

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (WORK-FOCUSED INTERVIEWS) (LONE PARENTS
AND PARTNERS) (AMENDMENT) REGULATIONS 2011

2011 No. 2428

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

This instrument amends a number of regulations relating to the requirement for certain benefit claimants to take part in work-focused interviews (WFI), to achieve a number of outcomes. These include:

- removing the need for lone parents and partners of benefit recipients¹ in receipt of certain benefits to take part in WFI if they have a youngest child aged under 1 year;
- ensuring lone parents who are claiming Income Support (IS), with a child under the age of 7 years are no longer treated as having not made a claim (or disentitled) if they fail to take part in their first WFI without good cause;
- removing the current definition of “lone parent” in Employment and Support Allowance (ESA) legislation² because a new definition of “lone parent” will be inserted into ESA legislation at the same time as the regulations come into force and make consequential amendments to ESA legislation as a result;
- ensuring lone parents in receipt of IS are required, after their initial WFI, to attend a WFI every three years or if a relevant change of circumstance occurs if their youngest child is aged 7 and over; and
- making other miscellaneous amendments relating to WFIs.

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

None.

4. Legislative Context

4.1 In November 2010 the Department published “*Universal Credit – welfare that works*”³. This announced the Government’s intention to take forward the previous Government’s plans to ensure that lone parents⁴ and partners of certain benefit recipients who are responsible for and a member of the same household as a child under 1 year do not have to undertake any mandatory activity i.e. take part in a mandatory WFI, to continue to be entitled to benefit or the full amount of benefit. The Regulations make provision for this change as well as changing the frequency of WFIs a lone parent who is in receipt of IS is required to attend if they have a youngest child aged 7 and over.

¹ Income Support; Incapacity Benefit; Severe Disablement Allowance; Employment and Support Allowance and Jobseeker’s Allowance.

² The Employment and Support Allowance Regulations 2008 and the Employment and Support Allowance (Work-related Activity) Regulations 2011.

³ <http://dwp.gov.uk/docs/universal-credit-full-document.pdf>

⁴ Receiving Income Support, Incapacity Benefits or Employment and Support Allowance.

4.2 The Welfare Reform Act 2009 (the 2009 Act) made amendments to benefit legislation to limit the power to impose work-focused interviews (WFIs) on lone parents with children under the age of 1. It also inserted a definition of ‘lone parent’ into the primary legislation⁵ relating to Employment and Support Allowance (ESA) claimants. The relevant provisions of the Welfare Reform Act 2009 (the 2009 Act) Act are being brought into force to coincide with these Regulations.

5. Territorial Extent and Application

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 Currently lone parents entitled to Income Support (IS) or ESA (or Incapacity Benefit (IB) or Severe Disablement Allowance (SDA)), and partners of certain benefits recipients, are required to take part in WFIs of differing frequency depending on the type of benefit they receive:

- Those making a claim for IS other than on certain grounds are required to attend an initial WFI and are treated as not having made a claim (or disentitled) if they fail to attend without good cause;
- After the initial WFI, lone parents entitled to IS who are aged 18 or over and who have a child under the age of 7 years must then take part in subsequent WFIs every six months until their youngest child is aged 6 years⁶, when they become quarterly;
- In most cases, a lone parent will no longer be entitled to IS when their child reaches age 7. However, if they remain entitled to IS on grounds other than being a lone parent, they must continue to attend WFIs at six-monthly intervals (if aged 18 or over);
- Lone parents receiving ESA are required to take part in mandatory WFIs once they have been placed in the Work Related Activity Group (WRAG). These are followed by flexible interventions (both mandatory and voluntary) based on individual claimant needs;
- Partners of benefit recipients where the main benefit recipient has been in receipt of a specified benefit⁷ continuously for six months, and is receiving an increase of benefit for their partner, are required to attend a single WFI at the 6 month stage, if the partner is aged 18 years or over but under the age at which they can get Pension Credit;

⁵ The Welfare Reform Act 2007.

⁶ This will be changed to aged 4 and 5 years from 31 October 2011.

⁷ Income Support; Incapacity Benefit; Carer’s Allowance, Severe Disablement Allowance and Employment and Support Allowance

- Partners of benefit recipients who have been in receipt of Jobseeker's Allowance (JSA) for six months who have a dependant child or young person in their household aged 19⁸ years and under are required to take part in a mandatory work-focused interview (WFI) every six months; and
- Claimants who are entitled to Income Support (IS) and who are not lone parents aged 18 or over, and some Incapacity Benefit (IB) and Severe Disablement Allowance (SDA) claimants must, after their initial WFI, generally take part in WFIs every three years or if a relevant change of circumstance occurs.
- If an IS claimant fails to attend a subsequent WFI, or if an Employment and Support Allowance (ESA), IB or SDA claimant, or partners of certain benefit claimants fail to attend a WFI a sanction is applied that reduces the claimant's benefit by a percentage⁹.

