

*These notes refer to the Welfare Reform Act (Northern Ireland)
2007 (c.2) which received Royal Assent on 27 June 2007*

Welfare Reform Act (Northern Ireland) 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Miscellaneous

Benefits for bereaved persons

Section 46: Widowed mother's allowance

Broadly, in order to be entitled to widowed mother's allowance, a widow must be entitled to child benefit in respect of a child. A widow is entitled to child benefit in respect of a child if the child is living with her or the child is not living with her but she makes contributions to the cost of providing for the child at a rate which is not less than the rate of child benefit payable in respect of the child.

At present, section 37 of the Contributions and Benefits Act provides that, where a widow is entitled to child benefit in respect of a child who is not living with her, she is not entitled to widowed mother's allowance unless she also makes additional contributions to the cost of providing for the child at a rate which is not less than the rate of guardian's allowance. *Section 46* removes this requirement.

Section 47: Widowed parent's allowance

Section 47 amends section 39A of the Contributions and Benefits Act in respect of widowed parent's allowance in the same way that *section 46* amends the provisions about widowed mother's allowance.

Disability living allowance: age conditions

Section 48: Care component of disability living allowance: persons under the age of 16

Section 48 amends section 72 of the Contributions and Benefits Act, which sets out the entitlement conditions to the care component of disability living allowance (section 72(1)). The entitlement conditions are modified in the case of claims for a period in which the claimant is under the age of 16 (section 72(6)). This section removes subsection (6) and replaces it with new subsections (1A) and (2A). The new subsections apply the same modifications to the standard entitlement conditions for the care component (in section 72(1)) but only if a person is under the age of 16 on the date on which the award would begin and

only in relation to any period up to and including the day before a person reaches the age of 16. Consequential amendments are also made.

Section 49: Mobility component of disability living allowance: persons under the age of 16

Section 49 amends section 73 of the Contributions and Benefits Act, which sets out the entitlement conditions to the mobility component of disability living allowance (section 73(1)). The entitlement conditions are modified in the case of claims for a period in which the claimant is under the age of 16 (section 73(4)). This section removes subsection (4) and replaces it with new subsections (4A) and (9A). The new subsections apply the same modifications to the standard entitlement conditions for the mobility component (in section 73(1)) but only if a person is under the age of 16 on the date on which the award would begin and only in relation to any period up to and including the day before a person reaches the age of 16. Consequential amendments are also made.

Social fund

Section 50: Matters to which regard must be had in awarding budgeting loans

Section 136 of the Contributions and Benefits Act provides for payments to be made out of the social fund in the form of budgeting loans, crisis loans and community care grants to give help to people on low incomes.

“Appropriate officers” determine applications for social fund payments in accordance with the provisions in primary legislation, principally section 136 of the Contributions and Benefits Act, and directions and guidance issued by the Department. Section 136(1) sets out factors relevant to decisions on crisis loans and community care grants and section 136(1A) does the same for budgeting loans. The system of decision-making in respect of budgeting loans has been simplified with the consequence that some of the provisions in section 136(1A) are unnecessary. *Section 50* removes them. The possibility that a third party may meet the need under consideration will no longer be one of the factors relevant to decisions on budgeting loans (see section 136(1)(c) and (1A)(b)). The reference in section 136(1A) to budgeting loan criteria other than the applicant’s personal circumstances which may be specified by the Department in directions are removed, as the directions no longer contain such criteria.

Section 51: Allocations from the social fund

Under section 147 of the Administration Act the Department allocates money out of which social fund payments may be made under section 134(1)(b) of the Contributions and Benefits Act.

The money available is limited. There is one budget for loans and one for grants. The budgets are currently allocated to offices for the purpose of making payments of loans and grants to the customers in their geographical area. The

intention is that there should be flexibility as to how allocations are made and, in particular, it should be clear that it is open to the Department to make a single allocation from which loans may be made. The amendments to section 147 by *section 51* will give that clarity and flexibility.

Compensation for pneumoconiosis etc.

Section 52: Relevant employer

The conditions of entitlement to a payment in the case of a person suffering from a disease to which the Pneumoconiosis Order applies are set out in Article 3(3) of that Order. One of the conditions of entitlement is that every person by whom the person suffering from the disease was employed at any time during the period which he was developing the disease and against whom he might have or might have had a claim for damages in respect of the disablement (“relevant employers”) have ceased to carry on business. If there are no relevant employers, a payment is made.

Section 52 inserts a definition of “relevant employer” as set out in Schedule 6 which would allow a claim to be made where the employment was a long time in the past or only lasted for a short period of time.

Section 53: Dependant

A “dependant” of a person who, immediately before his death, suffered from a relevant disease can bring a claim under the Pneumoconiosis Order. Article 5 of that Order sets out the meaning of a “dependant” and sets out an order of priority for determining which dependant may bring a claim in each case.

Section 53 amends that Article so that a person who was living with a sufferer as if husband and wife and a person who was living with a sufferer as if they were civil partners are included within the meaning of “dependant”.

Other

Section 54: Power to stop payment of allowances to care home residents

Section 54(1) replaces subsection (2) of section 67 of the Contributions and Benefits Act with new subsections (2) to (6).

New subsection (2) confers a power to make regulations providing for circumstances in which payment of attendance allowance may be withdrawn from those resident in a care home where any of the costs of any qualifying services provided in that home are borne out of public or local funds under a specified enactment.

New subsections (3) to (6) define what is meant by a “care home”, “qualifying services” and an “enactment”.

Subsection (2) replaces subsection (8) of section 72 of the Contributions and Benefits Act with new subsections (8) to (12).

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New subsections (8) to (12) confer power to provide by regulations for circumstances in which payment of the care component of disability living allowance may be withdrawn from those resident in a care home.

Section 55: Medical examinations

Section 55 allows the Department and the eligible member of an appeal tribunal to refer a person to a health care professional for medical examination and report, rather than only allowing a referral to a medical practitioner. Such a reference can be made where considered necessary for the purpose of providing the Department with information for use in making a decision on entitlement to benefit or to aid the appeal tribunal's determination of an appeal and allows the eligible member of an appeal tribunal to specify the description of health care professional to whom a person is to be referred.