

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2013 and come into force on the day after the day on which they are made.

(2) In these Regulations—

“action plan” means an action plan issued in accordance with regulation 3;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971.

PART 2

Work-Related Activity

Requirement to undertake work-related activity

2.—(1) The Secretary of State may require a person who satisfies the requirements in paragraph (2) to undertake work-related activity^(a) as a condition of continuing to be entitled to the full amount of income support payable apart from these Regulations.

(2) The requirements referred to in paragraph (1) are that the person—

(a) is entitled to income support;

(b) is not a lone parent^(b) of a child under the age of 3; and

(c) falls only within paragraph 1(1) of Schedule 1B to the Income Support (General) Regulations 1987 and no other paragraph within that Schedule.

(3) A requirement imposed under paragraph (1)—

(a) must be reasonable in the view of the Secretary of State, having regard to the person’s circumstances; and

(b) may not require the person to apply for a job or undertake work, whether as an employee or otherwise.

Notification of work-related activity

3.—(1) The Secretary of State must notify a person of a requirement to undertake work-related activity by including the requirement in a written action plan which is given to the person.

(2) The action plan must contain particulars of—

(a) the work-related activity which the person is to undertake; and

(b) any other information that the Secretary of State considers appropriate.

Requirement to undertake work-related activity at a certain time not to apply

4. The Secretary of State may determine that a requirement as to the time at or by which work-related activity is to be undertaken is not to apply, or is to be treated as not having applied, if in the view of the Secretary of State it would be, or would have been, unreasonable to require the person to undertake the activity by or at that time.

(a) ‘work-related activity’ has the meaning in section 2D(9)(d) of the Social Security Administration Act 1992.

(b) ‘lone parent’ has the meaning in section 2D(9)(b) of the Social Security Administration Act 1992.

Reconsideration of action plans

- 5.—(1) A person may request the reconsideration of an action plan.
- (2) On receipt of a request the Secretary of State must reconsider the action plan.
- (3) A decision of the Secretary of State following a request must be in writing and given to the person.

Failure to undertake work-related activity

6.—(1) A person who is required to undertake work-related activity but fails to do so must show good cause for the failure before the end of five working days beginning with the date on which the Secretary of State gives notice to the person of their failure to undertake work-related activity.

(2) The Secretary of State must determine whether a person who is required to undertake work-related activity has failed to do so and, if so, whether the person has shown good cause for the failure.

(3) In a case where within one month of the date on which the Secretary of State gave notice to a person of their failure to undertake work-related activity—

- (a) the person brings new facts to the attention of the Secretary of State which could not reasonably have been brought to the attention of the Secretary of State within the period specified in paragraph (1); and
- (b) those facts show that the person had good cause for failing to undertake work-related activity,

paragraph (1) applies with the modification that for the words “five working days beginning with” there is substituted “one month of”.

(4) Where a notice under paragraph (1) is sent by post it is taken to have been received on the second working day after it is sent.

Reduction of income support

7.—(1) Where the Secretary of State has determined that a claimant who was required to undertake work-related activity has failed to do so and has not shown good cause for that failure in accordance with regulation 6 (failure to undertake work-related activity) the amount of income support payable to the person is to be reduced in accordance with this regulation.

(2) Subject to paragraph (3), the amount of the reduction of income support in relation to each failure is 20% of the amount applicable in respect of a single claimant of income support aged not less than 25 as prescribed in paragraph 1(1)(e) of Schedule 2 to the Income Support (General) Regulations 1987(a).

(3) In any benefit week, the amount of income support payable to a person is not, by virtue of this regulation, to be reduced below 10 pence.

Circumstances where regulation 7 ceases to have effect

8. The consequences of a failure to undertake work-related activity set out in regulation 7 (reduction of income support) cease to have effect in respect of a person from whichever is the earliest of—

- (a) the date on which the person is no longer required to take part in a work-related activity as a condition of continuing to be entitled to the full amount of benefit which is payable apart from these Regulations; or
- (b) the first day of the benefit week in which the person meets the requirement to take part in work-related activity.

(a) S.I. 1987/1967; relevant amending instruments are S.I. 1990/1168, S.I. 1996/206, S.I. 2007/719 and S.I. 2013/574.

Restrictions on availability

9.—(1) Subject to paragraph (2), a person to whom these Regulations apply may restrict the times at which they are required to undertake work-related activity.

