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STATUTORY INSTRUMENTS

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**1995 No. 2705 (N.I. 15)**

**NORTHERN IRELAND**

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

*Made - - - - - 18th October 1995*  
*Laid before Parliament in draft*  
*- - - - - 25th October 1995*  
*Coming into operation on days to be appointed under*  
*Article 1(2)*

At the Court at Buckingham Palace, the 18th day of October 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Jobseekers Act 1995<sup>(1)</sup>:  
Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of the Schedule 1 to the Northern Ireland Act 1974<sup>(2)</sup> as modified by section 39 of the Act of 1995) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Part I**

**Introductory**

**Title and commencement**

- 1.—(1) This Order may be cited as the Jobseekers (Northern Ireland) Order 1995.
- (2) This Order comes into operation on such day or days as the Department may by order appoint.

**Interpretation**

- 2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(3)</sup> applies to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

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(1) 1995 c. 18.  
(2) 1974 c. 28.  
(3) 1954 c. 33 (N.I.).

(2) In this Order—

“adjudication officer” means an adjudication officer appointed under section 36 of the Administration Act;

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992(4);

“applicable amount” means the applicable amount determined in accordance with regulations under Article 6;

“benefit year” has the meaning given by Article 4(4);

“the Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(5);

“child” means a person under the age of 16;

“claimant” means a person who claims a jobseeker’s allowance;

“contribution-based conditions” means the conditions set out in Article 4;

“contribution-based jobseeker’s allowance” has the meaning given in Article 3(4);

“the Department” means the Department of Health and Social Services;

“employed earner” has the meaning prescribed for the purposes of this Order;

“employment”, except in Article 9, has the meaning prescribed for the purposes of this Order;

“entitled”, in relation to a jobseeker’s allowance, is to be construed in accordance with—

- (a) the provisions of this Order relating to entitlement; and
- (b) sections 1 and 66 of the Administration Act;

“family” means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or a person of a prescribed description;
- (c) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

“income-based conditions” means the conditions set out in Article 5;

“income-based jobseeker’s allowance” has the meaning given in Article 3(4);

“jobseeker’s agreement” has the meaning given by Article 11(1);

“jobseeking period” has the meaning prescribed for the purposes of this Order;

“married couple” means a man and woman who are married to each other and are members of the same household;

“National Insurance Fund” means the Northern Ireland National Insurance Fund;

“Northern Ireland” includes the territorial waters of the United Kingdom adjacent to Northern Ireland;

“occupational pension scheme” has the same meaning as it has in the Pension Schemes (Northern Ireland) Act 1993(6) by virtue of section 1 of that Act;

“pensionable age” has the meaning prescribed for the purposes of this Order;

“pension payments” means—

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(4) 1992 c. 8.  
(5) 1992 c. 7.  
(6) 1993 c. 49.

(a) periodical payments made in relation to a person, under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme; and

(b) such other payments as may be prescribed;

“personal pension scheme” means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes (Northern Ireland) Act 1993;

(b) a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(7); and

(c) a personal pension scheme approved under Chapter IV of that Part of that Act;

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

“public service pension scheme” has the same meaning as it has in the Pension Schemes (Northern Ireland) Act 1993 by virtue of section 1 of that Act;

“regulations” means regulations made by the Departments;

“tax year” means the 12 months beginning with 6th April in any year;

“trade dispute” means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not;

“training” has the meaning prescribed for the purposes of this Order and, in relation to prescribed provisions of this Order, if regulations so provide, includes assistance to find training or employment, or to improve a person’s prospects of being employed, of such a kind as may be prescribed;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

“week” means a period of 7 days beginning with a Sunday or such other period of 7 days as may be prescribed;

“work” has the meaning prescribed for the purpose of this Order;

“year”, except in the expression “benefit year”, means a tax year.

(3) The expressions “capable of work”, “linked period”, “relevant education” and “remunerative work” are to be read with paragraphs 2, 3, 14 and 1 of Schedule 1.

(4) Subject to any regulations made for the purposes of this paragraph, “earnings” is to be construed for the purpose of this Order in accordance with section 3 of the Benefits Act and paragraph 6 of Schedule 1 to this Order.

## Part II

### The Jobseeker's Allowance

#### *Entitlement*

#### **The jobseeker's allowance**

3.—(1) An allowance, to be known as a jobseeker's allowance, shall be payable in accordance with the provision of this Order.

