

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1.

#### EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

#### <sup>F1</sup>[<sup>F1</sup>PART 1]

#### [<sup>F1</sup>CONTRIBUTORY ALLOWANCE]

##### Textual Amendments

- F1** Words in [Sch. 1 Pt. 1](#) heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 12 Pt. 1](#); [S.R. 2017/190](#), art. 6, [Sch. 2](#) (with arts. 7, 8, 10-25, [Sch. 3](#)); [S.R. 2017/216](#), art. 4 (with art. 5); [S.R. 2018/1](#), art. 4 (with art. 5)

#### *Conditions relating to national insurance*

- 1.—(1) The first condition is that—
- (a) the claimant has actually paid Class 1 or Class 2 contributions in respect of one of the last [<sup>F2</sup>two] complete tax years (“the base tax year”) before the beginning of the relevant benefit year,
  - (b) those contributions must have been paid before the relevant benefit week, and
  - [<sup>F3</sup>(c) the claimant's earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 26.]
- [<sup>F4</sup>(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of
- (a) the claimant's relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or treated as paid, and
  - (b) the claimant's earnings factors derived from Class 2 contributions.
- (3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant's relevant earnings for the base tax year.

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- (3A) Regulations under sub-paragraph (3) may, in particular, make provision—
- (a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base tax year;
  - (b) for determining the amount of a person's earnings for any such period by—
    - (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and
    - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year's lower earnings limit (or the prescribed equivalent).]
- (4) Regulations may—
- (a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of [<sup>F5</sup> persons—
    - (i) who] have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time [<sup>F6</sup>, or
    - (ii) who satisfy other prescribed conditions];
  - (b) with a view to securing any relaxation of the requirements of that condition in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.
- (5) In sub-paragraph (4), “benefit” means—
- [<sup>F7</sup>(za) universal credit,]
- (a) any benefit within the meaning of section 121(1) of the Contributions and Benefits Act,
  - (b) any benefit under Parts 7 to 12 of that Act,
  - (c) credits under regulations under section 22(5) of that Act,
- [<sup>F8</sup>(ca) credits under section 23A of that Act,]
- (d) [<sup>F9</sup>an employment and support allowance] , and
  - (e) working tax credit.

#### Textual Amendments

- F2** Word in Sch. 1 para. 1(1)(a) substituted (1.11.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 12\(2\)](#), 36(2); S.R. 2010/341, [art. 2\(2\)\(b\)](#)
- F3** Sch. 1 para. 1(1)(c) substituted (1.11.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 12\(3\)](#), 36(2); S.R. 2010/341, [art. 2\(2\)\(b\)](#)
- F4** Sch. 1 para. 1(2)(3)(3A) substituted (1.10.2010 for certain purposes, otherwise 1.11.2010) for Sch. 1 para. 1(2)(3) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 12\(4\)](#), 36(2); S.R. 2010/341, [art. 2\(1\)\(c\)\(2\)\(c\)](#)

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- F5** Words in Sch. 1 para. 1(4)(a) substituted (16.12.2011) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 12\(5\)\(a\), 36\(2\)](#); S.R. 2011/430, [art. 2](#)
- F6** Words in Sch. 1 para. 1(4)(a) inserted (16.12.2011) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 12\(5\)\(b\), 36\(2\)](#); S.R. 2011/430, [art. 2](#)
- F7** Sch. 1 para. 1(5)(za) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), art. 2\(2\), Sch. 2 para. 54](#); S.R. 2017/190, [art. 4\(1\)\(2\)\(g\)\(i\)](#)
- F8** Sch. 1 para. 1(5)(ca) inserted (11.2.2008) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\), s. 3\(3\), Sch. 1 para. 11](#)
- F9** Words in [Sch. 1 para. 1\(5\)\(d\)](#) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), art. 2\(2\), Sch. 3 para. 21\(f\)](#); S.R. 2016/215, [art. 2\(2\)\(c\)\(vi\)](#); S.R. 2017/190, [art. 6 \(with arts. 7, 8, 10-25, Sch. 3\)](#); S.R. 2017/216, [art. 4 \(with art. 5\)](#); S.R. 2018/1, [art. 4 \(with art. 5\)](#)

#### Commencement Information

- I1** Sch. 1 para. 1 wholly in operation at 27.10.2008; Sch. 1 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 1(4) 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](#); Sch. 1 para. 1 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](#)

2.—(1) The second condition is that—

- (a) the claimant has in respect of the last two complete tax years before the beginning of the relevant benefit year either paid or been credited with Class 1 or Class 2 contributions or been credited with earnings, and
- (b) the earnings factor derived as mentioned in sub-paragraph (2) must be not less in each of those years than the year's lower earnings limit multiplied by 50.

(2) The earnings factor referred to in sub-paragraph (1)(b) is the aggregate of the claimant's earnings factors derived—

- (a) from so much of his earnings as did not exceed the upper earnings limit for the year and upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited, and
- (b) from Class 2 contributions.

(3) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, sub-paragraph (2)(a) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit for the year.

3.—(1) For the purposes of paragraphs 1 and 2—

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- (a) “benefit year” means a period which is a benefit year for the purposes of Part 2 of the Contributions and Benefits Act or such other period as may be prescribed for the purposes of this Part of this Schedule;
- (b) “Class 1 contributions”, “Class 2 contributions” and “primary Class 1 contributions” have the same meaning as in the Contributions and Benefits Act (see section 1 of that Act);
- (c) “earnings” shall be construed in accordance with sections 3, 4 and 112 of that Act;
- (d) “earnings factor” shall be construed in accordance with sections 22 and 23 of that Act;
- (e) “lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of that Act and references to the lower or upper earnings limit of a tax year are to whatever is (or was) the limit in force for that year under that section;
- (f) “relevant benefit year” is the benefit year which includes the beginning of the period of limited capability for work which includes the relevant benefit week;
- (g) “tax year” means the 12 months beginning with 6th April in any year.

(2) Regulations may provide for sub-paragraph (1)(f) to have effect in prescribed circumstances with prescribed modifications in the case of—

- (a) a person who has previously ceased to be entitled to [<sup>F10</sup>an employment and support allowance] ;
- (b) a person who has made a claim for an employment and support allowance in connection with which he failed to satisfy one or both of the conditions in paragraphs 1 and 2.

#### Textual Amendments

**F10** Words in [Sch. 1 para. 3\(2\)\(a\)](#) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 3 para. 21\(f\)](#); [S.R. 2016/215](#), art. 2(2)(c)(vi); [S.R. 2017/190](#), art. 6 (with arts. 7, 8, 10-25, Sch. 3); [S.R. 2017/216](#), art. 4 (with art. 5); [S.R. 2018/1](#), art. 4 (with art. 5)

#### Modifications etc. (not altering text)

- C1** [Sch. 1 para. 3\(1\)\(f\)](#) modified (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **13(1)**
- C2** [Sch. 1 para. 3\(1\)\(f\)](#) modified by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), reg. 13 (as substituted (28.6.2010) by [Social Security](#)

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(Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010 (S.R. 2010/200), **reg. 9(7)**)

- C3** Sch. 1 para. 3(1)(f) modified (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations\(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), **14(1)**

#### **Commencement Information**

- I2** Sch. 1 para. 3 wholly in operation at 27.10.2008; Sch. 1 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 3(2) 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](#); Sch. 1 para. 3 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](#)

### *Condition relating to youth*

4.—(1) The third condition is that—

- (a) the claimant was under 20 or, in prescribed cases, 25 when the relevant period of limited capability for work began,
- (b) he is not receiving full-time education,
- (c) he satisfies such conditions as may be prescribed with respect to residence or presence in Northern Ireland (or both), and
- (d) there has been a day in the relevant period of limited capability for work—
  - (i) which was a day on which he was aged at least 16, and
  - (ii) which was preceded by a period of 196 consecutive days throughout which he had limited capability for work.

(2) In sub-paragraph (1), “relevant period of limited capability for work” means the period of limited capability for work which includes the relevant benefit week.