7.2 A list of the relevant Regulations is attached to this Memorandum.

Removal of Work Focused Interviews for lone parents and partners of certain benefit recipients

7.3 The Government wishes to amend the current WFI requirements to ensure that lone parents and partners of certain benefit recipients who receive income-related benefits can devote attention to looking after their child during the first year after their child is born. This aligns with other government policies that protect the position of most working parents in the first year of a child's life – for example, through extensions to parental leave.

7.4 Under the new arrangements lone parents claiming or entitled to IS or ESA, (or entitled to IB or SDA) and partners of certain benefits recipients who have a youngest child aged under 1, will not be required to take part in WFIs if the lone parent, or either member of the couple, are responsible for and a member of the same household as a child who is aged under 1 year. Further, any lone parent or partner of a benefit recipient with a child under 1 year who is currently subject to WFI sanctions when the regulations come into force, will have their sanction stopped.

7.5 Lone parents with a child aged 1 year or over who are receiving IS or ESA (or, IB or SDA) and partners of certain benefit recipients, where either member of the couple has a child aged 1 year or over, will be required to take part in WFIs. If a first WFI requirement would ordinarily have arisen when the lone parent or partner has a child under 1, then the first WFI will generally be required when the youngest child becomes 1.

7.6 Some partners of benefit recipients¹⁰ are subject to a single WFI. Lone parents in receipt of IS or ESA (or IB or SDA) or partners of JSA recipients will then take part in subsequent WFIs the frequency of which will depend on the benefit they are claiming:

⁸ In full time education and where child benefit is in payment.

⁹ Under the 2000, 2002 and 2003 Regulations, the reduction is 20% of the applicable amount for a single person aged not less than 25. Under the ESA Regulations 2008 and the other 2008 Regulations, the reduction is 50% of the work-related activity component for the first 4 benefit weeks, and 100% of that component for subsequent benefit weeks

¹⁰ Where the main benefit recipient is receiving Income Support; Incapacity Benefit; Carer's Allowance, Severe Disablement Allowance and Employment and Support Allowance.

- Lone parents, aged 18 or over, in receipt of Income Support (IS) with a child aged 1 to 6 years will be required to take part in a work-focused interview (WFI) every six months until their youngest child turns four when they will become quarterly (this reflects the change being made on 31 October 2011 by other regulations to introduce quarterly WFIs for lone parents with a youngest child of 4 or 5 (or, as now, 6));
- Lone parents in receipt of Employment and Support Allowance (ESA) with a child aged 1 or over will be required to take part in mandatory WFIs once they have been placed in the Work Related Activity Group (WRAG). These are followed by flexible WFI requirements (both mandatory and voluntary) based on individual claimant needs (this again reflects the current position);
- Partners of benefit recipients in receipt of Jobseeker's Allowance (JSA) with a child aged 1 or over will continue to have six month WFIs until the youngest person in their household is aged over 19 years.

Changes for lone parents failing to attend an initial Work Focused Interview

7.7 Currently those who claim IS, who fail to take part in an 'initial' WFI and who cannot show good cause are treated as not having made a claim for IS or disentitled from IS. Failure to take part in subsequent WFIs without good cause results in a reduction of benefit (as described in paragraph 7.1).

7.8 An amendment is made by these Regulations so lone parents receiving IS with a child aged 1 to 6 years are not disentitled from receiving IS if they fail, without good cause, to take part in their first WFI. This is to allow Jobcentre Plus the opportunity to engage with these lone parents if they do not take part in their first WFI rather than ceasing all contact. Instead they will incur a sanction the same as currently applied for failing to take part in a subsequent WFI (see above).

Amending the definition of "lone parent" and consequential amendments

7.9 The Regulations amend the current definition of "lone parent" in ESA legislation to reflect a new definition introduced by the Welfare Reform Act 2009 (the 2009 Act) which refers to lone parents who are responsible for and a member of the same household as a person under the age of 16. The ESA Regulations currently also make provision for lone parents who are responsible for young persons who are over the age of 16. It is not intended to change the effect of those provisions, so consequential amendments have been made so ESA regulations can continue to be applied in the same way as before.