(2) Subject to the provisions of this Order, a claimant is entitled to a jobseeker's allowance if he—

- (a) is available for employment;
- (b) has entered into a jobseeker's agreement which remains in force;
- (c) is actively seeking employment;
- (d) satisfies either—
  - (i) the conditions set out in Article 4; or
  - (ii) the conditions set out in Article 5;
- (e) is not engaged in remunerative work;
- (f) is capable of work;
- (g) is not receiving relevant education;
- (h) is under pensionable age; and
- (i) is in Northern Ireland

(3) A jobseeker's allowance is payable in respect of a week.

(4) In this Order—

“a contribution-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 4; and

“an income-based jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on the claimant's satisfying conditions which include those set out in Article 5.

#### **The contribution-based conditions**

4.—(1) The conditions referred to in Article 3(2)(d)(i) are that the claimant—

- (a) has actually paid Class 1 contributions in respect of one (“the base year”) of the last two complete years before the beginning of the relevant benefit year and satisfies the additional conditions set out in paragraph (2);
- (b) has, in respect of the last two complete years before the beginning of the relevant benefit year, either paid Class 1 contributions or been credited with earnings and satisfies the additional condition set out in paragraph (3);
- (c) does not have earnings in excess of the prescribed amount; and
- (d) is not entitled to income support.

(2) The additional conditions mentioned in paragraph (1)(a) are that—

- (a) the contributions have been paid before the week for which the jobseeker's allowance is claimed;

- (b) the earnings factor derived from earnings upon which primary Class 1 contributions have been paid or treated as paid is not less than the base year's lower earnings limit multiplied by 25.

(3) The additional condition mentioned in paragraph (1)(b) is that the earnings factor derived from earnings upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited is not less, in each of the two complete years, than the lower earnings limit for the year multiplied by 50.

(4) For the purposes of this Article—

- (a) “benefit year” means a period which is a benefit year for the purposes of Part II of the Benefits Act or such other period as may be prescribed for the purposes of this Article;
- (b) “the relevant benefit year” is the benefit year which includes—
  - (i) the beginning of the jobseeking period which includes the week for which a jobseeker's allowance is claimed, or
  - (ii) (if earlier) the beginning of any linked period; and
- (c) other expressions which are used in this Article and the Benefits Act have the same meaning in this Article as they have in the Act.

#### **The income-based conditions**

5.—(1) The conditions referred to in Article 3(2)(9d)(ii) are that the claimant—

- (a) has an income which does not exceed the applicable amount (determined in accordance with regulations under Article 6) or has no income;
- (b) is not entitled to income support;
- (c) is not a member of a family one of whose members is entitled to income support;
- (d) is not a member of a family one of whose members is entitled to an income-based jobseeker's allowance;
- (e) is not a member of a married or unmarried couple the other member of which is engaged in remunerative work; and
- (f) is a person—
  - (i) who has reached the age of 18; or
  - (ii) in respect of whom a direction under Article 18 is in force; or
  - (iii) who has, in prescribed circumstances to be taken into account for a prescribed period, reached the age of 16 but not the age of 18.

(2) Regulations may provide for one or both of the following conditions to be included in the income-based conditions, in the case of a person to whom paragraph (1)(f)(ii) or (iii) applies—

- (a) a condition that the claimant must register for employment;
- (b) a condition that the claimant must register for training.

(3) In paragraph (1)(f)(iii) “period” includes—

- (a) a period of a determinate length;
- (b) a period defined by reference to the happening of a future event; and
- (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

(4) Regulations under paragraph (2) may, in particular, make provision by reference to persons designated by the Department for the purpose of the regulations.

**Amount payable by way of a jobseeker's allowance**

6.—(1) In the case of a contribution-based jobseeker's allowance, the amount payable in respect of a claimant ("his personal rate") shall be calculated by—

- (a) determining the age-related amount applicable to him; and
- (b) making prescribed deductions in respect of earnings and pensions payments.

(2) The age-related amount applicable to a claimant, for the purposes of paragraph (1)(a), shall be determined in accordance with regulations.

(3) In the case of an income-based jobseeker's allowance, the amount payable shall be—

- (a) if a claimant has no income, the applicable amount;
- (b) if a claimant has an income, the amount by which the applicable amount exceeds his income.