(2) A person may not restrict the times at which they are required to undertake work-related activity by virtue of paragraph (1) to exclude—

- (a) their child’s normal school hours; or
- (b) any period during which the person entrusts temporary supervision of their child to a person over the age of 18, not including any form of health care for the child.

Contracting out

10.—(1) Any function of the Secretary of State specified in paragraph (2) may be exercised by, or by employees of, such person (if any) as the Secretary of State may authorise for that purpose.

(2) The functions are any function under—

- (a) regulation 2 (requirement to undertake work-related activity);
- (b) regulation 3 (notification of work-related activity);
- (c) regulation 4 (requirement to undertake work-related activity at a certain time not to apply); or
- (d) regulation 5 (reconsideration of action plans).

PART 3

Miscellaneous Amendments

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

11.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(a) are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation) insert the following definitions—

““Income Support Work-Related Activity Regulations” means the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2013;” and

““work-related activity” means an activity which a person is required to undertake in accordance with regulations made under section 2D of the Administration Act”.

(3) After regulation 3(7CC) (revision of decisions) insert—

“(7CD) A decision of the Secretary of State under section 10 made in consequence of a determination under regulation 6(2) of the Income Support Work-Related Activity Regulations that a claimant has failed to satisfy a requirement of regulation 2 of those regulations (requirement to undertake work-related activity) may be revised at any time if it contained an error to which the claimant did not materially contribute.”.

(4) After regulation 6(2)(s) (supersession of decisions) insert—

“(t) is a decision awarding income support where there has been a determination by the Secretary of State under regulation 6 of the Income Support Work-Related Activity Regulations that a person has failed to undertake work-related activity;

(u) is a decision made in consequence of a determination by the Secretary of State that a person has failed to undertake work-related activity where the reduction ceases to

(a) S.I. 1999/991 to which there are amendments not relevant to these Regulations

have effect under regulation 8 of the Income Support Work-Related Activity Regulations.”.

(5) After regulation 7(40) (date from which a decision superseded under section 10 takes effect) insert—

“(41) A decision made in accordance with regulation 6(2)(t) shall take effect from the first day of the next benefit week following the day on which the determination mentioned in that sub-paragraph was made.

(42) A decision made in accordance with regulation 6(2)(u) shall take effect from the first day of the benefit week in which the reduction mentioned in that sub-paragraph ceased to have effect.”.

Amendment of the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000

12.—(1) The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Regulations 2000(a) are amended as follows.

(2) In regulation 2ZA (requirement for certain lone parents to take part in an interview)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) after “applies;” insert “and”;

(ii) omit sub-paragraph (c);

(b) for paragraph (2) substitute—

“(2) Subject to regulations 4 and 5, a lone parent to whom this regulation applies is required to take part in one or more interviews as a condition of continuing to be entitled to the full amount of benefit which is payable to him apart from these Regulations.”; and

(c) in paragraph (3)(b) omit “waived or”.

(3) For regulation 2C(1) (the interview) substitute—

“(1) An interview under these Regulations shall take place—

(a) where regulation 2ZA applies, on such date as may be determined by an officer; or

(b) in any other case, as soon as is reasonably practicable after the date on which the requirement to take part in the interview arises.”.

(4) In regulation 4 (circumstances where requirement to take part in an interview does not apply)—

(a) in paragraph (1), after “Regulations 2”, insert “, 2ZA”;

(b) in paragraph (1A) for “Regulation 2” substitute “Regulations 2 and 2ZA”; and

(c) omit paragraph (3).

(5) In regulation 6 (waiver)—

(a) in paragraph (1) for “these Regulations” substitute “regulations 2(1) and 2ZB(2)”; and

(b) in paragraph (2)(a) omit “, 2ZA”.

(6) In regulation 7 (consequence of failure to take part in an interview)—

(a) in paragraph (1)—

(i) for “paragraphs (2) and (5)” substitute “paragraph (2)”; and

(ii) in sub-paragraph (b) for “day on which the interview was to take place” substitute “date on which the person was notified of his failure to take part in the interview”;

(b) after paragraph (1) insert—

(a) S.I. 2000/1926; relevant amending instruments are S.I. 2005/2727, S.I. 2007/1034, S.I. 2008/3051, S.I. 2010/563, S.I. 2011/674 and 2428 and S.I. 2012/874.

“(1A) Where a notice under paragraph (1)(b) is sent by post it is taken to have been received on the second working day after it is sent.”.