7.10 The changes made by the 2009 Act also enable regulations to prescribe the circumstances in which a lone parent is to be treated as responsible for and a member of the same household as another person. The Regulations make such provision in relation to WFI requirements for lone parents and partners with a youngest child aged under 1 and for WFI and work-related activity requirements generally in relation to ESA, by making reference to the Income Support (General) Regulations provisions that deal with those concepts¹¹.

¹¹ Regulations 15 and 16 of the Income Support (General) Regulations 1987

Lone parents claiming IS with a youngest child aged 7 years or over

7.11 Current regulations generally require lone parents receiving Income Support (IS) (who are not entitled to claim IS as a lone parent) to take part in work-focused interviews (WFIs) every six months if they have a youngest child aged 7 years or over. The Regulations change this so these lone parents are treated the same way as other IS claimants (that is, IS claimants who are not lone parents) by requiring them to take part in a WFI every three years or if there is a relevant change of circumstance. Like other IS claimants, lone parents with older children will also continue to be treated as not having made a claim, or disentitled, if they fail to attend their first WFI after claiming IS, without good cause.

7.13 This change is being introduced because it is sensible to treat this category of lone parents in line with other IS claimants who are entitled to IS on a ground other than the lone parent ground. They will however, still have to take part in an initial WFI or face possible disentanglement to IS. Attendance at this WFI is all the more important as it is the only opportunity they will have to be made aware of the support available to help them move back into work for potentially three years.

Removing obsolete provision

7.14 Lone parents were previously able to claim IS on grounds of lone parenthood until their youngest child reached the age of 16 years. Since November 2008 this age threshold has been reduced so it currently stands at age 7 years. Prior to these changes quarterly WFIs were introduced for lone parents receiving IS with a youngest child aged 14 or 15 years, to prepare them for the transition to another benefit (or to employment) when their IS ceased, when the child reached 16 years.

7.15 Although amendments were made to lower the child's age threshold, amendments were not made to remove the requirement for these lone parents to take part in quarterly WFIs. The Regulations correct this so IS claimants who are not entitled to IS on grounds of lone parenthood must generally take part in a WFI every three years or if a relevant change of circumstance has occurred.

• Consolidation

7.16 Informal consolidation of this instrument will be provided in due course in the 'Law Relating to Social Security' (referred to as "The Blue Books") which are regularly updated and are available to the public at no cost via the internet at:

<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

8. Consultation outcome

8.1 Introducing a 'no conditionality group' where lone parents and partners of certain benefit recipients with a youngest child aged under 1 year are not required to undertake any mandatory activities, was first proposed in the White Paper

*“Raising expectations and increasing support: reforming welfare for the future”*¹² published in December 2008, and in a Discussion Paper published in January 2009 *“Realising Potential: developing personalised conditionality and support”*¹³.

8.2 In November 2010 the Department published *“Universal Credit – welfare that works”*¹⁴. This confirmed the Coalition Government’s intention to remove conditionality for parents with a youngest child aged under 1 year, as part of its welfare reforms.

8.3 Since 2008 the Department has informally consulted external stakeholders on the removal of conditionality and sanctions for lone parents with a youngest child aged under 1 year and they have been supportive of the beneficial changes being made. Stakeholders consulted included Gingerbread; Child Poverty Action Group; Citizens Advice; TUC; Scoopaid and the Single Parent Action Network.

8.4 The other main change provided for in the regulations, so that lone parents in receipt of Income Support (IS) with children aged 7 or over are generally required to attend work-focused interviews (WFIs) three yearly or if a relevant change of circumstance occurs is intended to produce parity of treatment for all “other IS” claimants, which we consider to be beneficial. These lone parents will still be able to access more frequent WFIs on a voluntary basis.

8.5 These draft regulations were referred to the Social Security Advisory Committee which decided not to refer them for formal consultation.

9. Guidance

Comprehensive guidance, support material and training will be provided to Jobcentre Plus staff on both regulatory and operational changes. Those parents subject to the changes will be informed of their affect when they claim benefit or when they are contacted by Jobcentre Plus to arrange attendance at a WFI.

Prior to the implementation of these Regulations, changes will also be made to the Decision Makers Guide which is available free on the DWP internet at:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

10. Impact

10.1 This instrument has no impact on the private sector or civil society organisations.

10.2 This instrument has a net saving impact on the public sector.

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

¹² <http://www.dwp.gov.uk/docs/fullversion.pdf>

¹³ <http://www.dwp.gov.uk/docs/realisingpotential.pdf>

¹⁴ <http://dwp.gov.uk/docs/universal-credit-full-document.pdf>

11. Regulating small business

This legislation does not apply to small business.