(3) Regulations may prescribe circumstances in which sub-paragraph (1)(a) does not apply in the case of a person who has previously ceased to be entitled to an employment and support allowance to which he was entitled by virtue of satisfying the condition set out in sub-paragraph (1).

(4) Regulations may make provision about when, for the purposes of sub-paragraph (1)(b), a person is, or is not, to be treated as receiving full-time education.

#### **Modifications etc. (not altering text)**

- C4** Sch. 1 para. 4(1)(a) excluded (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **10(1)**
- C5** Sch. 1 para. 4(1)(a) excluded (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations\(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), **11(1)**

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### Commencement Information

- I3** Sch. 1 para. 4 wholly in operation at 27.10.2008; Sch. 1 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 4(1)(a)(c)(3)(4) 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](#); Sch. 1 para. 4 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](#)

### “Relevant benefit week”

**5** In this Part of this Schedule, “relevant benefit week” means the week in relation to which the question of entitlement to an employment and support allowance is being considered.

## <sup>F11</sup><sub>F11</sub> PART 2

### INCOME-RELATED ALLOWANCE

#### Textual Amendments

- F11** [Sch. 1 Pt. 2](#) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 1](#); [S.R. 2017/190](#), [art. 6](#), [Sch. 2](#) (with [arts. 7, 8, 10-25](#), [Sch. 3](#)); [S.R. 2017/216](#), [art. 4](#) (with [art. 5](#)); [S.R. 2018/1](#), [art. 4](#) (with [art. 5](#))

- 6.—(1)** The conditions are that the claimant—
- (a) has an income which does not exceed the applicable amount or has no income;
  - (b) does not have capital which, or a prescribed part of which, exceeds the prescribed amount;
  - (c) is not entitled to state pension credit;
  - (d) is not a member of a couple the other member of which is entitled to an income-related allowance, state pension credit, income support or an income-based jobseeker's allowance;
  - (e) is not engaged in remunerative work;
  - (f) is not a member of a couple the other member of which is engaged in remunerative work;
  - (g) is not receiving education.

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(2) Where the claimant is a member of a couple, the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purpose of this paragraph as income and capital of the claimant.

(3) Regulations may prescribe circumstances in which, for the purposes of sub-paragraph (1)(e) and (f)—

- (a) a person who is not engaged in remunerative work is to be treated as engaged in remunerative work, or
- (b) a person who is engaged in remunerative work is to be treated as not engaged in remunerative work.

(4) Regulations may—

- (a) make provision about when, for the purposes of sub-paragraph (1)(g), a person is, or is not, to be treated as receiving education;
- (b) prescribe circumstances in which sub-paragraph (1)(g) does not apply.

(5) In this paragraph—

“applicable amount” means the amount which, in the claimant's case, is the applicable amount for the purposes of section 4(1);

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other, but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other, but are living together as if they were civil partners otherwise than in prescribed circumstances;

“income-based jobseeker's allowance” has the same meaning as in the Jobseekers Order;

(6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

(7) Regulations may make provision for the preceding provisions of this paragraph to have effect with prescribed modifications in a case where—

- (a) the claimant is a husband or wife by virtue of a marriage entered into under a law which permits polygamy,
- (b) either party to the marriage has for the time being any spouse additional to the other party, and

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(c) the claimant, the other party to the marriage and the additional spouse are members of the same household.

(8) Regulations may make provision for the purposes of this paragraph as to circumstances in which people are to be treated as being or not being members of the same household.]

**Modifications etc. (not altering text)**

- C6** Sch. 1 para. 6(1)(g) referred to (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **15** (subject to reg. 18)
- C7** Sch. 1 para. 6(1)(g) excluded (27.10.2008) by [Employment and Support Allowance Regulations \(Northern Ireland\) 2008 \(S.R. 2008/280\)](#), regs. 1(1), **18**

**Commencement Information**

- I4** Sch. 1 para. 6 wholly in operation at 27.10.2008; Sch. 1 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 6(1)(b)(2)-(4)(7)(8) 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](#); Sch. 1 para. 6(5) 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](#); Sch. 1 para. 6 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](#)

SCHEDULE 2

Section 22.

EMPLOYMENT AND SUPPORT ALLOWANCE:  
SUPPLEMENTARY PROVISIONS

*Limited capability for work*

- 1** Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work;
- (b) for the question of whether a person has limited capability for work to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work;
- (c) for the question of whether a person has limited capability for work to be determined afresh in prescribed circumstances.



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#### Commencement Information

- I5** Sch. 2 para. 1 wholly in operation at 27.10.2008; Sch. 2 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 1 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

#### *Waiting days*

**2** Except in prescribed circumstances, a person is not entitled to an employment and support allowance in respect of a prescribed number of days at the beginning of a period of limited capability for work.

#### Modifications etc. (not altering text)

- C8** Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations \(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), [85\(2\)](#)
- C9** Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by [The Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance \(Decisions and Appeals\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/221\)](#), regs. 1(1)(b), [47\(6\)](#)

#### Commencement Information

- I6** Sch. 2 para. 2 wholly in operation at 27.10.2008; Sch. 2 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 2 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

#### *Periods of less than a week*

- 3** Regulations may make provision in relation to—
- (a) entitlement to an employment and support allowance, or
  - (b) the amount payable by way of such an allowance,

in respect of any period of less than a week.

#### Commencement Information

- I7** Sch. 2 para. 3 wholly in operation at 27.10.2008; Sch. 2 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 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

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### *Linking periods*

4.—(1) Regulations may provide for circumstances in which a period of limited capability for work which is separated from another period of limited capability for work by not more than a prescribed length of time is to be treated for the purposes of this Part as a continuation of the earlier period.

(2) Regulations may provide, in relation to periods which are linked by virtue of regulations under sub-paragraph (1), that a condition which was satisfied in relation to the earlier period is to be treated for the purposes of this Part as satisfied in relation to the later period.

#### **Commencement Information**

- I8** Sch. 2 para. 4 wholly in operation at 27.10.2008; Sch. 2 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 4 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

### *[<sup>F12</sup>Exemption*

#### **Textual Amendments**

- F12** Sch. 2 para. 4A and cross-heading inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [arts. 2\(2\)](#), [60\(6\)](#); S.R. 2016/215, [art. 2\(3\)\(b\)](#)

**4A.** Regulations may prescribe circumstances in which a person may be entitled to employment and support allowance without having accepted a claimant commitment.]

### *Presence in Northern Ireland*

5 Regulations may make provision for the purposes of this Part as to the circumstances in which a person is to be treated as being, or not being, in Northern Ireland.

#### **Commencement Information**

- I9** Sch. 2 para. 5 wholly in operation at 27.10.2008; Sch. 2 para. 5 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 5 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

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*[<sup>F13</sup>Contributory allowance:] entitlement in case of absence from Northern Ireland*

**Textual Amendments**

- F13** Words in Sch. 2 para. 6 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

6 Regulations may provide that in prescribed circumstances a claimant who is not in Northern Ireland may nevertheless be entitled to [<sup>F14</sup>an employment and support allowance] .

**Textual Amendments**

- F14** Words in Sch. 2 para. 6 substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

**Commencement Information**

- I10** Sch. 2 para. 6 wholly in operation at 27.10.2008; Sch. 2 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 6 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

*[<sup>F15</sup>Contributory allowance:] modification in relation to employment on ships etc.*

**Textual Amendments**

- F15** Words in Sch. 2 para. 7 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

7.—(1) Regulations may modify any provision of this Part, so far as relating to a contributory allowance, in its application to any person who is, has been, or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft, or
- (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances.

(2) Regulations under this paragraph may, in particular, provide—

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) for any provision of this Part to apply even though it would not otherwise apply;
- (b) for any such provision not to apply even though it would otherwise apply;
- (c) for the taking of evidence, in a country or territory outside Northern Ireland, by a consular official or other prescribed person;
- (d) for enabling the whole, or any part, of [<sup>F16</sup>an employment and support allowance] to be paid to such of the claimant's dependants as may be prescribed.

