

EXPLANATORY MEMORANDUM TO
THE JOBSEEKER'S ALLOWANCE (HARDSHIP) (AMENDMENT)
REGULATIONS 2017

2017 No. 760

1. Introduction

1.1 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 These regulations amend the Jobseeker's Allowance Regulations 1996 ("the JSA Regulations") to give immediate access to Jobseeker's Allowance hardship payments following a successful application to:

- Single claimants who are homeless;
- Single claimants who have a long-term mental health impairment;
- Claimant couples where one or both members are homeless; and
- Claimant couples where one member of the couple has a long-term mental health impairment.
- They also correct three minor missed amendments in the provisions relating to hardship payments.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations are made in part under powers in section 19C of the Jobseekers Act 1995 which has only recently been commenced. Under section 37(1)(ab) of that Act, "the first regulations to be made under sections 19 to 19C" fall to be made under the affirmative Parliamentary procedure. Regulations have already been made under sections 19, 19A and 19B. The Department interprets section 37(1)(ab) as applying to the first exercise of the power under any of those sections and therefore is of the view that it is appropriate for these Regulations to be passed by the negative Parliamentary procedure.

4.2 The JSA Regulations prescribe the framework for the payment of Jobseeker's Allowance (JSA) to claimants who are available for and actively seeking employment. There is a sanctions regime in those Regulations for those who fail to comply with the relevant conditions of entitlement to JSA.

- 4.3 There is a system of hardship payments in the JSA Regulations. Regulation 140(1) (meaning of “person in hardship”) of the JSA Regulations prescribes the categories of JSA claimant who can receive hardship payments immediately. Regulation 146A(1)(d) (meaning of “couple in hardship”) of the JSA Regulations prescribes the categories of claimant couple for JSA (meaning of “couple in hardship”) who can receive hardship payments immediately.
- 4.4 Both these regulations are amended to include those who are homeless or who have a mental health impairment as persons who can receive a hardship payment immediately.

5. Extent and Territorial Application.

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 A separate but corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

- 6.1 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 The JSA Regulations enable Hardship Payments to be made in a number of circumstances, which include when a sanction has been imposed because, for example a claimant has not meet their work-related requirements without a good reason or there is a doubt about whether a claimant meets the conditions for the receipt of JSA.
- 7.2 Hardship Payments are available as a safeguard to those claimants who demonstrate that they cannot meet their immediate and most essential needs, including accommodation, heating, food and hygiene, when their JSA has been suspended, stopped or reduced as a result of a sanction.
- 7.3 Currently JSA claimants who make a successful application for Hardship Payments receive between 60% to 80% of their JSA award.
- 7.4 If claimants demonstrate that they are in hardship, they will have to serve a 14-day waiting period before a hardship payment is made to them. The exception to this is claimants who are deemed to be vulnerable; they are able to receive immediate hardship payments. Vulnerable groups currently include claimants or partners who are pregnant, lone parents responsible for a young person and claimants with long-term physical health impairments.
- 7.5 Following a recommendation by the Work and Pensions Select Committee, the Department agreed to extend the list of vulnerable claimants for JSA hardship payments purposes to include those who are homeless and those who have a long-term mental health impairment. This is a positive change to the JSA Regulations; it now gives those claimants or their partner’s immediate access to hardship payments, rather than having to serve the 14-day waiting period. Additionally, it gives them parity of treatment with other vulnerable claimants, for example, with claimants who have long-term physical health impairments.

- 7.6 In the same way as applies currently for claimants suffering hardship with long-term physical health impairments, for a claimant with a long-term mental health impairment to qualify for immediate JSA hardship payments, there must be an expectation that their health would deteriorate more than that of a healthy adult within the first 14 days, if immediate access to JSA hardship payments was not granted.
- 7.7 We have also taken the opportunity in this instrument to make three minor amendments to the hardship provisions which were missed when previous amendments were made.
- 7.8 Regulations 140(1) and 146A(1), have a list of circumstances providing individual and joint claim couples immediate access to Hardship Payments. These corrections will mean that the word “or” is inserted in the correct places in the lists.
- 7.9 In addition, regulation 141 is amended to insert the correct cross reference in the Jobseekers Act 1996 to the income-based conditions a claimant must satisfy to be eligible for hardship payments under that regulation.

Consolidation

- 7.10 Informal consolidated text of instruments is available to the public free of charge via “the national Archive” website legislation.gov.uk.

8. Consultation outcome

- 8.1 This is a positive measure based on a recommendation by the Work and Pensions Select Committee and, as such, consultation was not considered necessary.

9. Guidance

- 9.1 The Department is developing draft guidance for our operational staff and communication to both claimants and external stakeholders. Development of both guidance and communication products remain on-going and will be ready ahead of the commencement of the change in October 2017.
- 9.2 The changes will be communicated to operational staff through implementation updates and updates to operational staff at the appropriate time.
- 9.3 We are also planning to update information on GOV.UK
- 9.4 In addition we will also communicate the changes to relevant external stakeholders, for example Citizens Advice Bureau

10. Impact

- 10.1 There is no impact on business, there may be nominal impact on charities or voluntary bodies in updating guidance.
- 10.2 The impact on the public sector is less than £1m in hardship payments spread over the next four years. The administrative costs for this option will be limited to updating guidance and training for staff decisions.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Department is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

13. Contact

- 13.1 Carmen Pardavila at the Department for Work and Pensions: 020 7340 4499 or CARMEN.PARDAVILA@DWP.GSI.GOV.UK can answer any queries regarding this instrument.