12. Monitoring & review

As with other social security benefits, this policy will be reviewed as part of the Department's internal monitoring processes.

13. Contact

Kevin Jackson at the Department for Work and Pensions (Tel: 020 7449 5754); email: kevin.jackson2@dwp.gsi.gov.uk/ can answer any queries regarding this instrument.

Change being made	How achieved
<p>1. Lone parents (LPs) on income support, employment and support allowance, incapacity benefit or severe disablement allowance who are responsible for and a member of the same household as a child under the age of one – not required to take part in work-focused interviews.</p>	<p>For IS – achieved by amending reg. 4 of 2000 Regulations. Also an amendment to reg.8 of the 2002 Regs.</p> <p>For IB – achieved by amendment to reg. 8 of the 2002 Regulations and reg. 3 of 2008 WFI Regulations.</p> <p>For ESA – amendment to reg. 54 of the ESA Regulations.</p>
<p>2. Partners of claimants on IS, IB, SDA, JSA and ESA where either partner is responsible for and a member of the same household as a child under the age of one - not required to take part in work-focused interviews.</p>	<p>Amendment to reg . 7 of the 2003 Regulations.</p>
<p>3. LPs claiming IS who are responsible for and a member of the same household as a child aged 1 to 6 - not disentitled for failing to attend first WFI without good cause. Instead entitlement is established before first WFI and failure to attend without good cause results in a reduction of benefit.</p> <p>(Other IS claimants are disentitled if they fail to take part in their first work-focused interview after making their claim).</p>	<p>Amendment to reg. 7 of the 2000 Regulations.</p> <p>Amendment to reg. 3 of the 2002 Regulations so that it no longer applies to these lone parents and insertion of new regulation 4ZA.</p> <p>(See regulation 3 and 12(2)(a) and (b) of the 2002 Regulations, as amended).</p>
<p>4. LPs on IS with child aged 7 or over</p> <p>Subsequent WFI – frequency changed from 6 months – new frequency is initial WFI / trigger event / every 36months.</p>	<p>See new regulation 2ZB of the 2000 Regulations.</p> <p>See new substituted regulation 4 of the 2002 Regulations.</p>

<p>5. Claimants on IS / IB / SDA and not LPs</p> <p>Regulations amended to ensure they meet original policy intent that such claimants should, after their initial WFI, have a WFI if certain trigger events occur or every 36 months.</p>	<p>Amendment to reg. 4 of 2002 Regs.</p>
<p>6. Remove obsolete reg. 2A of 2000 Regs (applies to LPs with children aged 6, 7, 8 and 9)</p>	

Amendments to the Social Security (WFI) Regs 2000

Applies to lone parents who claimed income support before the 2002 Regulations applied to them and to whom the 2000 Regulations still apply

Reg 1

A definition of “relevant interview” is inserted – to mean a WFI under the 2000 Regulations in relation to the claimant’s current claim for income support.

Also amended to make clear that for the purposes of determining whether a lone parent is to be treated as responsible for and a member of the same household as a child under the age of one, reference should be made to regulations 15 and 16 of the Income Support (General) Regulations.

Reg. 2 (originally)

Applies to LP within meaning of IS Gen Regs 2(1)
Gen requirement for LP to take part in a WFI
Failure without good cause – no claim made

Changed so that

Applies to LP with child under 7
6 monthly WFIs
Failures without good cause – reduction of income support

Reg. 2ZA (originally)

Applies to LP with child of 6 (and children of 4 and 5 – change being made by miscellaneous amendment regulations coming into force on the same day as these regulations)
13 weekly WFIs
Failures without good cause – reduction of income support

Changed – to refer to relevant interview – meaning a WFI under the 2000 Regulations in relation to the lone parent’s current claim for income support.

Reg. 2A (originally)

Applies to LP of certain older children – 13 weekly WFIs.

Changed – now revoked

New Reg. 2ZB

Applies to LP who is entitled to IS but not on grounds of being a lone parent (they have a child aged 7 or over)
Initial WFI /on a trigger event/ every 36 months.

Reg. 4

Amended so that no WFI requirement applies to LPs with child under 1 and makes some consequential amendments.

Consequential amendments to regulations 5, 6 and 7.