#### Textual Amendments

**F16** Words in Sch. 2 para. 7(2)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

#### Commencement Information

**I11** Sch. 2 para. 7 wholly in operation at 27.10.2008; Sch. 2 para. 7 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 7 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**

#### *Income-related allowance: entitlement in case of absence from Northern Ireland*

**8.**—<sup>F17</sup>(1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Northern Ireland continues to be entitled to such an allowance after ceasing to be in Northern Ireland.

(2) Regulations may modify any provision of this Part, so far as relating to an income-related allowance, in its application to a person who is entitled to such an allowance by virtue of regulations under sub-paragraph (1).

(3) Regulations under sub-paragraph (2) may, in particular, provide—

- (a) for any provision of this Part to apply even though it would not otherwise apply;
- (b) for any such provision not to apply even though it would otherwise apply.]

#### Textual Amendments

**F17** [Sch. 2 para. 8](#) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R.

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2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5)

#### Commencement Information

- I12** Sch. 2 para. 8 wholly in operation at 27.10.2008; Sch. 2 para. 8 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 8(1) 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; Sch. 2 para. 8 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

#### *Limited capability for work-related activity*

#### 9 Regulations may make provision—

- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work-related activity;
- (b) for the question of whether a person has limited capability for work-related activity to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work-related activity;
- (c) for the question of whether a person has limited capability for work-related activity to be determined afresh in prescribed circumstances.

#### Commencement Information

- I13** Sch. 2 para. 9 wholly in operation at 27.10.2008; Sch. 2 para. 9 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 9 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

#### *Effect of work*

**10** Regulations may prescribe circumstances in which a person is to be treated as not entitled to an employment and support allowance because of his doing work.

#### Commencement Information

- I14** Sch. 2 para. 10 wholly in operation at 27.10.2008; Sch. 2 para. 10 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 10 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

[<sup>F18</sup>**10ZA.** Regulations may for any purpose of this Part provide for—

- (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;

*Status: Point in time view as at 17/01/2018.*

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- (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.]

#### Textual Amendments

- F18** Sch. 2 para. 10ZA inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(6)(b)**; S.R. 2016/215, art. 2(3)(b)

*[<sup>F19</sup>Good [<sup>F20</sup>reason] for failure to comply with certain regulations*

#### Textual Amendments

- F19** Sch. 2 para. 10A and preceding cross-heading inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. **24(2)**, 36(1)(i)
- F20** Word in Sch. 2 para. 10A heading substituted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(6)(a)**; S.R. 2016/215, art. 2(3)(b)

**10A.**—(1) This paragraph applies to any regulations made under [<sup>F21</sup>paragraph 10ZA] that prescribe matters to be taken into account in determining whether a person has [<sup>F22</sup>a good reason] for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;  
(b) the availability of childcare.]

#### Textual Amendments

- F21** Words in [Sch. 2 para. 10A\(1\)](#) substituted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(6)(c)(i)**; S.R. 2016/215, art. 2(3)(b)
- F22** Words in [Sch. 2 para. 10A\(1\)](#) substituted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(6)(c)(ii)**; S.R. 2016/215, art. 2(3)(b)

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### *[<sup>F23</sup>Responsibility for children*

#### **Textual Amendments**

**F23** Sch. 2 para. 10B and cross-heading inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **63(7)**; S.R. 2016/215, art. 2(3)(b)

**10B.** Regulations may for any purpose of this Part specify circumstances in which a person is or is not responsible for a child.]

#### *Treatment of allowance as “benefit”*

**11** Regulations may provide for—

- (a) an employment and support allowance,
- (b) [<sup>F24</sup>a contributory allowance, or]
- (c) [<sup>F24</sup>an income-related allowance,]

to be treated, for prescribed purposes of the Contributions and Benefits Act, as a benefit, or a benefit of a prescribed description.

#### **Textual Amendments**

**F24** Sch. 2 para. 11(b)(c) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5)

#### *Attribution of reductions in cases where allowance taken to consist of two elements*

**12** [<sup>F25</sup>Where an employment and support allowance is taken by virtue of section 6(5) to consist of two elements, any reduction in the amount payable in respect of the allowance which falls to be made by virtue of—

- (a) section 11,
- (b) section 12,
- (c) section 13, or
- (d) section 2AA of the Administration Act (full entitlement to certain benefits conditional on work-focused interview for partner),

shall be treated as reducing such of those elements by such amount as may be prescribed.]

*Status: Point in time view as at 17/01/2018.*

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#### Textual Amendments

**F25** Sch. 2 para. 12 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5)

#### Commencement Information

**I15** Sch. 2 para. 12 wholly in operation at 27.10.2008; Sch. 2 para. 12 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 12 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

#### *Treatment of information supplied as information relating to social security*

**13** Information supplied in pursuance of regulations under any of sections 8 to [F<sup>26</sup>11K] shall be taken for all purposes to be information relating to social security.

#### Textual Amendments

**F26** Word in Sch. 2 para. 13 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(8); S.R. 2016/215, **art. 2(3)(b)**; S.R. 2017/190, art. 9 (with arts. 10-25)

#### *Advance claims*

**14** This Part shall have effect with prescribed modifications in relation to cases where a claim to an employment and support allowance is by virtue of regulations under section 5(1)(c) of the Administration Act (advance claims) made, or treated as if made, for a period wholly or partly after the date on which it is made.

#### Commencement Information

**I16** Sch. 2 para. 14 wholly in operation at 27.10.2008; Sch. 2 para. 14 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 14 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



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## SCHEDULE 3

Section 28.

## CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

*The Education Reform (Northern Ireland) Order 1989 (NI 20)*

1 In Article 131 of the Education Reform (Northern Ireland) Order 1989 (charges and remissions policies), in paragraph (3)(b) (cases where receipt of benefit by pupil's parent to give rise to remission), for “or an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995)” substitute “, an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related employment and support allowance (payable under Part 1 of the Welfare Reform Act (Northern Ireland) 2007)”.

*The Child Support (Northern Ireland) Order 1991 (NI 23)*

2.—(1) The Child Support (Northern Ireland) Order 1991 is amended as follows.

(2) In Article 2 (interpretation), after the definition of “income-based jobseeker's allowance” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”.

(3) In Article 9 as amended by the 2000 Act (applications by those claiming or receiving benefit), in paragraph (1), after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance”.

(4) In that Article as it has effect apart from the 2000 Act (applications by those receiving benefit), in paragraph (1), after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance”.

(5) In Article 43 as amended by the 2000 Act (reduced benefit decisions), in paragraph (10), in the definition of “relevant benefit”, for “or an income-based jobseeker's allowance” substitute “, an income-based jobseeker's allowance, an income-related employment and support allowance”.

(6) In that Article as it has effect apart from the 2000 Act (failure to comply with obligations imposed by Article 9), in paragraph (11), in the definition of “relevant benefit”, after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance”.

(7) In Article 44(2)(b) (persons to be exempted from payment of fees), after “income-based jobseeker's allowance,” insert “ an income-related employment and support allowance,”.

(8) In Part 1 of Schedule 1 as it has effect apart from the 2000 Act (calculation of child support maintenance), in paragraph 5(4) (parents who are to be taken to

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have no assessable calculable income), after “income-based jobseeker’s allowance” insert “, an income-related employment and support allowance”.

#### Commencement Information

**I17** Sch. 3 para. 2 partly in operation; Sch. 3 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 2(1)(8) 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; Sch. 3 para. 2(2) in operation at 27.10.2008 by S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

#### *The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

**3.—(1)** The Contributions and Benefits Act is amended as follows.

(2) In section 6A (notional payment of primary Class 1 contribution where earnings not less than lower earnings limit), in subsection (3) (purposes for which Class 1 contribution treated as paid), at the end add “; and

(e) any purposes relating to employment and support allowance.”.

(3) In section 22 (earnings factors)—

(a) in subsection (2) (purposes for which a person may be treated as having annual earnings factors), in paragraph (a), after “jobseeker’s allowance” insert “, to a contributory employment and support allowance”;

(b) in subsection (5) (power to provide for crediting earnings or Class 2 contributions), after “jobseeker’s allowance” insert “, to a contributory employment and support allowance”.

(4) At the end of section 22 add—

“(8) In this section, “contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).”.

