

2009 No. 1541

SOCIAL SECURITY

The Social Security (Incapacity Benefit Work-focused Interviews) (Amendment) Regulations 2009

<i>Made</i>	- - - -	<i>19th June 2009</i>
<i>Laid before Parliament</i>		<i>25th June 2009</i>
<i>Coming into force</i>	- -	<i>26th October 2009</i>

The Secretary of State for Work and Pensions makes the following Regulations, in exercise of the powers conferred by sections 2A(1), (3) to (5) and (8), 189(4), (5) and (7A) and 191 of the Social Security Administration Act 1992(a).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity Benefit Work-focused Interviews) (Amendment) Regulations 2009 and come into force on 26th October 2009.

(2) In these Regulations—

“the 2000 Regulations” means the Social Security (Work-focused Interviews) Regulations 2000(c);

“the 2001 Regulations” means the Social Security (Jobcentre Plus Interviews) Regulations 2001(d);

“the 2002 Regulations” means the Social Security (Jobcentre Plus Interviews) Regulations 2002(e); and

“the principal Regulations” means the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008(f).

(a) 1992 c. 5. Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30). Section 189(4) and (5) was amended by paragraph 109(c)-(e) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14). Section 189(7A) was inserted by paragraph 82 of Schedule 12 to the Welfare Reform and Pensions Act 1999. Section 191 is cited because of the meaning there given to the word “prescribe”, and that definition of “prescribe” was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 (c. 5.).

(b) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

(c) S.I. 2000/897, revoked by S.I. 2002/1703, except as saved by regulation 16(2) of S.I. 2002/1703.

(d) S.I. 2001/3210, revoked by S.I. 2002/1703, except as saved by regulation 16(2) of S.I. 2002/1703.

(e) S.I. 2002/1703.

(f) S.I. 2008/2928.

Amendments to the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008

2.—(1) The principal Regulations are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of “specified benefit” in sub-paragraph (b)(ii) for “capable” substitute “incapable”.

(3) For regulation 3(3) (relevant claimant) substitute—

“(3) The second condition is that at least one of the following sub-paragraphs applies to the person—

- (a) immediately before 15th December 2008 the person was a “relevant person” within the meaning of—
 - (i) the 2000 Regulations or the 2001 Regulations, as saved by regulation 16(2) of the 2002 Regulations, or
 - (ii) the 2003 Regulations;
- (b) the person—
 - (i) is under 25 years of age,
 - (ii) is ordinarily resident in a Jobcentre Plus Pathways area identified in the Schedule, and
 - (iii) has been in receipt of a specified benefit for a continuous period of at least 12 months;
- (c) at any time before 26th October 2009, the person has been required to take part in an interview under the 2002 Regulations by virtue of having made a claim for, or being entitled to, a specified benefit;
- (d) the person makes a claim for a specified benefit in respect of a period beginning after 26th October 2008 and that claim is of a description referred to in regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations 2008(a).”.

(4) In regulation 8(3) (failure to take part in a work-focused interview) for “good cause has not been shown for that failure within five working days of that day on which the interview was to take place” substitute “the claimant has not shown good cause in accordance with regulation 8(1)”.

(5) In regulation 9(12)(a) (consequences of failure to take part in a work-focused interview) for “below 10” substitute “to below ten”.

(6) In regulation 12 (revocations, consequential amendments, savings and transitional provisions)—

(a) after paragraph (4) insert—

“(4A) This paragraph applies to a relevant claimant who—

- (a) at any time before 26th October 2009 has been required to take part in an interview under the 2002 Regulations by virtue of having made a claim for, or being entitled to, a specified benefit, and
- (b) immediately before 26th October 2009 was subject to the consequences specified in regulation 12 (failure to take part in an interview) of the 2002 Regulations.

(4B) Where paragraph (4A) applies to a relevant claimant—

- (a) the person continues to be subject to the consequences specified in regulation 12 of the 2002 Regulations, and
- (b) any other provision of the 2002 Regulations continues to have effect insofar as is necessary to give full effect to sub-paragraph (a).”.

(b) in paragraph (5)—

(a) S.I. 2008/795, amended by S.I. 2008/2783.

- (i) after “paragraph (4)(a)” insert “or (4A)(a)”;
- (ii) for “that date” substitute “the date on which the reduction ceases to have effect”;
- (iii) after “the 2003 Regulations” insert “or (as the case may be) regulation 12(2) of the 2002 Regulations”.

