Power over disability and carer benefits and elements of universal credit to be devolved to the Scottish Parliament

Proposals for the devolution of power over disability and carer benefits and elements of universal credit to the Scottish Parliament have been set out in the Smith Commission report, published on 27 November 2014. Established following September 2014’s Scottish referendum, the Commission has been working with all five of Scotland’s main political parties – Conservative, Green, Labour, Liberal Democrat and the SNP – to agree a range of new powers for the Scottish Parliament in policy areas including in relation to welfare and employability.

With the UK Government having undertaken to produce draft clauses by 25 January 2015 implementing the consensus set out in the Commission’s report, the main welfare benefit proposals include –

- whilst universal credit will remain a reserved benefit administered and delivered by the DWP, the Scottish Parliament will have the administrative power to change the frequency of universal credit payments, vary the existing plans

(continued at top of page 3)

Chancellor announces further welfare reforms to ‘control public spending’

Chancellor George Osborne has announced further welfare reforms to control public spending. Setting out the new measures in his Autumn Statement on 3 December 2014, Mr Osborne said –

‘Total welfare spending is now set to be £1bn a year lower than forecast at the Budget and will go on falling as a share of our GDP.

And as I’ve made clear I believe we need to freeze working age benefits for 2 years – saving billions more. Decisions to control public spending are never easy. But the impact on people’s lives when economic stability is lost is far, far greater.’

As a result, benefit related measures outlined by Mr Osborne, and in accompanying Treasury documents, include –

(continued at top of page 4)

Universal credit rolled out to claimants with responsibility for children

New legislation has been issued in relation to the roll out of universal credit to claimants with responsibility for children.

The order also sets out limitations including that the children or young persons must not be certified as severely sight impaired or blind or be entitled to disability living allowance or personal independence payment.

NB – the new rules will apply in the North West, in postcodes WA1; WA2; WA3 4 to WA3 7; WA4 and WA5; WA13 0; WA13 9; CH41, CH42, CH43, CH44, CH45, CH46, CH47, CH48, CH49, CH60, CH61, CH62, CH63.

SI.No.3067/2014 is available from legislation.gov.uk
MPs and church leaders call for benefit reforms to address the ‘simple but devastating fact that hunger stalks this country’

MPs and church leaders have called for wide ranging benefit reforms to address the ‘simple but devastating fact that hunger stalks this country’.

In a report, Feeding Britain, published on 8 December 2014, the All-Party Parliamentary Inquiry into Hunger in the United Kingdom – which was funded by the Archbishop of Canterbury’s Charitable Trust and co-chaired by Frank Field MP and the Bishop of Truro Tim Thornton – considers the reasons behind the large rise in the use of food banks, and associated provision of emergency food assistance, over the last few years.

The Inquiry finds that benefit problems were the single biggest reason given for food bank referrals by almost every food bank that presented evidence and, as a result, makes thirty wide ranging recommendations for reforms to the benefit system, including –

- benefit delays: ‘We believe the government must urgently reform the benefits system so it is able to deliver payments quickly within five working days. We fully understand this will take time to achieve. But the DWP must begin this process of reform by ensuring it has the data to measure the time between a claim being made and the claimant receiving their first payment.’
- mandatory reconsideration: ‘We urge the DWP to consider introducing a time limit for the mandatory reconsideration period, as well as continuing the payment of employment and support allowance, at the lower assessment rate if necessary, for the duration of claimants’ mandatory reconsideration period to avoid a sudden loss of income for claimants.’
- sanctions: ‘We believe claimants should be given a ‘Yellow Card’ warning with the chance to provide an explanation for a first offence, and perhaps being given additional requirements to be met, before a sanction is applied.’
- local welfare assistance funding: ‘We recommend that the government continues to protect local welfare assistance funding.’

The All-Party Parliamentary Inquiry into Hunger report Feeding Britain is available from foodpovertyinquiry.org

Jobseeker’s allowance for EEA migrants limited to 91 days

Income-based jobseeker’s allowance for EEA migrants has been limited to 91 days.

In DMG Memo 31/14, the DWP highlights that, from 1 January 2014, immigration regulations were amended to restrict the right to reside for EEA jobseekers to six months – unless they provide compelling evidence that they have a genuine prospect of work – and that further amendments to those regulations are introduced by the Immigration (European Economic Area) (Amendment) (No.3) Regulations 2014 so that, from 10 November 2014 –

- an EEA national who comes to the UK to look for work will still have a total of six months residence as an EEA jobseeker in the UK, but this will be made up of the initial three month right of residence, followed by a right to claim income-based jobseeker’s allowance as a jobseeker for the latter 91 days; and
- a claimant who has resided in the UK for more than three months prior to the date of claim will still only receive jobseeker’s allowance for 91 days.