(5) Sections 30A to 30E (incapacity benefit) cease to have effect.

(6) In section 61A (contributions paid in error), in subsection (3), at the end of paragraph (c) insert “ and ”.

(7) [<sup>F27</sup>In section 88 (increases of benefit to be in respect of only one adult dependant), for “86A” substitute “ 85 ”.]

(8) [<sup>F28</sup>In section 89(1) and (1A) (earnings to include occupational and personal pensions etc. for purposes of provisions relating to increases of benefits in respect of adult dependants), for “to 86A” substitute “ to 85 ”.]

(9) In section 123 (income support), in subsection (1), after paragraph (g) add “; and

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- (h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance.”.
- (10) At the end of section 123 add—
- “(7) In this section, “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).”.
- (11) In section 146 (interpretation of Part 10: Christmas bonus)—
- (a) in subsection (1) (definition of “qualifying benefit”), after paragraph (b) insert—
- “(ba) a qualifying employment and support allowance;”;
- (b) in subsection (2), after the definition of “the qualifying age for state pension credit” insert—
- ““qualifying employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 the calculation of the amount of which includes an addition in respect of the support component or the work-related activity component;”.
- (12) Sections 167A to 167G (incapacity for work) cease to have effect.
- (13) In paragraph 5 of Schedule 3 (contribution conditions for widowed mother's allowance etc.), after sub-paragraph (6) insert—
- “(6A) The first condition shall be taken to be satisfied if the contributor concerned was entitled to main phase employment and support allowance at any time during—
- (a) the year in which he attained pensionable age or died under that age, or
- (b) the year immediately preceding that year.
- (6B) The reference in sub-paragraph (6A) above to main phase employment and support allowance is to an employment and support allowance in the case of which the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act (Northern Ireland) 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied).”.

#### Textual Amendments

- F27** Sch. 3 para. 3(7) repealed (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 30(4), 34(1), 36(1)(m)(2), [Sch. 4 Pt. 2](#) (with s. 14(2))
- F28** Sch. 3 para. 3(8) repealed (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 30(4), 34(1), 36(1)(m)(2), [Sch. 4 Pt. 2](#) (with s. 14(2))

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#### Commencement Information

**I18** Sch. 3 para. 3 partly in operation; Sch. 3 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 3(1)(3)(b)(4) 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; Sch. 3 para. 3 (except sub-para. (5) (12)) in operation at 27.10.2008 by S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

#### *The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

4.—(1) The Administration Act is amended as follows.

(2) In section 1 (entitlement to benefit dependent on claim), in subsection (4) (definition of “benefit”), after “state pension credit;” insert—

“(ac) an employment and support allowance;”.

(3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) in subsection (2) (benefits to which section applies), at the end add “; and

(f) an employment and support allowance.”.

(4) In section 5 (regulations about claims for and payments of benefit), in subsection (2) (benefits to which section applies), after paragraph (ab) insert—

“(ac) an employment and support allowance;”.

(5) In section 13A (payment out of benefit of sums in respect of mortgage interest, etc.)—

(a) in subsection (1) (cases in which section applies), for “or an income-based jobseeker's allowance”, in each place, substitute “, an income-based jobseeker's allowance or an income-related employment and support allowance ”;

(b) in subsection (4), in the definition of “qualifying associate”, for “or state pension credit” substitute “, state pension credit or an income-related employment and support allowance ” and for “or the State Pension Credit Act (Northern Ireland) 2002” substitute “, the State Pension Credit Act (Northern Ireland) 2002 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ”;

(c) in that subsection, in the definition of “relevant benefits”, after paragraph (c) add—

“(d) an employment and support allowance;”.

(6) In section 69 (overpayments), in subsection (11) (benefits to which section applies), after paragraph (ab) insert—

“(ac) an employment and support allowance;”.

(7) In section 71 (overlapping benefits)—

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- (a) in subsection (1), after “contribution-based jobseeker's allowance” insert “ or a contributory employment and support allowance ”;
- (b) in subsection (4), after paragraph (b) add “or
  - (c) a contributory employment and support allowance.”.
- (8) In section 72 (income support and other payments)—
  - (a) in subsections (1)(b) and (2)(b), for “or state pension credit” substitute “ , state pension credit or an income-related employment and support allowance ”;
  - (b) in subsection (3)(b), for “or an income-based jobseeker's allowance”, in each place, substitute “ , an income-based jobseeker's allowance or an income-related employment and support allowance ”.
- (9) In section 72A (payment of benefit where maintenance payments collected by Department), in subsection (7) (benefits to which section applies), after “an income-based jobseeker's allowance” insert “ , an income-related employment and support allowance ”.
- (10) In section 100 (failure to maintain)—
  - (a) in subsection (1)(b), for “or an income-based jobseeker's allowance” substitute “ , an income-based jobseeker's allowance or an income-related employment and support allowance ”;
  - (b) in subsection (4), after “an income-based jobseeker's allowance” insert “ or an income-related employment and support allowance ”.
- (11) In section 115CA (interpretation of Part 6), in subsection (1) (definition of “the relevant social security legislation”), after paragraph (hh) insert—
  - “(hi) Part 1 of the Welfare Reform Act (Northern Ireland) 2007;”.
- <sup>F29</sup>(12) .....
- (13) In section 116B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “the Jobseekers (Northern Ireland) Order 1995” insert “ , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ”.
- (14) In section 116C (supply of information to the Housing Executive), in subsection (6)(b), after “the Jobseekers (Northern Ireland) Order 1995” insert “ , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ”.
- (15) In section 118 (regulations as to notification of death), in subsection (1), after “the State Pension Credit Act (Northern Ireland) 2002” insert “ , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ”.
- (16) In section 119 (personal representatives to give information about the estate of a deceased person who was in receipt of certain benefits), in subsection (1), after “state pension credit” insert “ , an income-related employment and support allowance ”.

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(17) In section 122 (duties of employers: statutory sick pay), in subsection (1) (power to require employer to supply information in connection with making of claim for certain benefits by employee), at the end add—

“(f) an employment and support allowance.”.

(18) In section 124 (power to require employers to provide information in connection with claims to certain benefits), in subsection (1), after paragraph (a) insert—

“(aa) an employment and support allowance;”.

(19) In section 139B (effect of alterations affecting state pension credit)—

(a) before “or” at the end of subsection (1)(b)(iii) insert—

“(iiia) in any component of a contributory employment and support allowance;”;

(b) in subsection (6), in the definition of “component”, at the end add—

“(c) in relation to a contributory employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 which are relevant in calculating the amount payable by way of a contributory employment and support allowance;”.

(20) After section 139B insert—

**“139C Effect of alteration of rates of an employment and support allowance**

(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—

(a) an award of an employment and support allowance is in force in favour of any person (“the recipient”), and

(b) an alteration—

(i) in any component of the allowance,

(ii) in the recipient's benefit income, or

(iii) in the recipient's war disablement or war widow's or widower's pension,

affects the computation of the amount of the employment and support allowance to which he is entitled.

(2) Where, as a result of the alteration, the amount of the employment and support allowance to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of the employment and support allowance payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department; and the award shall have effect accordingly.

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(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of an employment and support allowance as before, the award shall continue in force accordingly.

(4) Subsection (5) below applies where a statement mentioned in section 159C(4) of the Great Britain Administration Act is made.

(5) If, in a case where this subsection applies, an award of an employment and support allowance is made in favour of a person before the proposed commencing date (within the meaning of section 159C(4) of the Great Britain Administration Act) and after the date on which the statement is made, the award—

- (a) may provide for the employment and support allowance to be paid as from the proposed commencing date (within the meaning of that section) at a rate determined by reference to the amounts of the items referred to in subsection (1)(b)(i) to (iii) above which will be in force on that date, or
- (b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration” means—

- (a) in relation to any component of an employment and support allowance, its alteration by or under any enactment;
- (b) in relation to a person's benefit income, the alteration of any of the applicable sums by any enactment or an order under section 132 or 133 above to the extent that any such alteration affects the amount of his benefit income;
- (c) in relation to a person's war disablement pension or war widow's or widower's pension, its alteration by or under any enactment;

“applicable sums” has the same meaning as in section 139 above;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”, in relation to an employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 which are relevant in calculating the amount payable by way of an employment and support allowance;

“war disablement pension” and “war widow's or widower's pension” have the same meaning as in section 139B above.”

