

*These notes refer to the Welfare Reform Act (Northern Ireland)
2010 (c.13) which received Royal Assent on 13 August 2010*

Welfare Reform Act (Northern Ireland) 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Social security

Section 1: Schemes for assisting persons to obtain employment: ‘Work for your benefit’ schemes etc.

This section inserts two new Articles, Article 19A (schemes for assisting persons to obtain employment: ‘work for your benefit’ schemes etc.) and Article 19B (Article 19A: supplemental) into the [Jobseekers \(Northern Ireland\) Order 1995 \(S.I. 1995/2705 \(N.I. 15\)\)](#).

Article 19A(1), which is inserted by subsection (2), enables the Department for Social Development to make provision in regulations for, or in connection with, imposing a requirement on jobseeker’s allowance claimants to participate in schemes that are designed to assist them to obtain employment.

In particular, these regulations may impose a requirement on claimants to undertake work or work-related activity as part of a ‘work for your benefit’ scheme.

Implementation in Northern Ireland will be subject to the outcome of the evaluation of pilots in Great Britain and the availability of resources.

If introduced in Northern Ireland, Article 19A(1) will provide for regulations to set out the circumstances in which jobseeker’s allowance claimants are required to participate in schemes under this Article. The intention is to use these powers to require a proportion of long-term unemployed claimants who reach the end of the Department for Employment and Learning’s Steps to Work programme without finding work to take part in a ‘work for your benefit’ scheme. It is envisaged that personal advisers will be able to require other jobseeker’s allowance claimants to take part in the scheme if the adviser considers that participation would benefit the individual concerned.

As well as undertaking full-time work or work-related activity it is also envisaged that participants in ‘work for your benefit’ schemes will be provided with relevant employment support.

Article 19A(2) makes it clear that the regulations may require claimants to undertake work or a work-related activity during a prescribed period with a view to improving their chances of finding employment. It is envisaged that claimants may participate in ‘work for your benefit’ schemes for up to six months.

Article 19A(3) defines ‘work-related activity’ as activity which would make it more likely that the participant will obtain or remain in work or be able to do so.

Article 19A(4) precludes regulations made under paragraph (1) from applying to jobseeker’s allowance claimants who are not required to satisfy the jobseeking conditions. These are the conditions set out in Article 3A(5)(a) to (c) of the Jobseekers (Northern Ireland) Order 1995 (see section 4(3) - namely that a person is available for work, has a current jobseeker’s agreement, and is actively seeking employment). The Department envisages the precluded groups will include lone parents with younger children who are moved to jobseeker’s allowance after the abolition of income support (see section 9).

Article 19A(5) provides examples of provisions that may be included in regulations made under Article 19A(1).

Article 19A(5)(d) enables regulations to provide that benefit payments may be withheld or reduced where a claimant has failed to comply with the regulations and he or she does not show good cause for the failure within the period specified in regulations. If good cause is shown, benefit will continue to be paid. It is intended that good cause for not participating in a ‘work for your benefit’ scheme will be consistent with the good cause provisions currently contained in regulations relating to jobseeker’s allowance. An example of good cause would be dealing with a domestic emergency.

Paragraph (6) provides that a jobseeker’s allowance is not payable for a period specified in regulations where a claimant has failed to comply with regulations made under Article 19A. This paragraph also provides that the period specified in the regulations in respect of which a jobseeker’s allowance is not payable must be at least one week and not more than 26 weeks.

Article 19A(7) provides that the appropriate consequence if a member of a joint-claim couple fails to comply with regulations is that he or she be treated as subject to sanctions for the purpose of Article 22A. The period for which the full allowance is not payable must be at least one week and not more than 26 weeks.

Paragraphs (8) and (9) of Article 19A make provision for claimants to receive an income-based jobseeker’s allowance even though provision made by the regulations may prevent it. This is to enable claimants who are subject to a sanction to receive hardship payments. Regulations may prescribe the rate and period of such payments and the circumstances in which they are payable. Paragraph (8) does not apply in the case of a joint-claim jobseeker’s allowance. Provision for such payments is contained in Article 22B(4) of the Jobseekers (Northern Ireland) Order 1995.

New Article 19B, which is also inserted in the Jobseekers (Northern Ireland) Order 1995 by subsection (2), contains provisions that are supplemental to Article 19A. These provisions relate to the practical operation of schemes prescribed under Article 19A and provide support for any contractual arrangements the Department for Employment and Learning may make regarding their delivery.

Paragraph (1) enables the Department for Employment and Learning to associate itself, financially or otherwise, with any scheme falling within Article 19A(1). For example, ‘work for your benefit’ schemes may involve contracting with non-Government organisations and providing funding for relevant work-related activity and employment support. The Department for Employment and Learning may also wish to make payments to persons participating in the schemes to cover certain expenses, such as the cost of public transport to the host organisation.

Paragraph (3) enables the Department for Employment and Learning, where necessary, to use existing powers in Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (status of trainees etc.), to make an order dealing with the employment status of claimants participating in schemes under Article 19A and detailing how any income gained while on a scheme should be treated for the purpose of other relevant legislation (for example, legislation relating to tax or National Insurance contributions). This follows the same approach as in Article 57(7) of the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(N.I. 11\)](#).

Subsections (3) to (5) of section 1 make other amendments which are consequential on new Article 19A.

Subsection (3) inserts a new paragraph (4) in Article 36 of the Jobseekers (Northern Ireland) Order 1995 (regulations and orders) to make it clear that regulations made under new Article 19A may make different provision for different areas and that they may make provision only in relation to an area or areas specified in the regulations.

Subsection (4) amends Schedule 3 to the [Social Security \(Northern Ireland\) Order 1998 \(N.I. 10\)](#) to provide that a decision relating to non-payment of benefit under Article 19A may be appealed.