

EXPLANATORY MEMORANDUM TO
THE JOBSEEKER'S ALLOWANCE (SCHEMES FOR ASSISTING PERSONS TO
OBTAIN EMPLOYMENT) (AMENDMENT) REGULATIONS 2022

2022 No. 154

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 This instrument adds the Restart Scheme to the Jobseeker's Allowance (Schemes to Assist Persons to Obtain Employment) Regulations 2013¹ in addition to those schemes already contained in the 2013 Regulations. It enables the Secretary of State for Work and Pensions to require Jobseeker's Allowance claimants in long-term unemployment to attend and participate in the Restart Scheme.

2.2 The Restart Scheme is an intensive, payment by results, contracted employment programme targeted at long-term unemployed claimants.

2.3 The instrument removes the Work Programme scheme from the regulation as this has now ceased.

3. Matters of special interest to Parliament

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

3.1 None.

4. Extent and Territorial Application

4.1 The extent of the instrument is Great Britain. Part of the instrument will remove the Work Programme scheme as this provision is no longer active.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 These Regulations are made under section 17A of the Jobseeker's Act 1995² which was inserted by Section 1 of the Welfare Reform Act 2009 (c.24)³.

6.2 Section 17A (1) provides a power to impose on claimants in prescribed circumstances a requirement to participate in schemes of any prescribed description that are designed to assist them to obtain employment.

¹<https://www.legislation.gov.uk/uksi/2013/276/part/1>

²<https://www.legislation.gov.uk/ukpga/1995/18/part/I>

³<https://www.legislation.gov.uk/ukpga/2012/5/part/1>

- 6.3 Part 4 of Schedule 14 to the Welfare Reform Act 2012⁴ repealed section 17A and that repeal had commenced for certain purposes by a series of commencement orders, the last of which is Statutory Instrument (The Welfare Reform Act 2012 (Commencement No.27 and Transitional and Transitory Provisions and Commencement No.22, 23 and 24 and Transitional and Transitory Provisions (Modification)) Order 2016)⁵. Section 17A (1) remains in force for the purposes of making these Regulations in relation to claimants who continue to be entitled to Jobseeker's Allowance.
- 6.4 These Regulations provide the legal basis to require Jobseeker's Allowance claimants to participate in the Restart Scheme.
- 6.5 Letters of empowerment will authorise providers, under regulation 17 of The Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013⁶ the power to exercise any of the functions of the Secretary of State specified at Regulation 5⁷ and Regulation 6(3)(a)⁸.
- 6.6 Claimants who fail to comply with the requirement to participate in compulsory activities as part of the Restart Scheme may be issued with a low-level sanction.
- 6.7 The design of the Restart Scheme places the onus on positive engagement with the claimant to encourage participation. Restart Scheme Contracted Providers will set reasonable expectations in line with a claimants' circumstances as agreed in their claimant commitment. The requirement for participants to participate will be used as a backstop where reasonable attempts at engagement fail without good reason.

7. Policy background

What is being done and why?

- 7.1 The Restart Scheme offers a year's worth of intensive employment support to help long-term unemployed claimants back into work.
- 7.2 The Restart Scheme is delivered by providers across twelve Contract Package Areas⁹ in England and Wales (the delivery of this type of provision is devolved to Scotland and Northern Ireland). Referrals for the Restart Scheme will be made over a 3-year period, from July 2021 to June 2024.
- 7.3 Participation in the Restart Scheme is required as part of claimants' Work Search conditionality commitments. This allows the Department to deliver intensive employment support (and, therefore, increased job outcomes) to a large number of claimants.
- 7.4 The Department is expanding the eligibility criteria for the Restart Scheme to maximise the usage of available provider capacity, and to ensure that more people who need support can benefit. This opportunity has arisen as labour market conditions have led to fewer people becoming unemployed than had been forecasted in the early stages of the pandemic¹⁰. The Fiscal Sustainability Report July 2020¹¹ showed at the