(21) After section 140A insert—

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### **“140B Implementation of increases in employment and support allowance due to attainment of particular ages**

(1) This section applies where—

- (a) an award of an employment and support allowance is in force in favour of a person (“the recipient”), and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an employment and support allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of the Department; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to a benefit under the Contributions and Benefits Act.

(4) Subsection (2) above does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to an employment and support allowance, other than—

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case, and
- (b) the question whether, in consequence, the amount of his employment and support allowance falls to be varied.

(5) In this section, “component”, in relation to a recipient and his employment and support allowance, means any of the amounts determined in accordance with regulations made under section 2(1)(a) or 4(2)(a) of the Welfare Reform Act (Northern Ireland) 2007.”.

(22) In section 144 (destination of repayments, etc.), in subsection (1), after “Article 38 of the Jobseekers (Northern Ireland) Order 1995” insert “, section 27 of the Welfare Reform Act (Northern Ireland) 2007 ”.

(23) In section 145 (adjustments between National Insurance Fund and Consolidated Fund), in subsection (6)(a) after “state pension credit” insert “, income-related employment and support allowance ”.

(24) In section 149 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant enactments”, after paragraph (ai) insert—



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“(aia) the provisions of Part 1 of the Welfare Reform Act (Northern Ireland) 2007;”.

(25) In section 155 (reciprocal agreements with countries outside the United Kingdom)—

(a) in subsection (3)(a), after “the State Pension Credit Act (Northern Ireland) 2002” insert “, Part 1 of the Welfare Reform Act (Northern Ireland) 2007”;

(b) in subsection (4), after paragraph (ac) insert “and

(ad) to Part 1 of the Welfare Reform Act (Northern Ireland) 2007;”;

(c) in subsection (5), after paragraph (ab) insert—

“(ac) employment and support allowance;”.

(26) In section 156 (payment of travelling expenses by Department), after “the State Pension Credit Act (Northern Ireland) 2002”, in both places, insert “, Part 1 of the Welfare Reform Act (Northern Ireland) 2007”.

(27) In section 163 (certain benefits to be inalienable), in subsection (1), after paragraph (ab) insert—

“(ac) an employment and support allowance;”.

(28) In section 167(1) (general interpretation)—

(a) in the definition of “benefit”, for “and state pension credit” substitute “, state pension credit and an employment and support allowance”;

(b) after the definition of “the Contributions and Benefits Act” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”;

(c) after the definition of “income-related benefit” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”.

#### Textual Amendments

**F29** Sch. 3 para. 4(12) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 12**; S.R. 2016/46, art. 3(6)(c)

#### Commencement Information

**I19** Sch. 3 para. 4 wholly in operation at 27.10.2008; Sch. 3 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 4(1)(2)(28) 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)**; Sch. 3 para. 4(3)-(8)(11) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by [S.R. 2008/276](#), **art.**

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 4 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

*The Children (Northern Ireland) Order 1995 (NI 2)*

5.—(1) The Children (Northern Ireland) Order 1995 is amended as follows.

(2) In Article 2 (interpretation), in paragraph (2), after the definition of “income-based jobseeker's allowance” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”.

(3) In Article 18 (duty of authority to provide personal social services for children in need, their families and others), in paragraph (9) (persons exempt from repayment of assistance), for “or of an income-based jobseeker's allowance” substitute “ , of an income-based jobseeker's allowance or of an income-related employment and support allowance ”.

(4) In Article 18C (direct payments), in paragraph (7) (persons in relation to whom special provision applies), in sub-paragraph (b), for “or of an income-based jobseeker's allowance” substitute “ , of an income-based jobseeker's allowance or of an income-related employment and support allowance ”.

(5) In Article 24 (recoupment of costs of providing services, etc.), in paragraph (3) (exempt persons), for “or of an income-based jobseeker's allowance” substitute “ , of an income-based jobseeker's allowance or of an income-related employment and support allowance ”.

(6) In Article 39 (liability to contribute), in paragraph (4) (persons exempt from liability to contribute), for “or of an income-based jobseeker's allowance” substitute “ , of an income-based jobseeker's allowance or of an income-related employment and support allowance ”.

*The Jobseekers (Northern Ireland) Order 1995 (NI 15)*

6.—(1) The Jobseekers Order is amended as follows.

(2) In Article 2 (interpretation)—

(a) in paragraph (2), after the definition of “income-based jobseeker's allowance” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”;

(b) in paragraph (3), for “capable of work” substitute “ limited capability for work ”.

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In Article 3 (the jobseeker's allowance), in paragraph (2) (conditions of entitlement), for sub-paragraph (f) substitute—

“(f) does not have limited capability for work;”.

(4) In Article 5 (income-based conditions), in paragraph (1)—

(a) in sub-paragraph (b), for “or state pension credit” substitute “, state pension credit or an income-related employment and support allowance”;

(b) after sub-paragraph (dd) insert—

“(de) is not a member of a couple the other member of which is entitled to an income-related employment and support allowance;”.

(5) In Article 5A (conditions for claims by joint-claim couples), in paragraph (1), after sub-paragraph (cc) insert—

“(cd) that neither member of the couple is entitled to an income-related employment and support allowance;”.

(6) In Schedule 1 (supplementary provisions), for paragraph 2, and the italic cross-heading immediately preceding it, substitute—

*“Limited capability for work*

2.—(1) The question whether a person has, or does not have, limited capability for work shall be determined, for the purposes of this Order, in accordance with the provisions of Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).

(2) References in Part 1 of the Welfare Reform Act (Northern Ireland) 2007 to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this Order, as references to the purposes of this Order.”.

#### **Commencement Information**

**I20** Sch. 3 para. 6 wholly in operation at 27.10.2008; Sch. 3 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 6(1)(2) 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; Sch. 3 para. 6 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

#### *The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

7 In Article 25 of the Road Traffic (Northern Ireland) Order 1995 (payments in respect of applicants for exemption from wearing seat belts), in paragraph (2) (applicants who qualify), in sub-paragraph (b) after “Jobseekers (Northern Ireland) Order 1995” insert “, an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) or”.

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*The Pensions (Northern Ireland) Order 1995 (NI 22)*

**8** In Schedule 2 to the Pensions (Northern Ireland) Order 1995 (equalisation of pensionable ages for men and women), in paragraph 1 (enactments for the purposes of which the rules for determining pensionable age apply) for “and the State Pension Credit Act (Northern Ireland) 2002” substitute “, the State Pension Credit Act (Northern Ireland) 2002 and Part 1 of the Welfare Reform Act (Northern Ireland) 2007”.

*The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)*

**9.**—(1) The Industrial Tribunals (Northern Ireland) Order 1996 is amended as follows.

(2) In Article 18 (power to provide for recoupment of benefits)—

(a) in paragraphs (3)(a) and (c) and (4)(cc) and (e), for “or income support” substitute “, income support or income-related employment and support allowance”;

(b) in paragraph (3)(b), for “either benefit” substitute “jobseeker's allowance, income support or income-related employment and support allowance”.

(3) In Article 19 (recoupment: further provisions), in paragraph (1), for “or income support”, in both places, substitute “, income support or income-related employment and support allowance”.

(4) In that Article, at the end add—

“(5) In this Article and Article 18 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).”.