- (c) in paragraph (2)(a) for “day on which the interview was to take place” substitute “date on which the person was notified of his failure to take part in the interview”; and
- (d) omit paragraph (5).

Amendment of the Social Security (Jobcentre Plus Interviews) Regulations 2002

13.—(1) The Social Security (Jobcentre Plus Interviews) Regulations 2002(a) are amended as follows.

- (2) In regulation 4A (requirement for certain lone parents to take part in an interview)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (a) after “applies;” insert “and”;
 - (ii) omit sub-paragraph (c);
 - (b) for paragraph (2) substitute—

“(2) Subject to regulations 7 to 9, a lone parent to whom this regulation applies is required to take part in one or more interviews as a condition of continuing to be entitled to the full amount of benefit which is payable to him apart from these Regulations.”;
 - (c) in paragraph (3)(b) omit “waived or”.
- (3) In regulation 5 (time when an interview is to take place)—
 - (a) in paragraph (2), omit “as soon as reasonably practicable after”;
 - (b) in paragraph (2)(a) before “the requirement to take part” insert “as soon as reasonably practicable after”;
 - (c) after paragraph (2)(a) insert—

“(ab) in a case where regulation 4A(2) applies, on such a date as may be determined by the officer; or”;
 - (d) in paragraph (2)(b)—
 - (i) after “in any other case” insert “, as soon as reasonably practicable after”;
 - (ii) omit sub-paragraph (i);
 - (iii) in sub-paragraph (ii) omit “but regulation 4A(1) does not apply,”; and
 - (iv) in sub-paragraph (iii) omit “either” and “or regulation 4A(2)”.
- (4) In regulation 6 (waiver of requirement to take part in an interview)—
 - (a) in paragraph (1), for “A” insert “Except in a case where a requirement is imposed by virtue of regulation 4A(2), a”;
 - (b) in paragraph (2)(a), for “4A” substitute “4ZA”.
- (5) In regulation 8 (exemptions) in paragraph (4) after “4ZA” insert “, 4A”.
- (6) In regulation 11 (taking part in an interview)—
 - (a) in paragraph (4) for “day on which the interview was to take place” substitute “date on which the person was notified of his failure to take part in the interview”; and
 - (b) after paragraph (4) insert—

“(5) Where a notice under paragraph (4) is sent by post it is taken to have been received on the second working day after it is sent.”.
- (7) In regulation 12(12)(a) (failure to take part in an interview) for “day on which the interview was to take place” substitute “date on which the person was notified of his failure to take part in the interview”.

(a) S.I. 2002/1703; relevant amending instruments are S.I. 2008/3051, S.I. 2011/2425, S.I. 2011/2428 and S.I. 2012/874.

(8) Omit regulation 14 (good cause).

Amendment to the Employment and Support Allowance (Work-Related Activity) Regulations 2011

14.— In regulation 3(2)(b) (requirement to undertake a work-related activity) of the Employment and Support Allowance (Work-Related Activity) Regulations 2011(a), for “5” substitute “3”.

Amendment of the Universal Credit Regulations 2013

15.—(1) The Universal Credit Regulations 2013(b) are amended as follows.

(2) In regulation 91(1) (claimants subject to work-focused interview requirement only), for “5” substitute “3”.

(3) After regulation 91, insert—

“Claimants subject to work preparation requirement

91A. For the purposes of section 21(1)(b) of the Act (claimants subject to work preparation requirement), the claimant is of a prescribed description if the claimant is the responsible carer for a child aged 3 or 4.”.

Amendment of the Employment and Support Allowance Regulations 2013

16. In regulation 48(1) of the Employment and Support Allowance Regulations 2013(c) (claimants subject to work-focused interview requirement only), for “five” substitute “three”.

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

(a) S.I. 2011/1349
(b) S.I. 2013/376.
(c) S.I. 2013/379.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that lone parents of children over the age of 3 but under the age of 5 who are entitled to income support may be required to undertake work-related activity as a condition of entitlement to the full amount of benefit. Work-related activity is defined in section 2D(9)(d) of the Social Security Act 1992 as “in relation to a person, activity which makes it more likely that the person will obtain or remain in work or be able to do so”.

Further, these provisions also make amendments to the provisions relating to work-focused interviews for certain lone parents contained in the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 (S.I. 2000/1926) and the Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703).

