

National Insurance Contribution Conditions for Employment and Support Allowance and Jobseeker's Allowance: an easement for spouses and civil partners of Service Personnel

Equality Impact Assessment

November 2011

Equality Impact Assessment: amendment to National Insurance Contribution Conditions for Employment and Support Allowance and Jobseeker's Allowance to create an easement for spouses and civil partners of Service Personnel.

Introduction

1. The Department for Work and Pensions has carried out an equality impact assessment on the proposal to introduce an amendment to the National Insurance contribution conditions for Employment and Support Allowance (ESA) and Jobseeker's Allowance (JSA). This amendment will create an easement for spouses and civil partners of Service Personnel. The proposal has been assessed in-line with the current public sector equality duties.

2. The proposal is that provision will be made enabling spouses or civil partners of a member of Her Majesty's forces to benefit from a relaxation of the first contribution conditions for claims for JSA and ESA. This will commence from 1 January 2012.

3. This equality impact assessment will help to ensure that the Department has paid due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups; and
- foster good relations between people from different groups.

4. The equality impact assessment will show how the Department has demonstrated that it has paid due regard the potential impact of the proposed policies in terms of: race, disability, gender, age, gender reassignment, sexual orientation, pregnancy and maternity, religion or belief and marriage and civil partnerships (in terms of eliminating unlawful discrimination only).

Brief outline of the policy

Proposals for Change

5. Spouses and civil partners who accompany a member of HM forces on a posting abroad are to be provided with an easement to claim contributory ESA and JSA. The easement would be used for purposes of meeting the first National

Insurance (NI) contribution conditions for both benefits¹. The easement would allow such spouses and civil partners to meet the first contribution condition where they had paid the requisite amount of Class 1 National Insurance (NI) contributions in any tax year, prior to the claim. This differs from the normal requirement, where NI contributions must have been paid in one of the last two tax years prior to the claim. A similar easement already applies to carers² in relation to ESA.

6. The easement would apply where spouses and civil partners had been on an accompanied posting overseas for at least one week during the last complete tax year preceding the start of a new benefit year. It will enable a claim for contributory ESA or JSA to be linked with a period of time spent abroad where a person would not have otherwise satisfied the first contribution condition.

Purpose and aims of the proposed change

7. In July 2008, the Ministry of Defence (MoD) published its Service Personnel Command Paper *The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans*³, which contained the DWP's commitment to award Class 1 NI credits to spouses and civil partners of service personnel posted overseas.

8. At that time claimants had to pay a specified amount of NI contributions in one of the two complete tax years prior to claiming JSA, whilst for ESA the NI contributions had to be paid in one of three tax years⁴ prior to their claim. As service personnel have no choice where they are posted their accompanying spouses or civil partners may encounter difficulties finding employment when located abroad which, in turn, could affect their ability to maintain their NI record.

9. The entitlement to Class 1 NI credits for such spouses and civil partners was introduced in April 2010. The credits protect the eligibility to the Basic State Pension and contributory ESA and JSA, whilst they are posted overseas, by ensuring that their NI records are kept up-to-date.

10. However, as the NI credits only protect the second contribution condition, for both ESA and JSA, the Government decided to introduce an additional easement for such spouses and civil partners, which relaxed the qualifying criteria of the first contribution condition. The easement will enable a spouse or civil partner who had accompanied a member of Her Majesty's forces on a posting abroad to meet the first contribution condition using NI contributions paid in any complete tax year prior to the posting.

The benefits of these changes

11. In practice, the proposed changes replicate the easements already in place to help particular groups of people claiming ESA (e.g. carers) whose circumstances

¹ Contained in sections 1(2)(d) and 2 of the Jobseekers Act 1995 (in relation to JSA) and section 1(2)(a) and Schedule 1, Part 1 to the Welfare Reform Act 2007 (in relation to ESA), respectively.

² See regulation 8(2) of the Employment and Support Allowance Regulations (S.I. 2008/794)

³ <http://www.mod.uk/NR/rdonlyres/415BB952-6850-45D0-B82D-C221CD0F6252/0/Cm7424.pdf>

⁴ now two tax years for both ESA and JSA

may have prevented them from working or paying sufficient NI contributions to qualify for ESA. To help them meet the contribution conditions, the normal rules are relaxed in the form of an easement. This change will provide specific spouses and civil partners the same easement as provided to carers - i.e. treated as having satisfied the contribution conditions where they have paid sufficient NI in any previous complete tax year prior to their claim for benefit.

12. The easement would apply where spouses and civil partners had accompanied a member of HM forces on an overseas assignment for at least one week during the last complete tax year⁵ preceding the start of a new benefit year⁶. It would enable a claim for contributory ESA or JSA to be linked to a period of time spent abroad where a person may not have otherwise satisfied the first contribution condition.

Consultation and involvement

13. The DWP has not carried out any formal consultation on this measure. Proposals were included to ease the contribution conditions in the MoD Command Paper, *'The Nation's Commitment: Cross Government Support to our Armed Forces, their Families and Veterans'*, published in 2008. In July 2009, the MoD issued a further consultation document, *'The Nation's Commitment to the Armed Forces Community: Consistent and Enduring Support'*. The responses to this document showed that the majority of people supported the changes proposed in the Command Paper. The MoD's external reference group continues to monitor and report on the content of the Command Paper. Given the beneficial nature of the easement and the relatively small numbers of people affected by the regulations, no specific consultation has been conducted on these new arrangements.