**Commencement Information**

**I21** Sch. 3 para. 9 wholly in operation at 27.10.2008; Sch. 3 para. 9 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 9 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

*The Social Security (Northern Ireland) Order 1998 (NI 10)*

**10.**—(1) The 1998 Order is amended as follows.

(2) In Article 4 (use of computers), in paragraph (2) (meaning of “relevant statutory provision”), after sub-paragraph (i) add “; or

(j) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

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*Status: Point in time view as at 17/01/2018.*

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(3) In Article 9 (which provides for any decision on a claim for a relevant benefit, or under or by virtue of a relevant statutory provision, to be made by the Department)

(a) in paragraph (3) (meaning of “relevant benefit”), after paragraph (b) insert—

“(ba) an employment and support allowance;”;

(b) in paragraph (4) (definition of “relevant statutory provision”), for “or the State Pension Credit Act (Northern Ireland) 2002” substitute “, the State Pension Credit Act (Northern Ireland) 2002 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

(4) In Article 12 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, for “and the State Pension Credit Act (Northern Ireland) 2002” substitute “, the State Pension Credit Act (Northern Ireland) 2002 and Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

(5) In Article 27 (restrictions on entitlement to benefit in certain cases of error), in paragraph (7), in the definition of “benefit”—

(a) after paragraph (dd) insert—

“(de) an employment and support allowance;”;

(b) in paragraph (e), for “to (dd)” substitute “ to (de) ”.

(6) In Article 28 (correction of errors and setting aside of decisions), in paragraph (3) (definition of “relevant statutory provision”), at the end add “; or

(g) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

(7) In Article 31 (incapacity for work), after paragraph (1) insert—

“(1A) Regulations may provide that a determination that a person is disqualified for any period in accordance with regulations under section 18(1) to (3) of the Welfare Reform Act (Northern Ireland) 2007 shall have effect for such purposes as may be prescribed as a determination that he is to be treated as not having limited capability for work for that period, and vice versa.”.

(8) In Schedule 2 (decisions against which no appeal lies), in paragraph 6(b) (alteration of rates of benefit), at the end add “, or

(iv) section 139C(1)(b) of that Act (employment and support allowance).”.

(9) In Schedule 3 (decisions against which an appeal lies), in paragraph 3 (payability of benefit), at the end add “; or

(g) section 18 of the Welfare Reform Act (Northern Ireland) 2007.”.

*Status: Point in time view as at 17/01/2018.*

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#### Commencement Information

**I22** Sch. 3 para. 10 wholly in operation at 27.10.2008; Sch. 3 para. 10 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 10(1)(3)(6) 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); Sch. 3 para. 10(2) in operation at 27.7.2008 by S.R. 2008/276, art. 2(2)(b); Sch. 3 para. 10(7) 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; Sch. 3 para. 10 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

#### *The Immigration and Asylum Act 1999 (c. 33)*

**11** In section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) in subsection (2) (benefits to which entitlement excluded), after “2002,” insert “ to income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) ”.

#### *The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)*

**12** In Article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (power to make regulations about the use and supply of social security information), in paragraph (3) (provisions in connection with which the power is exercisable), at the end add “, or

(d) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

#### Commencement Information

**I23** Sch. 3 para. 12 wholly in operation at 27.10.2008; Sch. 3 para. 12 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 12 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

#### *The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)*

**13** <sup>F30</sup> .....

#### Textual Amendments

**F30** Sch. 3 para. 13 repealed (23.9.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 34(1), 36(2), Sch. 4 Pt. 3; S.R. 2010/327, art. 2(2)(c)(vi)(d)

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)*

14.—(1) The Social Security Fraud Act (Northern Ireland) 2001 is amended as follows.

(2) In section 6 (loss of benefit for commission of benefit offences) after subsection (4A) insert—

“(4B) The Department may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.”.

(3) <sup>F31</sup> .....

(4) In section 8 (effect of offence on benefits for members of offender's family), in subsection (1) (benefits to which section applies), after paragraph (bb) insert—

“(bc) employment and support allowance;”.

(5) In that section, after subsection (4A) insert—

“(4B) In relation to cases in which the benefit is employment and support allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-related allowance shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if circumstances are otherwise such as may be prescribed.”.

(6) In section 9 (power to supplement and mitigate loss of benefit provisions) in subsection (3) (definition of “social security benefit”), after paragraph (bb) insert—

*Status: Point in time view as at 17/01/2018.*

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“(bc) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) or under Part 1 of the Welfare Reform Act 2007;”.

(7) In section 10 (loss of benefit regulations), in subsection (3) (regulations subject to confirmatory procedure), in paragraph (c) after “(4A)”, in both places, insert “, (4B)”.

(8) In section 12 (interpretation of sections 6 to 11), after the definitions by reference to the Jobseekers Order insert—

““income-related allowance” has the same meaning as in Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);”.

#### Textual Amendments

**F31** Sch. 3 para. 14(3) repealed (23.9.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 34(1), 36(2), Sch. 4 Pt. 3; S.R. 2010/327, art. 2(2)(c)(vi)(d)

#### Commencement Information

**I24** Sch. 3 para. 14 wholly in operation at 27.10.2008; Sch. 3 para. 14 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 14(1)-(5)(8) 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; Sch. 3 para. 14 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

## SCHEDULE 4

Section 29.

### TRANSITION RELATING TO PART 1

#### *General power to provide for transition relating to Part 1*

1.—(1) Regulations may make such provision as the Department considers necessary or expedient—

- (a) in connection with the coming into operation of any provision of, or repeal relating to, this Part, or
- (b) otherwise for the purposes of, or in connection with, the transition to employment and support allowance.

(2) The following provisions of this Schedule are not to be taken as prejudicing the generality of sub-paragraph (1).



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#### Commencement Information

- I25** Sch. 4 para. 1 wholly in operation at 27.7.2008; Sch. 4 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 1(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); Sch. 4 para. 1(2) in operation at 27.7.2008 by S.R. 2008/276, art. 2(2)(b)

#### *Pre-commencement claims*

#### 2 Regulations may—

- (a) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made before the appointed day to be treated wholly or partly as a claim for an employment and support allowance;
- (b) make provision for the purpose of enabling claims for an employment and support allowance to be made before the appointed day for a period beginning on or after that day.

#### Commencement Information

- I26** Sch. 4 para. 2 wholly in operation at 27.7.2008; Sch. 4 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 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)

#### *Post-commencement claims*

#### 3 Regulations may—

- (a) make provision excluding the making of a claim for incapacity benefit or severe disablement allowance on or after the appointed day;
- (b) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made on or after the appointed day to be treated in prescribed circumstances as a claim for an employment and support allowance;
- (c) make provision for a claim for an employment and support allowance to be treated wholly or partly as a claim for incapacity benefit, income support or severe disablement allowance;
- (d) make provision excluding the making of a claim for an employment and support allowance by a person who is entitled to an existing award.

*Status: Point in time view as at 17/01/2018.*

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#### Commencement Information

- I27** Sch. 4 para. 3 partly in operation; Sch. 4 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 3(b)-(d) 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)

PROSPECTIVE

#### *Award of employment and support allowance for pre-commencement period*

##### 4 Regulations may—

- (a) make provision for an employment and support allowance of such a kind as the regulations may provide to be awarded in prescribed circumstances for a period before the appointed day;
- (b) make provision with respect to conditions of entitlement in relation to an award under sub-paragraph (a) and the amount payable by way of an allowance under such an award.

PROSPECTIVE

#### *Matching of awards of employment and support allowance*

5.—(1) For the purposes of this paragraph, an award of an employment and support allowance is one that falls to be made on matching terms if—

- (a) it is made in pursuance of a claim by a person who was previously entitled to an existing award, and
- (b) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him (“the hypothetical award”) would have been made on the basis of the linking of periods of incapacity for work.

##### (2) Regulations may—

- (a) make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the hypothetical award;
- (b) make provision for the modification of matched awards for the purpose of securing that the person with the award is put in the position he would

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have been had he been made the hypothetical award which was then the subject of conversion under paragraph 7.

(3) In sub-paragraph (2)(b), the reference to matched awards is to awards of an employment and support allowance that have been the subject of matching in pursuance of regulations under sub-paragraph (2)(a).

6.—(1) For the purposes of this paragraph an award of an employment and support allowance is one which falls to be made on matching terms if—

- (a) it is made in pursuance of a claim by a person who was previously entitled to an existing award,
- (b) had he continued to be entitled to that award, it would have been the subject of conversion under paragraph 7 before the date of his claim for an employment and support allowance, and
- (c) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him would have been made on the basis of the linking of periods of incapacity for work.

(2) Regulations may make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the award that would have resulted from conversion under paragraph 7 had entitlement to the existing award continued.

