

## 2009 No. 480

## SOCIAL SECURITY

The Social Security (Flexible New Deal)  
Regulations 2009

*Made* - - - - - 3rd March 2009  
*Laid before Parliament* 11th March 2009  
*Coming into force in accordance with regulation 1(2) and (3)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12(4)(a) and (b), 19(2), (8)(b) and (10)(c), 20(4), 20A(3), 20B(4), 35(1) and 36(1), (2) and (4) of, and paragraph 3(b) of Schedule 1 to, the Jobseekers Act 1995(a), and sections 123(1)(d) and (e), 136(5)(a) and (b), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(b).

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, he has consulted with the organisations appearing to him to be representative of the authorities concerned(c).

The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee(d).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Flexible New Deal) Regulations 2009.

(2) These Regulations come into force for the purposes of this regulation, regulation 2(2)(a), (3)(a), (b), (c), (8)(a), (c) and (10)(a) and (c) on 6th April 2009 in so far as those provisions relate to a Back to Work Session.

(3) They come into force for all other purposes on 5th October 2009.

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- (a) 1995 c. 18. Section 20(4) was amended by the Welfare Reform and Pensions Act 1999 (c. 30) ("the 1999 Act"), section 70, Schedule 8, Pt 5, para 29(1), (5); section 20A and 20B were inserted by section 59 of, and paragraph 13 of Schedule 7 to, the 1999 Act; sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); section 35(1) is an interpretation provision and is cited because of the meaning it gives to the word "prescribed".
- (b) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed"; section 175(1) and (4) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (c) See section 176(1) of the Social Security Administration Act 1992 (c. 5) ("the 1992 Act"). Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), section 69(6) of the Child Support, Pensions and Social Security 2000 Act (c. 19) and paragraph 3 of Schedule 13 to the Housing Act 1996 (c. 52).
- (d) See section 172(1) of the 1992 Act.

**SI 2009/480**

**SOCIAL SECURITY (FLEXIBLE NEW DEAL) REGULATIONS 2009**

**Regs. 2-4**

[Regulation 2 makes various amendments to S.I. 1996/207.]

[Regulation 3 amends regulation 42 of S.I. 2006/213 and 32 of S.I. 2006/215.]

[Regulation 4 makes amendments to work not produced in these volumes.]

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

3rd March 2009

*Tony McNulty*  
Minister of State,  
Department for Work and Pensions

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Jobseeker's Allowance Regulations 1996 ("the Jobseeker's Allowance Regulations") on account of the introduction of the employment programme known as the Flexible New Deal and the attendance by jobseeker's allowance claimants at a Back to Work session.

In particular, they amend regulation 75 of the Jobseeker's Allowance Regulations so that the employment programme known as the Flexible New Deal is an employment programme for the purposes of sections 19 and 20A of the Jobseekers Act 1995 ("the 1995 Act") and the Jobseeker's Allowance Regulations (see regulation 2(5) of these Regulations). The effect is that if a person, without good cause, refuses or fails to participate in the programme, or loses their place on the programme due to misconduct, that person will receive a sanction under section 19 or 20A of the 1995 Act.

These Regulations amend regulation 69 of the Jobseeker's Allowance Regulations to provide for the sanction period for an act or omission relating to the Flexible New Deal. A sanction may be of 2, 4 or 26 weeks' duration (see regulation 2(3)).

They also amend regulation 69 with the effect that a person who fails to take part in a Back to Work Session when directed to do so by an employment officer may lose one week's benefit for each failure (see regulation 2(3)(c)).

These Regulations provide for an additional case where a person is to be regarded as having good cause for the purposes of section 19(5)(b) and 20A(2)(b) of the 1995 Act. The circumstances relate to where the person is not notified that they are required to take part in the Flexible New Deal (see regulation 2(4)).

Where a jobseeker's allowance is not payable to a person as a result of an act or omission relating to their participation in the Flexible New Deal or as the result of a failure to take part in a Back to Work Session when directed to do so, these Regulations amend the Jobseeker's Allowance Regulations to provide that the person shall not be a person in hardship (see regulation 2(8) and (10)). Where the sanction relates to the Flexible New Deal, they also amend those Regulations to prescribe the period during which a person shall not be a person in hardship (see regulation 2(9) and (11)). The effect of these amendments is that the allowance that would otherwise be available to a person in hardship is not available to a person who is subject to a sanction during the period they are required to take part in the Flexible New Deal or for 14 days, whichever is the longer.

Regulation 2 also amends the Jobseeker's Allowance Regulations concerning notional income and notional capital in relation to Flexible New Deal participants. Regulation 3 ensures that certain payments made in connection with a person's participation in the Flexible New Deal are also not treated as either notional income or notional capital for the purposes of entitlement to housing or council tax benefit.

Regulation 4 amends the Housing Renewal Grants Regulations 1996 with the result that certain payments of child care expenses reimbursed in consequence of a person's participation in the Flexible New Deal shall be disregarded in the calculation of income.

The Report of the Social Security Advisory Committee dated 9th December 2008 on the proposals referred to them in respect of these Regulations together with a statement showing the extent to which these Regulations give effect to the recommendations of the Committee, and in so far as they do not give effect to them, the reasons why not, are contained in Command Paper Cm 7566 published by the Stationery Office Ltd.

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