(4) Except in prescribed circumstances, a jobseeker's allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

(5) The applicable amount shall be such amount or the aggregate of such amounts as may be determined in accordance with regulations.

(6) Where a claimant satisfies both the contribution-based conditions and the income-based conditions but has no income, the amount payable shall be—

- (a) the applicable amount, if that is greater than his personal rate; and
- (b) his personal rate, if it is not.

(7) Where the amount payable to a claimant to whom paragraph (6) applies is the applicable amount, the amount payable to him by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the excess of the applicable amount over his personal rate.

(8) Where a claimant satisfies both the contribution-based conditions and the income-based conditions and has an income, the amount payable shall be—

- (a) the amount by which the applicable amount exceeds his income, if the amount of that excess is greater than his personal rate; and
- (b) his personal rate, if it is not.

(9) Where the amount payable to a claimant to whom paragraph (8) applies is the amount by which the applicable amount exceeds his income, the amount payable to him by way of a jobseeker's allowance shall be taken to consist of two elements—

- (a) one being an amount equal to his personal rate; and
- (b) the other being an amount equal to the amount by which the difference between the applicable amount and his income exceeds his personal rate.

(10) The element of a jobseeker's allowance mentioned in paragraph (7)(a) and that mentioned in paragraph (9)(a) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to a contribution-based jobseeker's allowance.

(11) The element of a jobseeker's allowance mentioned in paragraph (7)(b) and that mentioned in paragraph (9)(b) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the claimant's entitlement to an income-based jobseeker's allowance.

(12) Regulations under paragraph (5) may provide that, in prescribed cases, an applicable amount is to be nil.

### **Duration of a contribution-based jobseeker's allowance**

7.—(1) The period for which a person is entitled to a contribution-based jobseeker's allowance shall not exceed, in the aggregate, 182 days in any period for which his entitlement is established by reference (under Article 4(1)(b)) to the same two years.

(2) The fact that a person's entitlement to a contribution-based jobseeker's allowance ("his previous entitlement") has ceased as a result of paragraph (1) does not prevent his being entitled to a further contribution-based jobseeker's allowance if—

- (a) he satisfies the contribution-based conditions; and
- (b) the two years by reference to which he satisfies those conditions include at least one year which is later than the second of the two years by reference to which his previous entitlement was established.

(3) Regulations may provide that a person who would be entitled to a contribution-based jobseeker's allowance but for the operation of prescribed provisions of, or made under, this Order shall be treated as if entitled to the allowance for the purposes of this Article.

### *Jobseeking*

### **Availability for employment**

8.—(1) For the purposes of this Order, a person is available for employment if he is willing and able to take up immediately any employed earner's employment.

(2) Paragraph (1) is subject to such provisions as may be made by regulations; and those regulations may, in particular, provide that a person—

- (a) may restrict his availability for employment in any week in such ways as may be prescribed; or
- (b) may restrict his availability for employment in any week in such circumstances as may be prescribed (for example, on grounds of conscience, religious conviction or physical or mental condition or because he is caring for another person) and in such ways as may be prescribed.

(3) The following are examples of restrictions for which provision may be made by the regulations—

- (a) restrictions on the nature of the employment for which a person is available;
- (b) restrictions on the periods for which he is available;
- (c) restrictions on the terms or conditions of employment for which he is available;
- (d) restrictions on the locality or localities within which he is available.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is or is not to be treated as available for employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is available for employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive, to be treated, for a permitted period, as available for employment.

(6) Where it has been determined ("the first determination") that a person is to be treated, for the purposes of this Order, as available for employment in any week, the question whether he is available for employment in that week may be subsequently determined on a review of the first determination.

(7) In this Article “permitted period”, in relation to any person, means such period as may be determined in accordance with the regulations made under paragraph (4).

(8) Regulations under paragraph (4) may prescribe, in relation to permitted periods—

- (a) the day on which any such period is to be regarded as having begun in any case;
- (b) the shortest and longest periods which may be determined in any case;
- (c) factors which an adjudication officer may take into account in determining the period in any case.

(9) For the purposes of this Article “employed earner’s employment” has the same meaning as in the Benefits Act.

### **Actively seeking employment**

9.—(1) For the purposes of this Order, a person is actively seeking employment in any week if he takes in that week such steps as he can reasonably be expected to have to take in order to have the best prospects of securing employment.