#### *Treatment of existing awards*

7.—(1) Regulations may—

- (a) make provision for converting existing awards into awards of an employment and support allowance, and with respect to the terms of conversion;
- (b) make provision for the termination of existing awards in prescribed circumstances.

(2) Regulations under sub-paragraph (1)(a) may, in particular—

- (a) make provision for conversion of an existing award—
  - (i) on application, in accordance with the regulations, by the person entitled to the award, or
  - (ii) without application;
- (b) make provision about the conditions to be satisfied in relation to an application for conversion;
- (c) make provision about the timing of conversion;

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- (d) provide for an existing award to have effect after conversion as an award of an employment and support allowance—
- (i) of such a kind,
  - (ii) for such period,
  - (iii) of such an amount, and
  - (iv) subject to such conditions,
- as the regulations may provide;
- (e) make provision for determining in connection with conversion of an existing award whether a person has limited capability for work-related activity.
- [<sup>F32</sup>(f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.]
- (3) Regulations under sub-paragraph (1)(a) may, in relation to existing awards which have been the subject of conversion under this paragraph, include provision about revision under Article 10 of the 1998 Order, or supersession under Article 11 of that Order in respect of the period before conversion.

#### Textual Amendments

**F32** Sch. 4 para. 7(2)(f) inserted (17.3.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **57(4)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

#### Modifications etc. (not altering text)

**C10** Sch. 4 para. 7 Power to modify conferred (11.3.2017) by [The Welfare Reform and Work \(Northern Ireland\) Order 2016 \(S.I. 2016/999\)](#), arts. 2(1), **9(5)**; S.R. 2017/46, art. 2(a)

### *Transitional allowances*

- 8** Regulations may—
- (a) make provision for a person's continuing entitlement to an employment and support allowance awarded by virtue of regulations under paragraph 7 (a “transitional allowance”) to be determined by reference to such provision as may be made by the regulations;
  - (b) make provision for the review of an award of a transitional allowance;
  - (c) make provision for the termination of an award of a transitional allowance;
  - (d) make provision for this Part, or any other statutory provision relating to social security, to have effect with prescribed modifications in relation to a person with a transitional allowance;

*Status: Point in time view as at 17/01/2018.*

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- (e) make provision for the purpose of enabling a transitional allowance to be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order.

PROSPECTIVE

**9.—(1)** Regulations may prescribe circumstances in which a person who is entitled to a transitional allowance immediately before reaching pensionable age is to be treated as having satisfied the condition in paragraph 5(2) of Schedule 3 to the Contributions and Benefits Act (first contribution condition for entitlement to state pension).

(2) In this paragraph, “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (NI 22).

PROSPECTIVE

*Post-commencement up-rating of incapacity benefit and severe disablement allowance*

**10** Regulations may provide for section 132 of the Administration Act (annual up-rating of benefits), so far as relating to—

- (a) incapacity benefit under section 30A of the Contributions and Benefits Act, or
- (b) severe disablement allowance,

to have effect with prescribed modifications in relation to tax years beginning on or after the appointed day.

*Interpretation*

**11** In this Schedule—

“appointed day” means the day appointed for the coming into operation of section 1;

“existing award” means—

- (a) an award of incapacity benefit,
- (b) an award of severe disablement allowance, and
- (c) an award of income support made to a person to whom regulation 6(4) (a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, the Income Support (General) Regulations (Northern Ireland) 1987 (SR 1987/459) (persons incapable of work or disabled) applies;

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“incapacity benefit” (except in paragraph 10(a)) means—

- (a) incapacity benefit under section 30A, 40 or 41 of the Contributions and Benefits Act;
- (b) long-term incapacity benefit under regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 (SR 1995/35) (former sickness benefit); and
- (c) invalidity benefit which has effect by virtue of regulation 17(1) of those regulations as if it were long-term incapacity benefit;

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

“severe disablement allowance” means severe disablement allowance under section 68 of that Act (as it has effect by virtue of Article 4 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000 (SR 2000/332));

“transitional allowance” has the meaning given by paragraph 8(a).

## SCHEDULE 5

Section 37.

### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

- 1 The Administration Act is amended as follows.
- 2 In section 128E (information about attainment of standards), in subsection (1)
  - (a) for “section 128D(3)” substitute “ section 128D(3A) or (3B) ”;
  - (b) after paragraph (a) insert—
    - “(aa) whether the Housing Executive has taken the action which it has been directed to take;”;
  - (c) in paragraph (b) after “those standards” insert “ or take that action ”.
- 3.—(1) Section 128F (enforcement notices) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “section 128D(3)” substitute “ section 128D(3A) or (3B) ”;
    - (b) after paragraph (a) insert—
      - “(aa) is not satisfied that the Housing Executive has taken the action which it has been directed to take;”;
    - (c) in paragraph (b) after “those standards” insert “ or take that action ”.

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) In subsection (2)(a), after “paragraph (a)” insert “, (aa)”.
- (4) In subsection (4), at the beginning insert “ If the notice identifies directions under section 128D(3A) above, ”.
- (5) After subsection (4) insert—
- “4A) If the notice identifies directions under section 128D(3B) above, the Housing Executive's response shall either—
- (a) state that the Housing Executive has taken the action, or is likely to take it within the time specified in the directions, and justify that statement; or
- (b) state that the Housing Executive has not taken the action, or is not likely to take it within that time, and (if the Housing Executive wishes) give reasons why a determination under section 128G below should not be made or should not include any particular provision.”.
- 4.—(1) Section 128G (enforcement determinations) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “the standards” insert “ or taken the action ”;
- (b) in paragraph (b) after “those standards” insert “ or take that action ”.
- (3) In subsections (3) and (5)(c), after “the standards” insert “ or the taking of the action ”.
- 5 In section 167(1) (interpretation), in the definition of “prescribe” at the end add “ and “prescribed” must be construed accordingly ”.

PROSPECTIVE

*The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)*

- 6 In Schedule 7 to the 2000 Act (housing benefit: revisions and appeals), in paragraph 1(2), after head (b) add—
- “(c) a decision of a relevant authority under or by virtue of section 73 of the Administration Act that an amount of housing benefit is recoverable;”.

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 6

Section 52(5).

### SCHEDULE TO BE INSERTED IN THE PNEUMOCONIOSIS, ETC., (WORKERS' COMPENSATION) (NORTHERN IRELAND) ORDER 1979

#### Commencement Information

**I28** [Sch. 6](#) wholly in operation at 10.8.2007; [Sch. 6](#) not in operation at Royal Assent see [s. 60\(1\)](#); [Sch. 6](#) in operation for specified purposes at 19.7.2007 and in operation at 10.8.2007 for all other purposes by [S.R. 2007/335](#), [art. 2](#)

#### “THE SCHEDULE

#### DEFINITION OF “RELEVANT EMPLOYER”

##### *Basic definition*

- 1** Subject to the following provisions, “relevant employer”, in relation to a person disabled by a disease to which this Order applies, means any person—
- (a) by whom the disabled person was employed in a prescribed occupation at any time during the period during which he was developing the disease, and
  - (b) against whom he might have or might have had a claim for damages in respect of the disablement.

##### *Disregarded employers*

- 2** A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person has had no period of employment with him which is a qualifying period of employment.
- 3** A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him did not exceed 12 months.
- 4** A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him—
- (a) did not exceed 5 years, and
  - (b) represents not more than 25 per cent. of the time during which the disabled person was employed in a prescribed occupation.
- 5** A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him—



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- (a) did not exceed 7 years, and
- (b) represents not more than 20 per cent. of the time during which the disabled person was employed in a prescribed occupation.

6 In paragraphs 3 to 5, references to the disabled person's qualifying period of employment with his employer, where there has been more than one such period, are to the aggregate of those periods.

*“Qualifying period of employment”*

7.—(1) In this Schedule, “qualifying period of employment”, in relation to a person disabled by a disease to which this Order applies, means any period of employment in a prescribed occupation, except for—

- (a) a period of employment which ended more than 20 years before the qualifying date, and
- (b) in the case of a claim relating to diffuse mesothelioma, a period of employment which began not more than 15 years before the qualifying date.

