of Employment and Support Allowance.

7.7 The aim is to simplify the rules and procedures for both staff and claimants by bringing the Incapacity Benefit regime in line with that for ESA claimants, where possible.

- ***Consolidation***

7.8 There are no plans to consolidate the legislation. The existing regulations will not be consolidated once this statutory instrument has been laid as the “The Law Relating to Social Security” (Blue Volumes) provides this function and will eventually incorporate this statutory instrument into the existing Regulations. They are held on line at <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/> and are available to the public free of charge.

## **8. Consultation outcome**

8.1 The Government had a formal consultation period lasting 12 weeks on its strategy for helping those with a health condition or disability as set out in its Green Paper '*A new deal for welfare: Empowering people to work*' (Cm 6730) published in January 2006. The full report can be obtained at:

[http://www.dwp.gov.uk/welfarereform/empowering\\_people\\_to\\_work.asp](http://www.dwp.gov.uk/welfarereform/empowering_people_to_work.asp)

8.2 In devising the new capability assessments which will be integral to the Employment and Support Allowance regime, two technical working groups, consisting of medical and other relevant experts, were set up to consider how the current Incapacity Benefit Personal Capability Assessment could be improved and updated. As well as the technical working groups, consultation groups, consisting of organisations representing the main customer representative groups were set up.

## **9. Guidance**

9.1 Existing guidance is being updated to reflect the changes in these Regulations.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The impact of these regulations will form part of a full evaluation of the outcomes that result from Employment and Support Allowance legislation. This will consider both policy impacts and the wider performance of the Employment and Support Allowance regime.

## **13. Contact**

- Anila Naseem at the Department for Work and Pensions Tel: 0113 2324899 or email: [anila.naseem@jobcentreplus.gsi.gov.uk](mailto:anila.naseem@jobcentreplus.gsi.gov.uk) can answer any queries regarding the instrument.
- John Hedley at the Department for Work and Pensions Tel: 0113 2324463 or email: [john.hedley@jobcentreplus.gsi.gov.uk](mailto:john.hedley@jobcentreplus.gsi.gov.uk) can answer any queries regarding the instrument.

## **Annex 1**

1. The Social Security (Work-focused Interviews) Amendment Regulations 2000
2. The Social Security (Jobcentre Plus Interviews) Regulations 2001
3. The Social Security (Jobcentre Plus Interviews) Regulations 2002
4. The Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2003
5. The Social Security (Incapacity Benefit Work-focused Interviews) Amendment Regulations 2005
6. The Social Security (Work-focused Interviews) Amendment Regulations 2005
7. The Social Security (Incapacity Benefit Work-focused Interviews) Amendment (No. 2) Regulations 2005
8. The Social Security (Incapacity Benefit Work-focused Interviews) Amendment Regulations 2006
9. The Social Security (Incapacity Benefit Work-focused Interviews) Amendment (No. 2) Regulations 2006