

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (TRAINEESHIPS AND QUALIFYING YOUNG
PERSONS) AMENDMENT REGULATIONS 2015**

2015 No. 336

1. This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These Regulations make provision to allow Jobseeker's Allowance (JSA) and Universal Credit (UC) claimants to retain entitlement to these benefits while participating in a traineeship:
 - a. in relation to claimants aged between 16 and 19¹, these regulations provide that they are not to be treated as 'receiving education' in JSA, or receiving relevant education in UC;
 - b. in relation to claimants eligible to participate in a traineeship to which the Jobseeker's Allowance Regulations 1996 apply, it is provided that they are to be treated as available and actively seeking work during the period of their participation in a traineeship.
 - 2.2 These Regulations also remove 'Traineeships' from the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013/276 (the "SAPOE Regulations"). This means that the Secretary of State may no longer require claimants to participate in Traineeships on a mandatory basis.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The proposal to allow young traineeship participants to retain entitlement to benefit arises from a Growth and Enterprise Committee meeting held in May 2014 and chaired by the Prime Minister. At this meeting DWP and the Department for Business, Innovation and Skills (BIS) were jointly tasked with increasing referrals and starts to the traineeship programme, including the removal of the disincentive for 18-year olds on JSA and UC to take up traineeships.
 - 4.2 The proposal to remove traineeships from SAPOE regulations has been prompted by the increased flexibility that has been introduced to the traineeship programme whereby the content is tailored to the individual needs of participants, impacting on the ability of DWP to advise claimants in advance of what is required of them to participate. The content is often flexible, leading to short sharp spells on the core elements as well as additional elements the provider or employer introduces

¹ 19 year-olds are only impacted by the QYP rules if they enrolled on the course of non-advanced education before their 19th birthday.

on agreement with the participant. As such, we rely heavily on the provider/employer to notify claimants of where and when they should be and this can change on a daily basis.

- 4.3 We have therefore concluded that claimant participation should be on a voluntary basis, with participation not linked to benefit entitlement.

5. Territorial Extent and Application

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the regulations are subject to the negative resolution procedure and do not amend primary legislation, no statement is required

7. Policy background

- What is being done and why

Traineeships

- 7.1 Traineeships are an education and training programme combined with work experience. They comprise three core elements: work preparation training, English and maths lessons (where needed) and a high quality work experience placement. Providers and employers have the freedom to bring these elements together in a way best suited to engage and support individual trainees. They can last for up to 6 months and are open to 16 – 24 year olds. The programme started in August 2013 – in England only – with formal referrals from Jobcentre Plus beginning in September 2013.
- 7.2 Traineeships are aimed at addressing those skills gaps which employers consider prevalent amongst young people, and they provide a route to an Apprenticeship or sustainable job. They are thus a valuable support to those most disadvantaged in the labour market, provide a means of permanently removing some young people from the benefit trap, and they represent an important part of the Government's drive to tackle youth unemployment.

Qualifying Young Persons

- 7.3 Many young JSA and UC claimants are able to retain entitlement to benefits while participating in traineeships, but 18-year olds, and some 16, 17 and 19 year olds are not able to do this. This is because traineeships (and some other programmes of support available through Jobcentres) are described as non-advanced education, i.e. learning at or below A-level or advanced GNVQ, and if the learning contained within these programmes is taught in a school, college or equivalent, and participation is required for more than 12 hours per week, then participants aged between 16 and 19 are treated as qualifying young people (QYP) and are deemed to be in "relevant education" within JSA regulations or "receiving education"

within UC regulations. Those 16 to 19² year old JSA or UC claimants affected by this rule are not entitled to benefit in their own right and instead must rely on other sources, such as parents, for financial support. This situation is seen as discouraging or delaying these claimants from participating in a scheme designed to significantly enhance their employability.

- 7.4 The proposed changes to legislation will provide that JSA and UC claimants described as QYPs and participating in traineeships (as defined in the legislation) are not treated as being in relevant education (or receiving education in Universal Credit). This will allow these claimants to access traineeships without losing entitlement to JSA or UC.
- 7.5 This proposal supports the drive to increase the number of young people referred to traineeships – a key Government objective, it eliminates an inequality in the treatment of young claimants who would benefit from the support traineeships can offer, and it broadens the range of opportunities Jobcentre Work Coaches can consider when identifying suitable provision for young people.
- 7.6 It is difficult to estimate the size of any increased take-up of traineeships resulting from the proposed change because traineeships represent only one programme amongst a suite of options that Work Coaches have in supporting young people, but it is expected that the impact on public spending will be minimal, an assessment accepted by Her Majesty's Treasury.
- 7.7 We estimate that the impact this legislative change, alongside other policy decisions made with the intention to see traineeships grow, will enable up to 5k young people, predominately 18 year olds, to be in a position to access traineeships.