(7) At the end add the following Schedule—

“SCHEDULE

Regulation 3(3)(b)

For the purposes of regulation 3(3)(b)(ii) a Jobcentre Plus Pathway area is(a)—

- (a) any of the following Jobcentre Plus districts—
 - Ayrshire, Dumfries, Galloway and Inverclyde
 - Cumbria and Lancashire
 - Derbyshire
 - Dorset and Somerset
 - Essex
 - Glasgow
 - Greater Manchester Central
 - Highland, Islands, Clyde Coast and Grampian
 - Lanarkshire and East Dunbartonshire
 - Merseyside
 - Northumbria
 - South Tyne and Wear Valley
 - South Wales Valleys
 - South West Wales
 - South Yorkshire
 - Staffordshire
 - Tees Valley;
- (b) an area served by the Jobcentre Plus offices at Runcorn or Widnes.”.

The Social Security (Jobcentre Plus Interviews) Regulations 2002: amendment, saving and transitional provision

3.—(1) The 2002 Regulations are amended as follows.

(2) In regulation 16(2) (revocations and transitional provision), for “, is both a relevant person and entitled to a specified benefit for the purposes of those Regulations” substitute—

“—

- (a) is a relevant person for the purposes of those Regulations,
- (b) is entitled to income support, and
- (c) does not fall within paragraph 7, 24 or 25 of Schedule 1B to the Income Support (General) Regulations 1987(b) (prescribed categories of person)”.

(3) Regulation 12 (failure to take part in an interview) of the 2000 Regulations and regulation 11 (failure to take part in an interview) of the 2001 Regulations (as saved by regulation 16(2) of the

(a) Full details of the Jobcentre Plus geographical areas referred to in the Schedule are available from Jobcentre Plus Chief Executive’s Office, Caxton House, Tothill Street. London, SW1 9HA.
 (b) S.I. 1987/1967.

2002 Regulations) continue to have effect as if the amendment set out in paragraph (2) above had not been made in respect of a person who immediately before 26th October 2009 is—

- (a) entitled to a specified benefit as defined in the principal Regulations, and
- (b) subject to the consequences specified in regulation 12 of the 2000 Regulations or regulation 11 of the 2001 Regulations.

(4) Any other provisions of the 2000 Regulations and the 2001 Regulations (as saved by regulation 16(2) of the 2002 Regulations, but disregarding the amendment in paragraph (2) above) continue to have effect insofar as it is necessary to give full effect to paragraph (3) above.

(5) For the purposes of regulation 9(8), (9) and (11) (consequences of failure to take part in a work-focused interview) of the principal Regulations, a person referred to in paragraph (3)(a) above is deemed to be subject to the consequences under regulation 9(1) of the principal Regulations; and as from the date on which these Regulations come into force, regulation 12 of the 2000 Regulations and regulation 11 of the 2001 Regulations cease to apply to that person.

Signed by authority of the Secretary of State for Work and Pensions

19th June 2009

Jonathan Shaw
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008 (“the principal Regulations”), which aligned the work-focused interview regime for incapacity benefit, severe disablement allowance, or income support claims due to poor health (“specified benefits”) with the interview regime applying to persons entitled to Employment and Support Allowance (“ESA”). Subject to some exceptions, claims for specified benefits for periods after 26th October 2008 are treated as claims for ESA.

Regulation 2 extends the principal Regulations to the following categories of persons entitled to specified benefits, namely:

—those under 25 years of age, living in specified areas, who have been claiming incapacity benefit for at least 12 months continuously;

—those remaining relevant claimants who were still subject to the lesser conditionality regime set out in the Social Security (Jobcentre Plus Interviews) Regulations 2002 (“the 2002 Regulations”); and

—those who make a new claim for a specified benefit after 26th October 2008 and are eligible for a specified benefit rather than ESA, as their eligibility “links” back to an earlier award of a specified benefit, because of the provisions of regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations 2008. This category will capture claimants who were subject to specified benefits regimes that predated the Social Security (Work-focused Interviews) Regulations 2000 (“the 2000 Regulations”) and therefore do not fall within any of the other categories in regulation 3(3) of the principal Regulations.

Regulation 2 also correct minor drafting errors in the principal Regulations, and make transitional provision in the case of persons who were previously subject to the 2002 Regulations so that a sanction imposed under those regulations will continue to apply.

Regulation 3 amends regulation 16 of the 2002 Regulations, which revoked the 2000 Regulations and the Social Security (Jobcentre Plus Interviews) Regulations 2001 (“the 2001 Regulations”) subject to certain savings. The amendment discontinues those savings in relation to persons claiming specified benefits (who now fall within the principal Regulations) except for certain purposes in relation to persons subject to a sanction under the 2000 Regulations or the 2001 Regulations. However, once the sanction ends, those persons’ eligibility for a specified benefit will be determined by the principal Regulations.

A full impact assessment has not been produced for this instrument, as it has no impact on the private or voluntary sectors.

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STATUTORY INSTRUMENTS

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