(2) Regulations may make provision—

- (a) with respect to steps which it is reasonable, for the purposes of paragraph (1), for a person to be expected to have to take in any week;
- (b) as to circumstances (for example, his skills, qualifications, abilities and physical or mental limitations) which, in particular, are to be taken into account in determining whether, in relation to any steps taken by a person, the requirements of paragraph (1) are satisfied in any week.

(3) Regulations may make provision for acts of a person which would otherwise be relevant for purposes of this Article to be disregarded in such circumstances (including circumstances constituted by, or connected with, his behaviour or appearance) as may be prescribed.

(4) Regulations may prescribe circumstances in which, for the purposes of this Order, a person is to be treated as actively seeking employment.

(5) Regulations under paragraph (4) may, in particular, provide for a person who is actively seeking employment—

- (a) only in his usual occupation,
- (b) only at a level of remuneration not lower than that which he is accustomed to receive, or
- (c) only in his usual occupation and at a level of remuneration not lower than that which he is accustomed to receive, to be treated, for the permitted period determined in his case for the purposes of Article 8(5), as actively seeking employment during that period.

(6) Regulations may provide for this Article, and any regulations made under it, to have effect in relation to a person who has reached the age of 16 but not the age of 18 as if “employment” included “training”.

(7) Where it has been determined (“the first determination”) that a person is to be treated, for the purposes of this Order, as actively seeking employment in any week, the question whether he is actively seeking employment in that week may subsequently be determined on a review of the first determination.

(8) For the purposes of this Article—

“employment” means employed earner’s employment or, in prescribed circumstances—

- (a) self-employed earner’s employment; or
- (b) employed earner’s employment and self-employed earner’s employment; and “employed earner’s employment” and



“self-employed earner’s employment” have the same meanings as in the Benefits Act.

### **Attendance, information and evidence**

- 10.**—(1) Regulations may make provision for requiring a claimant—
- (a) To attend at such place and at such time as the Department may specify; and
  - (b) to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment.
- (2) Regulations under paragraph (1) may, in particular—
- (a) prescribe circumstances in which entitlement to a jobseeker’s allowance is to cease in the case of a claimant who fails to comply with any regulations made under that paragraph;
  - (b) provide for entitlement to cease at such time (after he last attended in compliance with requirements of the kind mentioned in paragraph (1)(a)) as may be determined in accordance with any such regulations;
  - (c) provide for entitlement not to cease if the claimant shows, within a prescribed period of his failure to comply, that he had good cause for that failure; and
  - (d) prescribe—
    - (i) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to comply with any such regulations; and
    - (ii) circumstances in which a person is, or is not, to be regarded as having, or not having, good cause for failing to comply with any such regulations.

### **The jobseeker’s agreement**

**11.**—(1) An agreement which is entered into by a claimant and an employment officer and which complies with the prescribed requirements in force at the time when the agreement is made is referred to in this Order as “a jobseeker’s agreement”.

- (2) A jobseeker’s agreement shall have effect only for the purposes of Article 3.
- (3) A jobseeker’s agreement shall be in writing and be signed by both parties.
- (4) A copy of the agreement shall be given to the claimant.

(5) An employment officer shall not enter into a jobseeker’s agreement with a claimant unless, in the officer’s opinion, the conditions mentioned in Article 3(2)(a) and (c) would be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the proposed agreement.

(6) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed jobseeker’s agreement to an adjudication officer for him to determine—

- (a) whether, if the claimant concerned were to comply with the proposed agreement, he would satisfy—
    - (i) the condition mentioned in Article 3(2)(a), or
    - (ii) the condition mentioned in Article 3(2)(c); and
  - (b) whether it is reasonable to expect the claimant to have to comply with the proposed agreement.
- (7) An adjudication officer to whom a reference is made under paragraph (6)—
- (a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;

