

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MEMBERS OF THE RESERVE FORCES)
(AMENDMENT) REGULATIONS 2015**

2015 No. 389

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 This instrument makes provision to allow Jobseeker's Allowance (JSA) and Income Support (IS) claimants, or their partners, who are new members of the Reserve Forces to attend a maximum of 43 days training in their first year of reservist training while maintaining their benefit entitlement. It also makes provision to allow the partners of Employment Support Allowance (ESA) claimants who are new members of the Reserve Forces to attend a maximum of 43 days training in their first year of reservist training while maintaining their benefit entitlement.

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

3.1 None

4. Legislative Context

4.1 The legislation governing entitlement to JSA is the Jobseeker's Allowance Regulations 1996 (S.I.1996/207)¹ and the Jobseeker's Allowance Regulations 2013 (S.I.2013/378)². The legislation governing entitlement to IS is the Income Support General Regulations 1987 (SI 1987/1967)³. The legislation governing ESA is the Employment and Support Allowance Regulations (SI 2008/794)⁴.

4.2 Currently these provision allow for IS or JSA claimants or their partners or the partners of ESA claimants to remain entitled to benefit for a continuous period of 15 days for training. During this period earnings are disregarded and claimants remain entitled to £0.10p of benefit and any passported⁵ benefits already in payment. In addition JSA claimants maintain entitlement by JSA by being treated as available for and actively seeking work.

4.3 This instrument will support the Ministry of Defence (MOD) to train reservists more quickly and increase trained reserve strength by enabling unemployed reservists to receive up to 43 days training in their first year without losing benefit entitlement.

¹ <http://www.legislation.gov.uk/uksi/1996/207/contents/made>

² <http://www.legislation.gov.uk/uksi/2013/378/contents/made>

³ <http://www.legislation.gov.uk/uksi/1987/1967/contents/made>

⁴ <http://www.legislation.gov.uk/uksi/2008/794/contents/made>

⁵ Claimants who are entitled to out-of-work means tested benefits or tax credits can also be eligible for a range of other support, including housing benefit, free school meals and health benefits such as free prescriptions

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain. The Department for Social Development in Northern Ireland will be producing its own legislation for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why?

7.1 This instrument will provide that JSA and IS claimants and their partners and the partners of ESA claimants who are new to the Reserve Forces will be able to attend up to 43 days intensive training in their first year of training while maintaining entitlement to benefit. This change will support the delivery of up to 43 days training for reservists so that unemployed reservists can continue to receive benefits and be trained more quickly. After the first year of training claimants will be permitted an on-going continuous training concession of 15 days a year for further reservist training.

7.2 Training for first year reservists will consist of 3 or 4 blocks, of between 5 and 16 days, but may differ according to training needs. This instrument amends JSA, IS and ESA regulations to allow for up to 17 continuous days of earnings to be treated within the previous 14 days of benefit. Training that exceeds 3 days in the benefit week⁶ will be counted as a full week for benefit purposes, repeating the pattern over subsequent weeks up to 43 days. The purpose of this provision is to ensure that claimants who undertake reservist training do not lose a disproportionate amount of benefit when training extends into a new benefit week, but that benefits are reduced if training for more than 3 days in any benefit week.

7.3 This instrument also removes the reference to “territorial” forces from the regulations it amends following the renaming of the Territorial Army in section 44 of the Defence Reform Act 2014⁷.

- Consolidation

7.4 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](#).

⁶ The ‘benefit week’ is the 7 day period in respect of which the benefit is being paid in any case.

⁷ <http://www.legislation.gov.uk/ukpga/2014/20/contents>

8. Consultation outcome

- 8.1 A full formal consultation was not considered necessary for this change. It is a small and entirely beneficial change that will enable easier access to benefits for members of the armed forces when they are not on active duty.
- 8.2 Representatives from the Department for Work and Pensions (DWP) presented the proposals for the Regulations to the Social Security Advisory Committee (SSAC) on 28th January 2015. SSAC advised it does not wish to take these regulations on formal reference.

9. Guidance

- 9.1 Operational guidance for DWP has been revised to take account of the changes. The changes will be also included within the Decision Makers Guide that provides legal guidance for DWP decision makers and is published at www.gov.uk.

10. Impact

- 10.1 There is no impact on business or civil society.
- 10.2 Estimates indicate that around 400 claimants a year might benefit from the change with a resource requirement of less than £10,000.
- 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 effect of the change will be monitored through its network of Armed Forces Champions to ensure claimants are supported during their annual training commitment.

13. Contact

Mark Ashley at the Department for Work and Pensions can answer any queries regarding the instrument. Email lmstrategy.jcpinterventions@dwp.gsi.gov.uk