⁴ <https://www.legislation.gov.uk/ukpga/2012/5/schedule/14>

⁵ <https://www.legislation.gov.uk/uksi/2016/407/contents>

⁶ <https://www.legislation.gov.uk/uksi/2013/276/regulation/17/made>

⁷ <https://www.legislation.gov.uk/uksi/2013/276/regulation/5/made>

⁸ <https://www.legislation.gov.uk/uksi/2013/276/regulation/6/made>

⁹ <https://www.gov.uk/government/publications/restart-scheme/how-the-restart-scheme-will-work>

¹⁰ <https://economy2030.resolutionfoundation.org/wp-content/uploads/2021/11/Begin-again.pdf> pg. 67

¹¹ <https://obr.uk/fsr/fiscal-sustainability-report-july-2020/>

time of the Restart Scheme's creation, unemployment was expected to reach peaks of between 9 and 13%. We know now that this actual peak was just over 5%.

- 7.5 The main change to eligibility is an alteration of the duration-based eligibility criteria for the Restart Scheme. At the time of launch, this was defined as those who had spent between 12 and 18-months uninterrupted time in the Intensive Work Search Regime (IWSR) on Universal Credit (UC). The Department has now altered this to 9 months on UC (although claimants must still be in IWSR at the point of referral) and removed the upper limit entirely. In accordance with this policy, the Department wants to enable access to the Restart Scheme for Jobseeker's Allowance claimants on the income based element (JSA IB) who were previously excluded from eligibility on the basis that the vast majority would have a longer duration on benefit than 18 months. The Department considers that the Restart Scheme is well-placed to help these claimants achieve employment.
- 7.6 There is currently limited intensive provision available to JSA IB claimants to assist them in moving into work. The Work and Health Programme is available to support JSA IB claimants back into employment, but access is restricted to those who have a health condition or disability, or who are in one of the 12 early access groups. Extending the Restart Scheme to incorporate JSA IB claimants therefore constitutes a major new offer of help to these individuals.
- 7.7 All Jobseeker's Allowance changes will be implemented in Spring 2022 and the Department estimates that there will be around 50k claimants who could be considered for referral at this time. The ultimate number of starts will be subject to Work Coach discretion based on eligibility and suitability criteria which have been designed to limit the potential for inappropriate referrals¹².

Explanations

What did any law do before the changes to be made by this instrument?

- 7.8 The current legislation lists the employment schemes Jobseeker's Allowance claimants can be required to participate in as part of their Work Search obligation.

Why is it being changed?

- 7.9 The change adds the Restart Scheme to the list of employment provisions Jobseeker's Allowance claimants can be mandated to. These regulations also remove the Work Programme, which no longer exists.

What will it now do?

- 7.10 The change enables JSA IB claimants (residing in England and Wales) to be required to participate in the Restart Scheme.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Consolidation is not being done for this instrument.

¹² <https://www.gov.uk/government/publications/restart-provider-guidance/chapter-2-referral-process-and-initial-engagement>

10. Consultation outcome

- 10.1 Neither formal public consultations or tailored informal consultations have been required or deemed necessary for this amendment.

11. Guidance

- 11.1 Guidance for Jobseeker's Allowance Work Coaches will be available to support them before the regulations come into force.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies. After the regulations come into force, Restart Scheme Contracted Providers will begin accepting Jobseeker's Allowance Income Based claimants (JSA IB). This has been agreed separately with the Contract Providers.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the SI does not impact the private, public, or voluntary sectors.

13. Regulating small business

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

14. Monitoring & review

- 14.1 A comprehensive multi-strand evaluation will be undertaken to provide a robust and timely analysis of Restart Scheme delivery and impact. The evaluation will assess the overall impact and participant outcomes, as well as providing evidence on wider participant experience.
- 14.2 JSA IB claimants who start the Restart Scheme will be included in our monitoring and evaluation plans.

15. Contact

- 15.1 Lloyd Davies at the Department for Work and Pensions. Email: Lloyd.davies@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Karina Stibbards, Deputy Director for Enhanced Employment Support at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mims Davies MP Minister for Employment of the United Kingdom at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.