Reg. 8(3)

Amended to lift any reduction being imposed on a lone parent when the regulations come into force, if they have a child under 1 at that point, or when they become responsible for and a member of the same household as a child under the age of 1.

Amendments to the Social Security (Jobcentre Plus) Interviews Regs 2002

Applies to those who made a claim for certain benefits (including lone parents claiming income support) on or after 30 September 2002 at a DWP office designated as a Jobcentre Plus Office or at an office of a relevant authority that displays the ONE logo, unless covered by another WFI regime

Reg 2

A definition of “relevant interview” is inserted – to mean a WFI under the 2002 Regulations in relation to the claimant’s current claim for a specified benefit.

Also amended to make clear that for the purposes of determining whether a lone parent is to be treated as responsible for and a member of the same household as a child or young person, reference should be made to regulations 15 and 16 of the Income Support (General) Regulations.

Reg 3 (originally)

– Requirement for certain benefit claimants to take part in a WFI when making a claim for income support or entitled to another specified benefit (incapacity benefit or severe disablement allowance)

Change – Amended so that it doesn’t cover LPs entitled to IS on LP grounds (ie. who have a child under 7).

Reg 4 (originally)

- Imposed a requirement for those below pensionable age who are entitled to a specified benefit (IS, SDA and IB) and who are covered by the 2002 Regs to take part in a WFI.

- Lone parents on IS aged 18 or over - 6 monthly;

- Other IS, SDA and IB claimants required to attend if a trigger event occurs or 36 monthly.

- Failure – reduction of benefit.

Change – Amended so that regulation 4 does not apply to lone parents who are entitled to income support and who fall are entitled to claim IS on ground of being a LP (ie. who have a child under 7). Continues to apply to others, updates trigger events and clarifies 36 monthly WFI requirement.

Failure – reduction of benefit.

New reg 4ZA

- Imposes WFI requirements on lone parents falling with a child under 7 who are entitled to income support;
- 6 monthly WFIs;
- Failure – reduction of benefit.

Reg 5 (originally)

- Sets out times for WFIs - generally requiring that the initial WFI be arranged as soon as reasonably practicable after 8 weeks from the date of claim, and that subsequent ones are arranged as soon as reasonable practicable after the requirement arises.

Change - Amended so that WFIs must be arranged at different times after the requirement arises for lone parents.

e.g. as soon as practicable after the child turns one; or, in the case of a first WFI for a lone parents entitled to IS who will be required to attend WFIs on a quarterly basis – 13 weeks after the requirement arises, or for lone parents entitled to IS who will be required to attend 6 monthly – 6 months after the requirement arises. Subsequent WFIs to be arranged as soon as reasonably practicable after the WFI requirement arises.]

Consequential amendment to regulation 7

Regulation 8 is amended to remove obsolete references to regulations 2A and 2B of the 2000 Regulations, and to include an exemption so that lone parents with a child under 1 are not required to take part in WFIs.

Regulation 12 – is amended to make consequential amendments.

Amendments to the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003

Regulation 2 - a provision is inserted setting out how to determine whether a person is responsible for and a member of the same household as a child.

Reg. 7 - amended so there is no WFI requirement for partners if the claimant or the partner is responsible for and a member of the same household as a child under 1.

Employment and Support Allowance Regulations 2008

Regulation 2 - a provision is inserted setting out how to determine whether a lone parent is to be treated as being responsible for and a member of the same household as a child.

Various amendments are also made consequential to the new definition of “lone parent” being brought into force at the same time as these Regulations

for the purpose of ESA so that the various provisions continue to apply in relation to a person who has no partner and who is responsible for and a member of the same household as a young person (inserted by section 3(5) of the Welfare Reform Act 2009 into section 24(3A) of the Welfare Reform Act 2007).

Reg. 54 amended so there is no WFI requirement for partners if the claimant or the partner is responsible for and a member of the same household as a child under 1.

The Social Security (Incapacity Benefit Work-focused Interviews) Regs 2008

Generally applies to those in receipt of IS on grounds of incapacity or disability, SDA or IB unless excluded by earlier regulations, covered by a different WFI regime, aged over 59 or exempt by reason of being incapable of work

Regulation 2 – new definition of ‘lone parent’ inserted for the purpose of the Regulations.

Also amended to make clear that for the purposes of determining whether a lone parent is to be treated as responsible for and a member of the same household as a child or young person, reference should be made to regulations 15 and 16 of the Income Support (General) Regulations.

Reg. 3 amended so there is no WFI requirement for partners if the claimant or the partner is responsible for and a member of the same household as a child under 1.