Government introduces Fraud and Error Reduction Incentive Scheme for local authorities

The DWP has launched a new Fraud and Error Reduction Incentive Scheme (FERIS) for local authorities.

In HB Circular A17/2014, the DWP gives guidance in relation to the FERIS – which will run from 24 November 2014 through the financial year 2015/2016 and offers financial reward to local authorities who tackle fraud and error in their housing benefit caseload – and also to the Performance Improvement Fund which will provide funding to local authorities that can demonstrate solutions to reducing fraud and error.

Highlighting that the FERIS aims to encourage local authorities to find as many changes of circumstance which reduce housing benefit entitlement as possible, with particular focus on ‘high value’ changes, the DWP says that the objectives are to –

- encourage local authorities to find and correct more incorrect and fraudulent housing benefit claims;
- encourage local authorities to get claimants to come forward with their changes; and
- reduce the monetary value of fraud and error in 2014/2015 and beyond.

Additionally, the DWP advises that local authorities must opt in to the FERIS in order to receive any reward or funding, and it sets out the time periods over which performance will be assessed and the methods used to measure performance.


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Power over disability and carer benefits and elements of universal credit to be devolved to the Scottish Parliament

(continued from page 1, foot of column 1)

for single household payments, and pay landlords direct for housing costs in Scotland. The Scottish Parliament will also have the power to vary the housing cost elements of universal credit, including varying the ‘under-occupancy charge’ and local housing allowance rates, eligible rent, and deductions for non-dependents.

NB – joint arrangements for the oversight of DWP development and delivery of universal credit, similar to those established with HMRC in relation to the Scottish rate of income tax, will be established by the UK and Scottish Governments.

• for benefits outside of universal credit, powers will be devolved to the Scottish Parliament over: attendance allowance, carer’s allowance, disability living allowance, personal independence payment, industrial injuries benefit, severe disablement allowance, benefits which currently comprise the regulated social fund – cold weather payments, funeral payments, sure start maternity grants and winter fuel payments, and discretionary housing payments.

• the Scottish Parliament will have new powers to create new benefits in areas of devolved responsibility and new powers to make discretionary payments in any area of welfare without the need to obtain prior permission from the DWP. (Although it may seek agreement from the DWP for the Department to deliver those discretionary payments on behalf of the Scottish Government.)

NB – any new benefits or discretionary payments introduced by the Scottish Parliament must provide additional income for a recipient and not result in an automatic offsetting reduction in their entitlement to other benefits or post-tax earnings if in employment. In addition, the UK Government’s benefit cap will be adjusted to accommodate any additional benefit payments that the Scottish Parliament provides.

• all aspects of the state pension will remain shared across the UK and reserved to the UK Parliament. This includes the new single-tier pension, any entitlements to legacy state pensions whether in payment or deferred, pension credit and the rules on state pension age. In addition, responsibility for the following benefits will also remain reserved: bereavement allowance, bereavement payment, child benefit, guardian’s allowance, maternity allowance, statutory maternity pay, statutory sick pay and widowed parent’s allowance. All aspects of national insurance contributions will also remain reserved.

• the Scottish Parliament will have all powers over support for unemployed people through the employment programmes currently contracted by DWP (which are presently delivered mainly, but not exclusively, through the Work Programme and Work Choice) on expiry of the current commercial arrangements.

• as the single face-to-face channel for citizens to access all benefits delivered by DWP, Jobcentre Plus will remain reserved. However, the UK and Scottish Government will identify ways to further link services through methods such as co-location wherever possible and establish more formal mechanisms to govern the Jobcentre Plus network in Scotland.

• all powers over the management and operation of all reserved tribunals (including administrative, judicial and legislative powers) will be devolved to the Scottish Parliament (other than the Special Immigration Appeals Commission and the Prescribed Organisations Appeals Commission).


For more information on all these changes see – www.rightsnet.org.uk

the welfare rights website for advice workers

English language requirement for jobseekers extended to Scotland and Wales

The English language requirement, which was introduced for jobseeker’s allowance claimants in England from April 2014, has been extended to Scotland and Wales.

In the November 2014 edition of Touchbase, the DWP confirms that from 27 November 2014 all jobseeker’s allowance claimants in Scotland and Wales will be screened for English speaking and listening skills, and that from spring 2015 the language requirement will be extended to universal credit claimants who are subject to intensive work search requirements.