- (b) may give such directions, with respect to the terms on which the employment officer is to enter into a jobseeker's agreement with the claimant, as the adjudication officer considers appropriate;
  - (c) may direct that, if such conditions as he considers appropriate are satisfied, the proposed jobseeker's agreement is to be treated (if entered into) as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
- (8) Regulations may provide—
- (a) for such matters as may be prescribed to be taken into account by an adjudication officer in giving a direction under paragraph (7)(c); and
  - (b) for such persons as may be prescribed to be notified of—
    - (i) any determination of an adjudication officer under this Article;
    - (ii) any direction given by an adjudication officer under this Article.
- (9) Any determination of an adjudication officer under this Article shall be binding.
- (10) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in Article 3(2)(b).
- (11) Regulations may provide that, in prescribed circumstances, a jobseeker's agreement is to be treated as having effect on a date, to be determined in accordance with the regulations, before it would otherwise have effect.
- (12) Except in such circumstances as may be prescribed, a jobseeker's agreement entered into by a claimant shall cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him.
- (13) In this Article and Article 12 "employment officer" means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department.

### **Variation of jobseeker's agreement**

- 12.—**(1) A jobseeker's agreement may be varied, in the prescribed manner, by agreement between the claimant and any employment officer.
- (2) Any agreement to vary a jobseeker's agreement shall be in writing and be signed by both parties.
- (3) A copy of the agreement, as varied, shall be given to the claimant.
- (4) An employment officer shall not agree to a variation of a jobseeker's agreement, unless, in the officer's opinion, the conditions mentioned in Article 3(2)(a) and (c) would continue to be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the agreement as proposed to be varied.
- (5) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed variation of a jobseeker's agreement to an adjudication officer for him to determine—
- (a) whether, if the claimant concerned were to comply with the agreement as proposed to be varied, he would satisfy—
    - (i) the condition mentioned in Article 3(2)(a), or
    - (ii) the condition mentioned in Article 3(2)(c); and
  - (b) whether it is reasonable to expect the claimant to have to comply with the agreement as proposed to be varied.
- (6) An adjudication officer to whom a reference is made under paragraph (5)—

- (a) shall so far as practicable dispose of it in accordance with this Article before the end of the period of 14 days from the date of the reference;
  - (b) shall give such directions as he considers appropriate as to—
    - (i) whether the jobseeker’s agreement should be varied, and
    - (ii) if so, the terms on which the claimant and the employment officer are to enter into an agreement to vary it;
  - (c) may bring the jobseeker’s agreement to an end where the claimant fails, within a prescribed period, to comply with a direction given under sub-paragraph (b)(ii);
  - (d) may direct that, if—
    - (i) the jobseeker’s agreement is varied, and
    - (ii) such conditions as varied is to be treated as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
- (7) Regulations may provide—
- (a) or such matters as may be prescribed to be taken into account by an adjudication officer in giving a direction under paragraph (6)(b) or (d); and
  - (b) for such persons as may be prescribed to be notified of—
    - (i) any determination of an adjudication officer under this Article;
    - (ii) any direction given by an adjudication officer under this Article.
- (8) Any determination of an adjudication officer under this Article shall be binding.

**Jobseeker’s agreement: reviews and appeals**

13.—(1) Any determination of, or direction given by, an adjudication officer under Article 11 or 12 may be reviewed (by a different adjudication officer) on the application of the claimant or of an employment officer.

(2) Regulations may make provision with respect to the procedure to be followed on a review under this Article.

(3) The claimant may appeal to a social security appeal tribunal against any determination of, or direction given by, an adjudication officer on a review under this Article.

(4) A social security appeal tribunal determining an appeal under this Article may give a direction of a kind which an adjudication officer may give under Article 11(7)(b) or (c) or (as the case may be) Article 12(6)(b) or (d).

(5) Where a social security appeal tribunal gives a direction under paragraph (4) of a kind which may be given by an adjudication officer under Article 12(6)(b)(ii), an adjudication officer may bring the job seeker’s agreement to an end if the claimant fails to comply with the direction within a prescribed period.

(6) An appropriate person may, on the ground that it was erroneous in point of law, appeal to a Commissioner against the decision of a social security appeal tribunal on an appeal under this Article.

(7) Any of the following is an appropriate person for the purposes of paragraph (6)—

- (a) the claimant;
- (b) an adjudication officer;
- (c) in prescribed circumstances, a trade union;
- (d) in prescribed circumstances, any other association which exists to promote the interests and welfare of its members.

(8) Subsections (7) to (10) of section 21 of the Administration Act (appeals to Commissioners) shall apply in relation to appeals under this Article as they apply in relation to appeals under that section.

(9) In this Article “Commissioner” has the same meaning as in the Administration Act.

