

Migrants' Access to Benefits

Slide Pack for Partnership Managers

March 2014

Migrants' Access to Benefits

- The measures described in these slides will help ensure that only those who come to the UK to work, and have a realistic chance of finding work, are able to access the benefits system.
- In doing so they support the Government's intention that migrants come here "because they want to contribute to our country, not because they're drawn by the attractiveness of our benefits system."

Migrants' Access to Benefits

Background

- On 25 March 2013, the Prime Minister announced two measures which would be implemented by DWP.
 - A new electronic Habitual Residence Test (e-HRT) IT system; and
 - that we would introduce a time limit on EEA job seekers or EEA nationals who retain their worker status entitlement to Jobseeker's Allowance (JSA), administered through the Genuine Prospect of Work (GPoW) assessment.

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Background

- On 27 November 2013 the Prime Minister announced new measures to further restrict migrants' access to benefits. These were to:
 - ensure that most job seekers have been living in the UK or Republic of Ireland, Channel Islands or Isle of Man – the Common Travel Area - for three months immediately prior to making a claim to JSA *as well as* satisfying the Habitual Residence Test to be entitled to income-based JSA; and
 - ensure that EEA job seekers will be unable to access Housing Benefit (HB), even if they are getting income-based JSA; and
 - introduce an earnings threshold to trigger an individual assessment of whether an EEA national who has made a claim to income related benefits (JSA/IS/ESA/HB) is or has been in meaningful and effective work.

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- **E-HRT went live in December 2013**
- **GPoW: went live on 1 January 2014 and new EEA JSA claimants are being identified and informed of the GPoW six month intervention and how it may affect them.**
- **The first GPoW assessments will take place from July 2014. JSA will cease unless there's compelling evidence of a genuine prospect of work.**
- **Three month residence requirement went live on 1 January 2014 for JSA. Supporting legislation for this was laid on 18 December 2013.**
- **Defining EEA Worker and Self Employed status – including the Minimum Earnings Threshold - was introduced on 1 March 2014.**
- **Housing Benefit change will be introduced from 1 April 2014.**

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Genuine Prospect of Work

- new EEA JSA claimants are being identified and informed of the GPoW six month assessment and how it may affect them, via a conversation and 'Factsheet' handed to them at their New Jobseeker Interview.
- Breaks in the JSA claim and other exceptional circumstances may delay the GPOW assessment
- 'Genuine Prospects of Work' will need to be evidenced by the claimant and a specialist Decision Maker will determine whether they have (for example):
 - a job to start, within a reasonable period – JSA will be paid up to the date the job starts
 - change of claimant's circumstances that positively impact the claimant's labour market prospects, e.g. HGV licence achieved – JSA may continue for a limited period

No JSA claims will continue beyond the 9 month point.

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The three month residence requirement came into effect for new claims to JSA from 1 January 2014.

- Most job seekers will need to provide documentary evidence to prove that they have been living in the UK or the Common Travel Area continuously for the past three months *as well as* satisfy the Habitual Residence Test to make a successful claim to income-based JSA
- Certain claimants, including EEA nationals who retain worker or self employed status, are not subject to the three month requirement.

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Defining EEA Worker and Self Employed Status – including the Minimum Earnings Threshold :

- Helps Decision Makers establish whether an EEA national's work is genuine and effective and as such they can be treated as being a worker or self employed person
- They will still be subject to the GPOW test at the 6 month point of their JSA claim.

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Defining EEA Worker and Self Employed Status – including the Minimum Earnings Threshold:

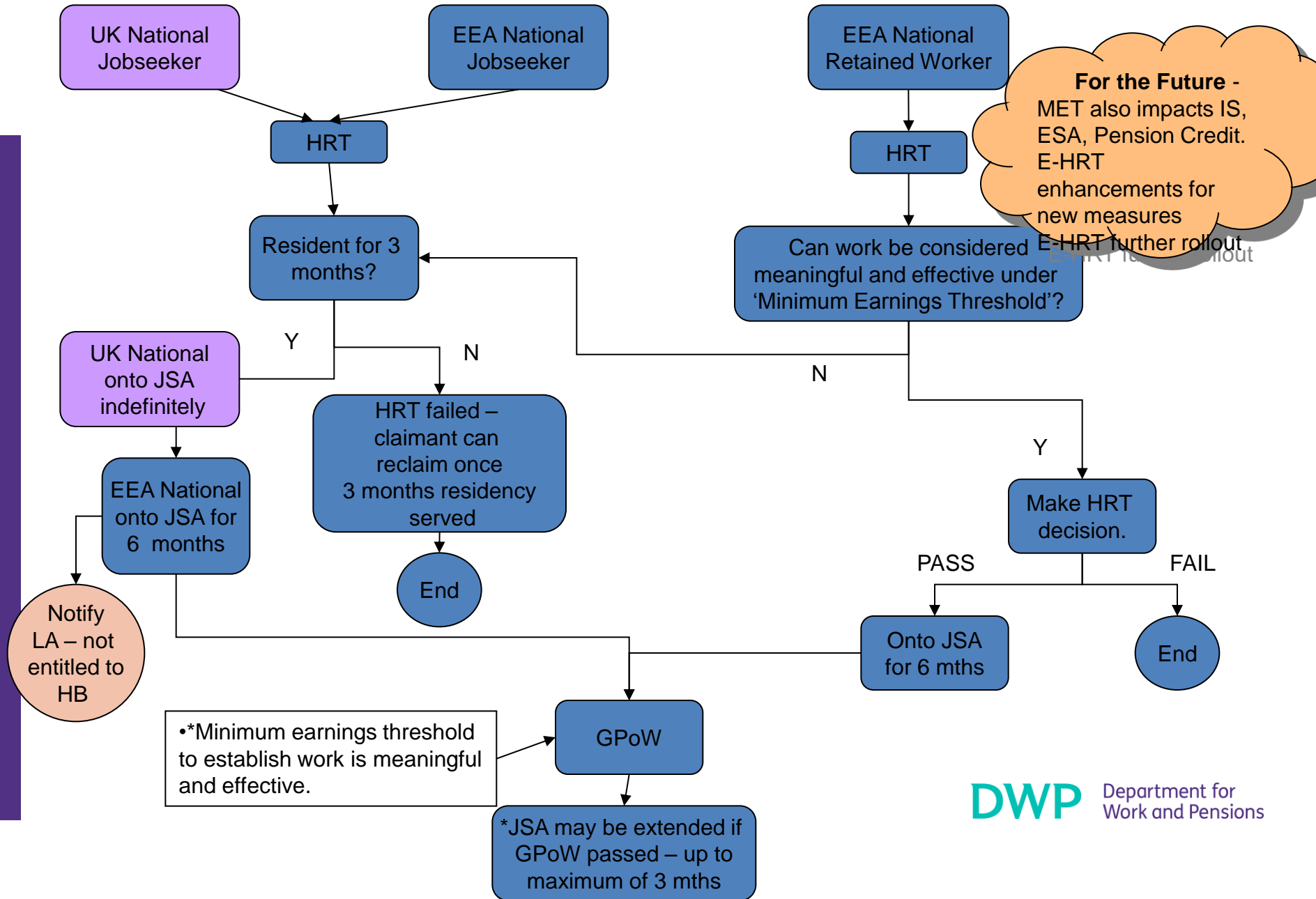
- There is a minimum earnings threshold above which EEA nationals will be automatically treated as a worker or self employed person and may be able to retain that status
- The threshold is set at the level of earnings at which a worker in the UK begins to pay Class 1 National Insurance as an employed person or Class 4 as a self-employed person. That is:
 - ▶ £149 per week from 1 March.
 - ▶ £153 per week from 7 April.
- Below this threshold, the Decision Maker will have regard to the claimant's circumstances and usual working patterns etc in order to decide “ whether they can still be treated as a worker or self employed person and may be able to retain that status.”

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Housing Benefit – 1 April 2014

- EEA jobseekers who are on income-based JSA will no longer have automatic eligibility to Housing Benefit (HB).
- Excluded from the policy are:
 - a) UK nationals (including citizens of the Irish Republic)
 - b) EEA nationals with retained worker status
 - c) EEA workers and self employed
- *The next slide brings together all the measures into a single diagram*

Migrants' Access to Benefits – impact of New Measures - From 1st April 2014



Migrants' Access to Benefits -

How these measures will work in practice

Example : Mr Feuer comes to London from France. On 1 September 2014 he makes a claim to income related JSA. He is subject to the HRT. The decision maker finds that:

- he has not worked in the UK and does not have retained worker status;
- nor does he have the status of a self employed person;
- he has not acquired rights of permanent residence in the UK.

The decision maker finds that from his answers to the HRT that he does satisfy the requirements to have a right to reside as a job seeker.

In answer to the question in the HRT about when he last entered the UK, he states that this was on 1 August 2014. Therefore the decision maker finds that he has not lived in the UK or the Common Travel area for 3 months and therefore cannot be treated as habitually resident. He does not satisfy the HRT and is not entitled to income-related JSA.

On 1 November 2014 Mr Feuer again makes a claim to income-related JSA, this time the decision maker finds that:

- he has not worked in the UK and does not have retained worker status;
- nor does he have the status of a self employed person;
- he does satisfy the requirements to have a right to reside as a job seeker.

The Decision Maker also finds that he has satisfied the 3 months living in the UK requirement and other requirements to be factually habitually resident. He therefore satisfies the HRT. He also satisfies the entitlement conditions for a JSA award, but does not satisfy the conditions for Housing Benefit.

Mr Feuer starts receiving income-related JSA with a date of successful claim of 1 November 2014. He is required to attend an assessment of having a Genuine Prospect of Work in April 2015, 6 months after his successful claim to JSA.