

*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

SCHEDULES

Schedule 1 - Employment and support allowance: additional conditions

Part 1 describes the conditions of entitlement to a contributory employment and support allowance relating to National Insurance contributions. These are, in substance, the same as those that exist in relation to incapacity benefit now.

Part 2 provides for certain additional conditions for entitlement to an income-related employment and support allowance. These are similar, though not identical, to the conditions of entitlement that currently apply to income support. For example, as well as there being no entitlement if income exceeds the applicable amount, *paragraph 6(1)(b) and (2)* provide that there is no entitlement to an income-related allowance if the claimant and his partner together have capital assets in excess of a limit set out in regulations, which is expected to be £16,000, i.e. the same as that which applies for the purposes of income support.

Section 1(3) provides that there is no entitlement to either a contributory allowance or an income-related allowance if the claimant is entitled to income support or any type of jobseeker's allowance. *Paragraph 6(1)(c) and (d)* provides that there is no entitlement to an income-related employment and support allowance where the claimant is entitled to state pension credit or the claimant's partner is entitled to income support, state pension credit or an income-based jobseeker's allowance. This is to ensure that only one income-related benefit is paid to a household at any one time in order to prevent duplicate provision from public funds.

The Schedule further provides that there is no entitlement to an income-related employment and support allowance where a claimant or his partner is in full time paid (remunerative) work, as is the case with income support. Regulations will determine what amounts to remunerative work.

The Schedule also provides that there is no entitlement to an income-related allowance where a claimant is receiving education (*paragraph 6(1)(g)*). However, the Department may set out in regulations when a person is or is not to be treated as receiving education. The Department may also disapply this condition so that, for example, certain disabled young people or disabled

students may be entitled to an employment and support allowance (*paragraph 6(4)*).

Paragraph 6(7) provides a power for *paragraph 6* to be modified where the claimant is a member of a polygamous marriage. This includes modifications in respect of how benefit, income and capital in respect of the second and any subsequent spouse will be aggregated for the purposes of determining entitlement to an employment and support allowance. It is intended that the modifications made in respect of an employment and support allowance would be based on the income support rules relating to polygamous marriages.