Impact of amending National Insurance Contribution Conditions for ESA and JSA to create an easement for spouses and civil partners of Service Personnel

14. The information to assess this change has been obtained from the MoD, which collects information regarding the ethnicity and gender of service personnel. Information is also collected on their marital and civil partnership status. However, no information is collected regarding the spouses or civil partners of service personnel. The MoD Command Paper, *'The Nation's Commitment: Cross Government Support to our Armed Forces, their Families and Veterans'* highlighted the potential disadvantage that spouses and civil partners of service personnel face regarding labour market disadvantage when on accompanied postings outside the UK.

⁵ April 6-April 5

⁶ A benefit year runs from the first Sunday in January to the last Saturday before the first Sunday of the following year.

15. There are three branches of Her Majesty's forces: the Royal Navy, the Army, and the Royal Air Force. Each branch operates outside the UK to some extent but there are differences in the opportunities to serve abroad and the length of time that postings outside the UK last. However, the Government does not envisage an adverse impact on any particular group (by ethnicity or gender) within any particular branch of HM forces. In any event, these regulations simply provide a degree of assistance to address the disadvantage suffered by spouses or civil partners of service personnel in the labour market, as this can be a feature of postings outside the UK.

Gender

16. These proposals apply equally to men and women. As the majority (90 per cent) of service personnel are male⁷, these proposals will principally benefit wives and a lesser number of husbands of service personnel. This change will also apply to civil partners of service personnel, although there are no figures available for this group. However, we believe the number of civil partners on accompanied postings outside the UK is likely to be small⁸ but numbers may increase over time.

17. Just under half of the 169,000 male forces personnel are married or in a civil partnership. Of the 18,000 female forces personnel, around one third are married or in a civil partnership⁹. Therefore, it follows that the main beneficiaries of these regulations are likely to be women.

Disability

18. No information is collected on whether the spouses or civil partners of service personnel have a disability. However, the policy is expected to have a positive impact as it will allow for those that have a disability or illness that limits their capability to work to claim contributory ESA. Most people in receipt of ESA are considered to be disabled¹⁰ (as defined by the Equality Act 2010¹¹) so the easement will have considerable significance for disabled people. It is assumed the proportion of spouses and civil partners of service personnel who will claim ESA will be similar to the current proportion of the working age population claiming ESA.

⁷ Defence Analytical Services and Advice (DASA), April 2011. Figures cover UK regular forces only.

⁸ Since the introduction of the Civil Partnership Act 2004 the overall number of civil partnerships formed throughout the UK to the end of 2010 is under 47,000 and in 2010, less than one person (0.5) per 1,000 unmarried adults aged 16 and over entered into a civil partnership in England and Wales. Source: Office for National Statistics

⁹ DASA, April 2011. Figures cover UK regular forces only.

¹⁰ Around 90% of ESA and incapacity benefits recipients are 'disabled' using self reported information in the Family Resources Survey 08/09 on whether the customer is disabled under the terms of the Disability Discrimination Act (DDA) which was in force at the time of the survey.

¹¹ The Equality Act generally defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities. This differs slightly from the definition in the DDA, which also required the disabled person to show that an adversely affected normal day-to-day activity involved one of a list of capacities such as mobility, speech, or hearing.

Race

19. The number of people from ethnic minority communities serving in HM forces is growing (despite the fact that the numbers of UK regular forces have been decreasing in recent years). Of around 186,000 service personnel in post at April 2011, around 12,000 were from an ethnic minority community (although as recording activity is carried out on a voluntary basis there may be some inaccuracy in this number)¹². No information is held on the number of spouses or civil partners from ethnic backgrounds. Such spouses or civil partners are likely to come from a range of different ethnic backgrounds but the Government does not envisage any adverse impacts.

20. Some 8,000 service personnel are foreign or Commonwealth citizens¹³. Some of these will be from ethnic minority communities and also married to someone from an ethnic minority community. These spouses and civil partners who accompany a member of HM forces on a posting outside the UK will also be entitled to use the easement.

Age

21. No information is collected on the age of spouses or civil partners of service personnel. However, around two thirds of all service personnel are aged under 35 and only 3 per cent are aged 50 and over¹⁴, so it is likely that this policy will have a greater impact on younger age groups.

Gender Reassignment

22. No information is collected on the gender reassignment of spouses or civil partners of service personnel. The Government does not envisage an adverse impact on these grounds.

Sexual Orientation

23. No information is collected on the sexual orientation of spouses or civil partners of service personnel. The Government does not envisage an adverse impact on these grounds.

Religion or Belief

24. No information is collected on the religion or beliefs of spouses or civil partners of service personnel. The Government does not envisage an adverse impact on these grounds.

Pregnancy and Maternity

25. The Department only holds information on pregnancy and maternity on its administrative systems where it is the primary reason for limited capability for work.

¹² DASA, April 2011. Figures cover UK regular forces only.

¹³ DASA, April 2011. Figures cover UK regular forces only.

¹⁴ DASA, May 2011. Figures cover UK regular forces only.

Therefore, it cannot be used to accurately assess the equality impacts. The Government does not envisage an adverse impact on these grounds.

Conclusion

26. Whilst the proposals apply equally to men and women, the principal equality impact is that this easement will be of particular benefit to women who suffer some labour market disadvantage while on accompanied postings outside the UK. This is because the majority of spouses and civil partners of service personnel are women. Additionally, the easement will benefit a group of women whose husbands serve in Her Majesty's forces but are from Commonwealth or foreign countries. These women, some being from ethnic minority communities, will particularly benefit from the easement in National Insurance Contribution Conditions for Employment and Support Allowance (ESA) and Jobseeker's Allowance (JSA) to be introduced from 1 January 2012.

Monitoring and evaluation

27. The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender (transgender), ethnicity, religion, sexual orientation, pregnancy/maternity and civil partnerships. DWP is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

28. As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

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