The DWP goes on to say that – ‘In Scotland claimants will be screened to identify those with English speaking and listening skills below Access 3 or Scottish Credit and Qualifications Framework level 3. In Wales, this will be Entry Level 2.

In Wales the policy will not mandate people to speak Welsh but will give them the option to improve their spoken Welsh or English in certain circumstances. This is usually where they are below Entry Level 2 in both English and Welsh and the absence of Welsh language skills, as opposed to English, is the main barrier to work.

If claimants fall below the requirements they will be mandated to have a full assessment by a provider and, where appropriate, mandated to attend English or Welsh language training. The aim is to improve their chances of getting into work. Claimants will have to attend for up to 16 hours a week, for between seven and 20 weeks.’


review 168 • December 2014 3
Chancellor announces further welfare reforms to ‘control public spending’
(continued from page 1, column 3)

Universal credit

- £350m will be invested in increasing the support on offer for childcare costs within universal credit from 70 per cent of eligible costs to 85 per cent from April 2016; and
- if a claimant leaves universal credit and returns within a 6 month period, they will be able to keep their existing assessment period, simplifying the reclaiming process.

To offset the cost of these policies –
- universal credit work allowances will be maintained at their current level for a further year, until April 2018; and
- surplus earnings that are in excess of £100 above a household’s universal credit award threshold will be accounted for in award calculations over a six month period.

Additionally –
- from October 2015, jobseekers aged 18 to 24 who are not in education, employment or training before claiming universal credit will participate in a period of intensive activity and job search support at the start of their benefit claim; and
- as previously announced, universal credit will expand nationwide through 2015/2016 to all remaining jobcentres and local authorities, legacy benefits will begin to close to new claims from 2016, and the universal credit caseload will continue to build naturally thereafter.

Migrant access to benefits

- from February 2015, the Genuine Prospect of Work (GPoW) assessment will apply to all European Economic Area (EEA) migrants who began claiming jobseeker’s allowance (JSA) before the test was introduced on 1 January 2014, and those who do not have clear job prospects will see their claim ended and their right to reside in the UK as a jobseeker withdrawn; and
- EEA migrants’ access to JSA will be limited to 3 months, subject to the GPoW assessment.

Fraud, error and debt

- investment of an additional £6m to increase capacity within DWP fraud and error operations in order to deliver significantly more interventions;
- making the tax credits system more responsive to changes in claimants’ circumstances by reducing payments in-year, to prevent the build-up of overpayments that must be repaid at a later stage;
- establishing a new housing benefit fraud and error local authority incentive scheme, worth up to £35m over the next 3 years, which will pay financial rewards to local authorities that reduce the amount of money lost through fraud and error in housing benefit; and
- the government will work with the private sector to improve debt collection in the tax and welfare systems through the ‘Debt Market Integrator’ which will make use of a range of debt collection services across the market.

State retirement pension

- in line with the triple lock policy, the state pension will rise by 2.5 per cent in April 2015 – a cash increase of £2.85 per week for the full basic state pension; and
- the benefits of the triple lock uprating will also be passed on to the poorest pensioners through an increase in the standard minimum income guarantee in pension credit to match the cash rise in the basic state pension – this will partly be paid for through a rise in the savings credit threshold by 5.1 per cent.

Employment and support allowance

- as previously announced, claimants who have been found fit for work at a work capability assessment will be prevented from being paid the employment and support allowance (ESA) assessment rate unless their condition has changed or a new condition has developed;
- the period of time that claimants may remain on JSA while sick without having to move to ESA will be extended; and
- starting in 2015/2016, the government will invest a further £3m to expand existing psychological work and wellbeing pilots to help people return to work.

Tax credits

The government will tighten the eligibility conditions for those claiming tax credits on the basis of self-employment, to prevent abuse of the system. These include a new test to ensure that work being undertaken is genuine and effective, and a requirement that anyone claiming working tax credit as self-employed registers with HMRC and provides their Unique Tax Reference in order to prevent bogus self-employment and abuse of the tax credits system, while allowing HMRC to continue to support those who are genuinely self-employed.

Carers

The carer’s allowance earnings limit will increase in April 2015 from £102 to £110 per week.

Welfare spending cap

The welfare spending cap will increase from £119.7bn in 2015/2016 to £129.8bn in 2019/2020.

New enterprise allowance scheme

Dependent partners in a couple’s JSA or ESA claim will be able to access the new enterprise allowance scheme which supports benefit claimants who want to start their own business.

Bereavement support payment

The bereavement support payment – which will replace the three current benefits paid in respect of bereavement from April 2017 – will be exempt from income tax. 