(2) In sub-paragraph (1), “qualifying date” means—

- (a) the date on which the Department determines a claim for disablement benefit made by or on behalf of the disabled person in respect of the disease, or
- (b) if the disabled person has died without a claim for disablement benefit in respect of the disease having been determined, the date on which he died.

*“Prescribed occupation”*

8.—(1) In this Schedule, “prescribed occupation”, in relation to a person disabled by a disease to which this Order applies, means an occupation prescribed in relation to the disease by the Department by order.

(2) An order under sub-paragraph (1) shall be subject to negative resolution.

*Power to amend Schedule*

9 Regulations made by the Department may—

- (a) amend this Schedule for the purpose of adding to the cases in which a person is not a relevant employer in relation to a person disabled by a disease to which this Order applies;
- (b) amend or repeal any provision of this Schedule relating to such cases.”

*Status: Point in time view as at 17/01/2018.*

*Changes to legislation: Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 7

Section 56.

### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 4

#### *The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

1.—(1) The Contributions and Benefits Act is amended as follows.

(2) In section 73 (mobility component of disability living allowance), in subsection (9)(a), after “subsection (1)” insert “ (a) to (d) ”.

(3) In section 136 (social fund payments: principles of determination), for subsection (3) substitute—

“(3) Without prejudice to the generality of subsection (2) above, the Department may issue directions under that subsection for the purpose of securing that allocations under section 147 of the Administration Act are not exceeded.”.

#### **Commencement Information**

**I29** Sch. 7 para. 1 wholly in operation at 8.10.2007; Sch. 7 para. 1(1)(3) in operation at Royal Assent see s. 60(1)(2)(c); Sch. 7 para. 1(2) in operation at 8.10.2007 by S.R. 2007/429, art. 2(1)(d)

#### *The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

2.—(1) The Administration Act is amended as follows.

(2) In section 117 (unauthorised disclosure of information relating to particular persons), in subsection (6A), for “medical practitioner” substitute “ health care professional ”.

(3) In section 147 (allocations from social fund), in subsection (5) (power to give directions with respect to the control and management of social fund allocations to particular officers or groups of officers), for “the amounts allocated to them” substitute “ any amounts allocated to them ”.

(4) In subsection (6) of that section (definition of “appropriate officer”), for “payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act” substitute “ section 134(1)(b) payments ”.

#### *The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)*

3 In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (social security: amendments following certain orders), at the end of paragraph (2) add “ the Welfare Reform Act 2007 ”.

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*The Social Security (Northern Ireland) Order 1998 (NI 10)*

4 In Article 38(7) of the 1998 Order (principles applicable on review of social fund determination), at the end of sub-paragraph (a)(i) insert “ and ”.

SCHEDULE 8

Section 58.

REPEALS

**Commencement Information**

**I30** Sch. 8 partly in operation; Sch. 8 in operation for specified purposes at Royal Assent, see s. 60(1)(2)(d); Sch. 8 in operation for specified purposes at 8.10.2007 by S.R. 2007/429, art. 2(1)(e); Sch. 8 in operation for specified purposes at 7.4.2008 by S.R. 2008/93, art. 2(b); Sch. 8 in operation for specified purposes at 27.10.2008 by S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2; Sch. 8 in operation for specified purposes at 1.9.2008 by S.R. 2008/339, art. 2(2)(c) (with art. 3(1)(2)); Sch. 8 in operation for specified purposes at 7.10.2008 by S.R. 2008/339, art. 2(3)(b)

**Short Title**

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

**Extent of repeal**

In section 6A(3), the word “and” at the end of paragraph (c).

Section 20(1)(b).

In section 20(2)—

- (a) in the definition of “long-term benefit”, paragraph (a);
- (b) in the definition of “short-term benefit”, paragraph (b).

In section 21(1)—

- (a) the words from “short-term incapacity benefit” to “subsection (5) of that section,”;
- (b) the words “or short-term or long-term incapacity benefit under section 40 or 41 below”.

In section 21(2), in the table—

- (a) the heading “Short-term benefit”;
- (b) the entry relating to short-term incapacity benefit;
- (c) the heading “Other benefits”.

In section 21(4), the words “short-term benefit or”.

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In section 21(5A)(c), the words “2(4)(a) and (5)(a),”.

Sections 30A to 30E.

In section 37(2), the words from “one of the conditions” to “person and”.

In section 39A(3), the words from “one of the conditions” to “person and”.

Sections 40 to 42.

In section 44(4), the words from “except that” to the end.

Section 47.

In section 61—

(a) in subsection (1), the words “under section 47(1) above or”;

(b) subsection (2).

In section 61A(3), paragraph (d) and the word “and” immediately preceding it.

Section 72(6).

In section 73(5), the words “Subject to subsection (4) above,”.

Section 84.

Section 86A.

Section 87.

In section 89(1) and (1A), the words “, and in regulations under section 86A above,”.

Section 93.

In section 123(1), the word “and” at the end of paragraph (f).

Section 129(4).

In section 136(1A), the words following paragraph (b).

Section 146(1)(b).

Sections 167A to 167G.

Section 167ZP(1) to (3).

In section 172(2)(a), the words “section 30DD(5)(b) or (c);”.

In Schedule 3, paragraphs 2 and 5(6).

In Schedule 4—

(a) in Part 1, paragraphs 2 and 2A;

(b) in Part 4, paragraphs 1A and 2.

In Schedule 11, paragraph 2(d)(i).

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	In Schedule 12, paragraphs 1, 3, 4, 5 and 6.
	In Schedule 13, paragraphs 1 and 2.
The Social Security Administration (Northern Ireland) Act 1992 (c. 8).	Section 2A(2)(d) and (e). In section 2AA(2), paragraph (c) and the word “and” at the end of paragraph (d). Section 69(5). In section 69ZA(2)— (a) in paragraph (a), the words “paragraph (a) of subsection (5) and”; (b) paragraph (b). In section 71(4), the word “or” at the end of paragraph (a). Section 122(1)(a) and (c). Section 124(1)(b) and (c). In section 147(3)(d), the words from “to the same officer” to the end.
The Pension Schemes (Northern Ireland) Act 1993 (c. 49).	Section 42(3). In Schedule 7, paragraph 33.
The Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (NI 12).	Articles 3 to 5, 7 to 9 and 15. In Schedule 1, paragraphs 2, 3(3), 8 to 10, 13, 17, 24, 28, 33, 38(2) and (3), 43, 44, 48, 49 and 54(4).
The Jobseekers (Northern Ireland) Order 1995 (NI 15).	In Schedule 2, paragraphs 3, 6, 8, 9, 20, 23(2), 36(2) and 52(3), (4) and (5).
The Pensions (Northern Ireland) Order 1995 (NI 22).	In Schedule 2, paragraphs 14(b) and 18(3) and (4).
The Social Security (Northern Ireland) Order 1998 (NI 10).	In Article 4(2), the word “or” at the end of sub-paragraph (h). In Article 28(3), the word “or” at the end of sub-paragraph (e). Article 31(1). In Article 38(7)(a), head (iii), and the word “and” immediately preceding it. Article 73. In Schedule 2, in paragraph 6(b), the word “or” at the end of paragraph (ii). In Schedule 3, in paragraph 3, the word “or” at the end of paragraph (e).

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	In Schedule 6, paragraphs 54(3), 57, 62(2) and 80(1).
The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11).	Articles 58 to 61. In Article 69(3), the word “or” at the end of sub-paragraph (b). In Schedule 8, paragraphs 19 to 24.
The National Insurance Contributions Act 2002 (c. 19).	In Schedule 1, paragraph 33(2).
The Tax Credits Act 2002 (c. 21).	In Schedule 3, paragraphs 37, 38, 40 and 42.
The State Pension Credit Act (Northern Ireland) 2002 (c. 14).	In Schedule 2, paragraphs 22(a) and 25(a).
The Housing Support Services (Northern Ireland) Order 2002 (NI 8).	Articles 6 and 7.
The Civil Partnership Act 2004 (c. 33).	In Schedule 24, paragraphs 68 and 69.

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**Status:**

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