

# **Benefit Claimants Sanctions (Required Assessment) Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Mhairi Black, are published separately as Bill 11 – EN.

# Benefit Claimants Sanctions (Required Assessment) Bill

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**B I L L**

TO

Require assessment of a benefit claimant's circumstances before the implementation of sanctions; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Pre-sanctions assessment of benefits claimants' circumstances**

- (1) Before sanctions or reductions ("sanctions") may be imposed on a person in receipt of social security benefits which will have the effect of reducing or restricting those benefits—
- (a) an assessment of the relevant circumstances of the person must be carried out, and 5
  - (b) conditions in this Act found to be satisfied.
- (2) Where the conditions in subsection (1) are found to be satisfied, a person adjudged liable for sanction must be assessed for his or her eligibility for hardship payments, which will include an assessment of the consequence of the imposition of the proposed sanction. 10

**2 Pre-sanctions assessment: code of conduct**

- (1) The Secretary of State shall by regulations issue a code of conduct setting out the procedures, tests and standards to be followed and applied in carrying out the assessments required at section 1. 15
- (2) The code of conduct must provide guidance in relation to—
- (a) the provision of written advice to a claimant on his or her rights and entitlements,
  - (b) the account to be taken of a claimant's caring responsibilities, mental and physical health and well-being and housing situation, 20
  - (c) the consideration of good reason (as provided by section 26(2) of the Welfare Reform Act 2012 "the 2012 Act"),
  - (d) the determination of just cause (as provided by section 27A of the 2012 Act), and

- (e) the right of a claimant subject to sanctions to an assessment of his or her eligibility for hardship payments as a consequence of the proposed sanction.

### 3 Claimant commitment

- (1) Section 14 of the 2012 Act is amended as follows. 5
- (2) After subsection (2) insert –
- “(2A) A claimant commitment may only be prepared, reviewed and updated after the claimant concerned has discussed it with the relevant job centre and after the claimant has received advice on his or her rights and entitlements from the job centre.” 10
- (3) After subsection (4), paragraph (c), insert –
- “(d) a claimant commitment must include details of a claimant’s –
- (i) caring responsibilities,
  - (ii) mental and physical health and well-being, and
  - (iii) housing situation.” 15

### 4 Claimant commitment: good reason

- (1) Section 26 2012 Act is amended as follows.
- (2) After the words “section 22” in subsection (2), insert –
- “unless for reasons of mental ill health, homelessness or caring responsibilities”. 20

### 5 Just cause

- (1) The 2012 Act is amended as follows.
- (2) After section 27 insert –
- “27A Imposition of sanctions: just cause**
- (1) A benefits claimant may not be the subject of a sanction or sanctions in relation to a claim for Jobseekers Allowance, Employment Support Allowance, Income Support, Universal Credit and any associated social security benefit, where, in the circumstances, that claimant has just cause in relation to the act or omission that gave rise to consideration of a sanction. 25
- (2) An assessment must be made by the relevant job centre as to whether a person has just cause for any act or omission for the purposes of a claim. 30
- (3) In making an assessment of the person under subsection (2) the matters which are to be taken into account shall include the following –
- (a) any caring responsibilities which would, or did, make it unreasonable for the person to undertake a particular employment or carry out the jobseeker’s direction; 35
  - (b) the time it took, or would normally take, for the person to travel from his or her home to the place of the employment or to a place mentioned in the claimant commitment and back to his or her home by a route and means appropriate to his or her 40

- circumstances and to the employment or to the carrying out of the claimant commitment;
- (c) the expenses which were, or would be, necessarily and exclusively incurred by the person for the purposes of the employment or of carrying out the claimant commitment, together with any expenses of travelling to and from the place of the employment or a place mentioned in the claimant commitment by a route and means appropriate to his or her circumstances, if those expenses did, or would, represent an unreasonably high proportion of—
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- (i) in the case of employment, the remuneration which it is reasonable to expect that he or she would derive from that employment, or
- (ii) in any other case, the income which he or she received, or would receive, while carrying out the claimant commitment;
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- (d) any child care expenses which were, or would be, necessarily incurred by the person as a result of his or her being in the employment or of carrying out the claimant commitment if those expenses did, or would, represent an unreasonably high proportion of—
- 20
- (i) in the case of employment, the remuneration which it is reasonable to expect that he or she would derive from that employment, or
- (ii) in any other case, the income which he or she received, or would receive, while carrying out the claimant commitment;
- 25
- (e) caring responsibilities in relation to a child, which would, or did, make it unreasonable for him or her to undertake a particular employment or carry out the claimant commitment, with particular regard to—
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- (i) where child care would not be, or was not, reasonably available, or
- (ii) where the available child care would be, or was, unsuitable due to the particular needs of the person or of the child;
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- (f) any caring responsibilities in relation to a child giving rise to the status of the person as a lone carer;
- (g) the degree to which the person is at risk of homelessness; and
- (h) any other condition or personal circumstance of the person which indicates that a particular employment or carrying out the jobseeker's direction would be likely to or did—
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- (i) cause significant harm to his or her physical or mental health, or
- (ii) subject the person to excessive physical or mental stress.
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- (4) This section shall apply without prejudice to any other circumstances in which—
- (a) a person may be regarded as having good reason under any guidance issued by the Secretary of State relating to any act or omission for the purposes of claim for Jobseekers Allowance, Employment Support Allowance, Income Support, Universal Credit and any associated social security benefit; or
- 50

- (b) a person may be regarded as meriting favourable treatment under existing discretion for exceptions exercised by job centre advisory staff, or their future equivalents.

## 6 Advice

- (1) Where an assessment under section 1 has been carried out, advice on the terms and conditions of a claimant commitment, potential financial sanctions and access to hardship payments must be provided to a claimant in writing –
- (a) before signing a claimant commitment,
  - (b) before any sanction is imposed, and
  - (c) after the imposition of a sanction on request.
- (2) The Secretary of State may make provision by regulation about the terms and conditions of access to advice when an assessment is carried out.

## 7 Hardship payments: duty to assess eligibility

The Secretary of State shall have a duty to ensure that a person upon whom a sanction has been imposed resulting in the reduction or cessation of benefits payments is assessed for eligibility for hardship payments within a reasonable period.

## 8 Training

The Secretary of State must satisfy himself or herself that adequate guidance and training has been provided to the relevant staff of the agencies whose functions include implementation of the provisions of this Act.

## 9 Financial provision

*There is to be paid out of money provided by Parliament –*

- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, and*
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

## 10 Regulations

A statutory instrument containing regulations under a provision of this Act shall only be made after having been laid in draft before each House of Parliament and approved by a resolution of each.

## 11 Extent, commencement and short title

- (1) This Act applies to England and Wales and Scotland.
- (2) This Act comes into force on the day after the day on which it receives Royal Assent.
- (3) This Act may be cited as the Benefit Claimants Sanctions (Required Assessment) Act 2017.

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## B I L L

To require assessment of a benefit claimant's circumstances before the implementation of sanctions; and for connected purposes.

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