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## 2007 CHAPTER 2

### **PART 1**

#### EMPLOYMENT AND SUPPORT ALLOWANCE

##### *General*

#### **Interpretation, etc. of Part 1**

**24.—(1)** In this Part—

[<sup>F1</sup>“child” means a person under the age of 16;]

“claimant” means a person who has claimed an employment and support allowance;

“contributory allowance” has the meaning given by section 1(7);

“employment” and “employed” have the meanings prescribed for the purposes of this Part;

“entitled”, in relation to an employment and support allowance, is to be construed in accordance with—

- (a) the provisions of this Act,
- (b) section 1 of the Administration Act (entitlement dependent on making of claim), and
- (c) Article 27 of the 1998 Order (restrictions on entitlement in certain cases of error);

“income-related allowance” has the meaning given by section 1(7);

“income support” means income support under section 123 of the Contributions and Benefits Act;

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“limited capability for work” shall be construed in accordance with section 1(4);

“limited capability for work-related activity” shall be construed in accordance with section 2(5);

“period of limited capability for work” has the meaning prescribed for the purposes of this Part;

“prescribed” means specified in, or determined in accordance with, regulations;

“regulations” means regulations made by the Department;

[<sup>F1</sup>“single person” means an individual who is not a member of a couple (within the meaning of Part 2 of the Welfare Reform (Northern Ireland) Order 2015);]

“week” means a period of seven days beginning with a Sunday or such other period of seven days as may be prescribed;

[<sup>F1</sup>“work” has such meaning as may be prescribed;]

[<sup>F1</sup>“work-focused interview requirement” has the meaning given by section 11B;]

[<sup>F1</sup>“work preparation requirement” has the meaning given by section 11C;]

[<sup>F2</sup>“work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;]

[<sup>F1</sup>“work-related requirement” has the meaning given by section 11;]

(2) For the purposes of this Part, the assessment phase, in relation to a claimant, is the period—

- (a) beginning, subject to subsection (3), with the first day of the period for which he is entitled to an employment and support allowance, and
- (b) ending with such day as may be prescribed.

(3) Regulations may prescribe circumstances in which the assessment phase is to begin with such day as may be prescribed.

[<sup>F3</sup>(3A) For the purposes of this Part, a person is a lone parent if the person—

- (a) is not a member of a couple (within the meaning given by section 133(1) of the Contributions and Benefits Act), and
- (b) is responsible for, and a member of the same household as, a person under the age of 16.

(3B) For the purposes of subsection (3A)(b) regulations may make provision—

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.]

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(4) For the purposes of this Part, a person is a member of the support group if he is a person in respect of whom it is determined that he has, or is to be treated as having, limited capability for work-related activity.

<sup>F4</sup>(5) .....

<sup>F4</sup>(6) .....

**Textual Amendments**

- F1** Words in s. 24(1) inserted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(4)(a)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)
- F2** Words in s. 24(1) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(4)(b)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)
- F3** S. 24(3A)(3B) inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), **ss. 3(5), 36(1)(b)**
- F4** S. 24(5)(6) omitted (8.5.2016) by virtue of [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 59** (with art. 9(2))

**Commencement Information**

- II** S. 24 wholly in operation at 27.10.2008; s. 24 not in operation at Royal Assent see s. 60(1); s. 24(1) in operation for certain purposes at 1.7.2008 and 27.10.2008 by [S.R. 2008/276](#), **art. 2(2)(c)**, **Sch. Pt. 1**; s. 24(2)(b)(3) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), **art. 2(2)(c)**, **Sch. Pt. 1**; s. 24 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), **art. 2(2)(d)**, **Sch. Pt. 2**

**Regulations [<sup>F5</sup>and orders]**

**25.—**(1) Where any power under this Part to make regulations [<sup>F6</sup>or an order] is expressed to be exercisable for alternative purposes, it may be exercised in relation to the same case for all or any of those purposes.

(2) Any power under this Part to make regulations [<sup>F6</sup>or an order] includes power—

- (a) to make such incidental, supplementary, consequential or transitional provision or savings as appear to the Department to be expedient;
- (b) to provide for a person to exercise a discretion in dealing with any matter.