Regulation 2 provides that persons who are lone parents aged over 18, who have a youngest child aged older than 3 but younger than 5 and who are entitled to income support solely on the basis of being a lone parent may be required to undertake work-related activity as a condition of entitlement to the full amount of benefit. Regulation 2(3) provides that the requirement to undertake Work Related Activity must be reasonable in the opinion of the Secretary of State and that a person may not be required to apply for a job or undertake work.

Regulation 3 provides that the Secretary of State must notify persons of their requirement to undertake work-related activity under these Regulations by including the requirement in a written action plan which is given to the person. Action plans may also contain any other information that the Secretary of State considers appropriate. Regulation 5 provides that a person may request the reconsideration of an action plan and that on receipt of such a request the Secretary of State must reconsider the action plan and give his decision in writing to the person.

Regulation 4 enables the Secretary of State to determine that the time at or by which work-related activity is not to apply, or is to be treated as not having applied, if he considers it is or would be unreasonable to require the person to undertake work-related activity by or at that time.

Regulation 6 provides that the Secretary of State is to determine whether a person has failed to undertake work-related activity and if so whether the person had good cause for that failure. A person has five working days beginning with the date on which they were notified by the Secretary of State of their failure to undertake work-related activity. This regulation also provides that notices sent under this regulation are deemed served two working days after they are sent.

Regulation 7 sets out the consequences for persons to whom the regulations apply who fail without good cause to undertake work-related activity. The consequences are that the person's benefit is paid at a reduced rate until one of the circumstances in regulation 8 applies. Regulation 8 sets the circumstances in which the consequences set out in regulation 7 cease to apply, which are that the person is no longer required to undertake work-related activity or meets the requirement to undertake work-related activity.

Regulation 9 allows a person to restrict the times at which they are required to undertake work-related activity. A person is not able to exclude their child's normal school hours or any time during which they temporarily entrust the supervision of their child to a person over the age of 18, not including health care for the child, from the times at which they are required to undertake work-related activity.

Regulation 10 provides for the contracting out of certain of the Secretary of State's powers under these Regulations.

Regulation 11 makes consequential amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) to support the decision making aspect of these Regulations and provides that a person's benefit reduced under regulation 7 is to be reduced from the first day of next the benefit week following the date on which the determination was made.

Regulation 12 amends the Social Security (Work Focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 (S.I. 2000/1926) and regulation 13 amends the Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703).

Regulation 12(2)(a) and regulation 13(2)(a) provide that lone parents who are over 18, have a child aged between 1 and 4 years and who are entitled to income support solely on the basis of being a lone parent are required to take part in one or more work-focused interviews as a condition of their continuing entitlement to the full amount of income support.

Regulation 12(3) and regulation 13(3) provide for the removal of the requirement for interviews for such claimants to take place at set intervals during the course of an award and replace this with a provision allowing officers to determine at their discretion when an interview should take place.

Regulation 12(5) and regulation 13(4) remove the provision enabling interviews to be waived for lone parents with a child aged 1 to 4 who are entitled to income support solely on the basis of being a lone parent. Officers remain able to defer interviews until a specified date.

Regulation 12(6)(a) and regulation 13(6)(a) provide that the period within which good cause must be shown by a claimant begins on the date that the claimant was notified of their failure to take part in an interview. Regulation 12(6)(b) and regulation 13(6)(b) provide.

Regulation 12(6)(b) and 13(6)(b) insert a provision which provides that where a notification to a claimant that he has failed without good cause to attend at a work-focused interview is sent by post it is deemed received on the second working day after it is sent.

Regulation 12(6)(d) and regulation 13(8) remove the list of matters to be taken into account when 'good cause' is being considered.

Regulation 14 amends the Employment and Support Allowance (Work-Related Activity) Regulations 2011 (S.I. 2011/1349) so that parents whose youngest child is aged 3 or older may be required to undertake work-related activity as a condition of entitlement to the full amount of benefit.

Regulation 15(2) amends the Universal Credit Regulations 2013 (S.I. 2013/376) to change the work-related requirements that can be imposed on certain claimants. A single person who is responsible for a child aged 3 or 4 may be required to comply with a work preparation requirement (in addition to a work-focused interview requirement). Regulation 16 makes the same change for Employment and Support Allowance under the Employment and Support Allowance Regulations 2013 (S.I. 2013/379). Regulation 15(3) provides that such Universal Credit claimants do not also have to comply with a work search requirement or a work availability requirement.

An impact assessment has not been produced for this instrument as it has no impact on businesses and civil society organisations. The instrument has no impact on the public sector.