Removal of Traineeships from the SAPOE Regulations

- 7.8 When traineeships were first developed it was intended that the option to take up the opportunity would be voluntary, but that thereafter, once a decision to engage had been taken and a referral to the provision made, on-going participation would be mandatory for JSA and UC claimants. Traineeships were hence described within the SAPOE Regulations as a mandatory programme.
- 7.9 Since then, our improved understanding of the programme, and the flexibility that has been introduced, whereby content is tailored to the individual, leading to short sharp spells on the core elements as well as additional vocational elements, has led us to conclude that traineeship participation should be on a voluntary basis, and not linked to benefit entitlement.

Facilitating Voluntary Participation in Traineeships

- 7.10 In order to be entitled to a Jobseeker's Allowance a person must, amongst other things, be available for and actively seeking employment. Participants in traineeships who are aged 19 and older would be considered 'full-time students' for the purposes of Jobseeker's Allowance. Full-time students are not entitled to

² Nineteen year-olds are only impacted by the QYP rules if they enrolled on the course of non-advanced education before their 19th birthday.

JSA because they are treated as not actively seeking employment. There is also the issue that under the current law claimants participating in a traineeship would be required to be actively seeking employment, something which would be practically difficult as traineeships are a 'full-time' course.

- 7.11 The SAPOE Regulations allow claimants who are participating in schemes, including traineeships, on a mandatory basis and who are full-time students to be exempt from the requirements to be available and actively seek employment. This allows these claimants to maintain their entitlement to JSA.
- 7.12 There is, however, no similar exemption for claimants who wish to participate in traineeships on a voluntary basis. In order for claimants to be able to participate in traineeships on a voluntary basis and maintain entitlement to benefit, amendment is needed to the Jobseeker's Allowance Regulations 1996 to allow participating claimants to be treated as available and actively seeking employment during the period of their participation.

- Consolidation

- 7.13 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk. An explanation as to which instruments are maintained on each site is available [here](#).

8. Consultation outcome

- 8.1 No formal consultation has taken place to inform the amendment DWP is proposing. However, the evidence to support this change comes from extensive feedback from providers of learning to 16 – 18 year olds through the normal contract management arrangements the Department for Education has in place. This feedback indicates that the proposal would be welcomed by providers as a significant simplification of existing rules and would enhance take-up of the traineeship programme. There is also feedback from Job Centre Work Coaches who indicate the existing rules present a barrier to participation in traineeships for 18 year olds.
- 8.2 In addition DWP presented the proposals for the Regulations to the Social Security Advisory Committee (SSAC) on 28 January 2015. The Committee challenged DWP on the impact on the family and household finances, and assurance was given that we had concluded that very few, if any, households would suffer financially as a result of this SI. In addition, we provided assurance on the impact on housing benefit entitlement, the spare room subsidy and whether there were negative impacts on those in receipt of other welfare benefits

9. Guidance

- 9.1 The Department has commissioned Jobcentre Plus to incorporate these amendments into operational guidance, thus providing work coaches with a source of information on what the current policy is, how it impacts on their role and the legal

implications it includes. Guidance will be available to Jobcentre Work Coaches in advance of the regulations coming into effect on 27 March 2015.

- 9.2 In addition, there will be communication across Government, through Gov.uk, to ensure young people accessing this site to acquire information on their rights as QYP are made aware of the current policy intent towards traineeships.

10. Impact

- 10.1 There is no impact on business or civil society.
- 10.2 There is no impact on the public sector.
- 10.3 An 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 full quantitative and qualitative evaluation of the traineeship programme is underway, conducted by contractors on behalf of the Departments for Education, and Business, Innovation & Skills. The success of the programme will be determined by the number of young people moving into work, this SI allows for increased participation by some young people, and therefore will see more young people benefit from participation.
- 12.2 DWP is also acutely aware of the large numbers of young people still not in employment, education or training (NEET) despite improvements in the economy and welcome reductions in the claimant count. We will utilise internal mechanisms, such as legacy systems, the Work Service Platform and the Individual Learner Record alongside available Management Information to monitor the perceived increase in those young people claiming welfare benefit while participating in a traineeship, and while doing so, will identify any unintended impact of making this change.

13. Contact

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