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(3) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 [F7 to 11J] may make provision which applies only in relation to an area or areas specified in the regulations.

(4) The fact that a power to make regulations is conferred by this Part is not to be taken to prejudice the extent of any other power to make regulations so conferred.

#### Textual Amendments

- F5** Words in s. 25 heading heading inserted (28.11.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [57\(2\)\(a\)](#); S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)
- F6** Words in s. 25(1)(2) inserted (28.11.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [57\(2\)\(b\)](#); S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)
- F7** Words in s. 25(3) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [63\(5\)](#); S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

#### Commencement Information

- I2** S. 25 wholly in operation at 27.10.2008; s. 25 not in operation at Royal Assent see s. 60(1); s. 25(1)(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by [S.R. 2008/276](#), [art. 2\(2\)\(a\)](#); s. 25 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), [art. 2\(2\)\(d\)](#), [Sch. Pt. 2](#)

#### Assembly control

**26.—**(1) Subject to the following provisions of this section, any regulations made under this Part [F8 or any order made under section 1A] are subject to negative resolution.

- (2) Regulations to which this subsection applies—
- (a) must be laid before the Assembly after being made; and
  - (b) take effect on such date as may be specified in the regulations, but (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.
- (3) Subsection (2) applies to—
- (a) regulations under section 2(2)(c) or (3)(c) or 4(4)(c) or (5)(c);
  - (b) the first regulations under section 13;

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- (c) regulations which by virtue of section 19(1) are to have effect for a limited period.
- (4) This subsection applies to any regulations made under this Part which—
- (a) but for subsection (5), would be subject to negative resolution, and
- (b) are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.
- (5) Any regulations to which subsection (4) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (6) In this section “the confirmatory procedure” means the procedure described in subsection (2).

#### Textual Amendments

- F8** Words in s. 26(1) inserted (28.11.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), 57(3); S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

#### Commencement Information

- I3** S. 26 wholly in operation at 27.10.2008; s. 26 not in operation at Royal Assent see s. 60(1); s. 26(1) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by [S.R. 2008/276](#), art. 2(2)(a); s. 26 in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276](#), art. 2(2)(d), Sch. Pt. 2

### Financial provisions relating to Part 1

**27.—(1)** There shall be paid out of the Northern Ireland National Insurance Fund so much of any sums payable by way of employment and support allowance as is attributable to entitlement to a contributory allowance.

(2) The Department shall pay into the Northern Ireland National Insurance Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments of contributory allowance.

(3) The Department shall pay into the Consolidated Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments made by way of income-related allowance.

### Consequential amendments relating to Part 1

**28.—(1)** Schedule 3 (which makes amendments consequential on this Part) has effect.

(2) Regulations may make provision consequential on this Part amending, repealing or revoking any statutory provision.

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#### Commencement Information

- I4** S. 28 partly in operation; s. 28 not in operation at Royal Assent see s. 60(1); s. 28(1) in operation for certain purposes at 1.7.2008 and 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(a\)](#); s. 28(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(a\)](#); s. 28(1) in operation for certain purposes at 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(b\)](#); s. 28(1) in operation for certain purposes at 1.7.2008 and 27.10.2008 by [S.R. 2008/276, art. 2\(2\)\(c\)](#), [Sch. Pt. 1](#); s. 28 (except s. 28(1) for certain purposes) in operation at 27.10.2008 in so far as not already in operation by [S.R. 2008/276, art. 2\(2\)\(d\)](#), [Sch. Pt. 2](#)

#### Transition relating to Part 1

**29** Schedule 4 (which makes provision with respect to transition in relation to this Part) has effect.

#### Commencement Information

- I5** S. 29 partly in operation; s. 29 not in operation at Royal Assent see s. 60(1); s. 29 in operation for certain purposes at 1.7.2008 and 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(a\)](#); s. 29 in operation for certain purposes at 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(b\)](#); s. 29 in operation for certain purposes at 27.10.2008 by [S.R. 2008/276, art. 2\(2\)\(d\)](#), [Sch. Pt. 2](#); s. 29 in operation for certain purposes at 9.9.2010 by [S.R. 2010/308, art. 2](#)

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