### *Income and Capital*

#### **Income and capital: general**

**14.**—(1) In relation to a claim for a jobseeker’s allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.

(2) A person’s income in respect of a week shall be calculated in accordance with prescribed rules.

(3) The rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(4) Circumstances may be prescribed in which—

- (a) a person is treated as possessing capital or income which he does not possess;
- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital;
- (d) capital is to be treated as income;

#### **Income and capital: income-based jobseeker’s allowance**

**15.**—(1) No person shall be entitled to an income-based jobseeker’s allowance if his capital, or a prescribed part of it, exceeds the prescribed amount.

(2) Where a person claiming an income-based jobseeker’s allowance is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of the claimant.

(3) Regulations may provide that capital not exceeding the amount prescribed under paragraph (1), but exceeding a prescribed lower amount, shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

### *Trade disputes*

#### **Trade disputes**

**16.**—(1) Where—

- (a) there is a stoppage of work which causes a person not to be employed on any day, and
- (b) the stoppage is due to a trade dispute at his place of work, that person, is not entitled to a jobseeker’s allowance for the week which includes that day unless he proves that he is not directly interested in the dispute.

(2) A person who withdraws his labour on any day in furtherance of a trade dispute, but to whom paragraph (1) does not apply, is not entitled to a jobseeker’s allowance for the week which includes that day.

(3) If a person who is prevented by paragraph (1) from being entitled to a jobseeker’s allowance proves that during the stoppage—

- (a) he became bona fide employed elsewhere;

- (b) his employment was terminated by reason of redundancy within the meaning of section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965<sup>(8)</sup>, or
- (c) he bona fide resumed employment with his employer but subsequently left for a reason other than the trade dispute, paragraph (1) shall be taken to have ceased to apply to him on the occurrence of the event referred to in sub-paragraph (a) or (b) or (as the case may be) the first event referred to in sub-paragraph (c).

(4) In this Article “place of work”, in relation to any person, means the premises or place at which he was employed.

(5) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall, for the purposes of paragraph (4), be deemed to be separate premises or (as the case may be) a separate place.

### **Effect on other claimants**

17.—(1) Except in prescribed circumstances, paragraph (2) applies in relation to a claimant for an income-based jobseeker’s allowance where a member of his family (“A”) is, or would be, prevented by Article 16 from being entitled to a jobseeker’s allowance.

(2) For the purposes of calculating the claimant’s entitlement to an income-based jobseeker’s allowance—

- (a) any portion of the applicable amount which is included in respect of A shall be disregarded for the period for which this paragraph applies to the claimant;
- (b) where the claimant and A are a married or unmarried couple, any portion of the applicable amount which is included in respect of them shall be reduced to one half for the period for which this paragraph applies to the claimant;
- (c) except so far as regulations provide otherwise, there shall be treated as the claimant’s income—
  - (i) any amount which becomes, or would on an application duly made become, available to A in relation to that period by way of repayment of income tax deducted from A’s emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)<sup>(9)</sup>; and
  - (ii) any other payment which the claimant or any member of his family receives or is entitled to obtain because A is without employment for that period; and
- (d) any payment by way of a jobseeker’s allowance for that period or any part of it which apart from this sub-paragraph would be made to the claimant—
  - (i) shall not be made, if the weekly rate of payment (“the rate”) would be equal to or less than the prescribed sum; and
  - (ii) shall be at a weekly rate equal to the difference between the rate and the prescribed sum, if the rate would be more than the prescribed sum.

(3) Where a reduction under paragraph (2)(b) would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.

(4) Where A returns to work with the same employer after a period during which paragraph (2) applied to the claimant (whether or not his return is before the end of any stoppage of work in relation to which he is, or would be, prevented from being entitled to a jobseeker’s allowance), paragraph (2) shall cease to apply to the claimant at the commencement of the day on which A returns to work.

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<sup>(8)</sup> 1965 c. 19.

<sup>(9)</sup> 1988 c. 1.

(5) In relation to any period of less than a week, paragraph (2) shall have effect subject to such modifications as may be prescribed.

(6) Paragraphs (7) to (9) apply where an order made under section 132 of the Administration Act (annual up-rating of benefits) has the effect of increasing the sum prescribed in regulations made under Article 6(5) as the personal allowance for a single person aged not less than 25 (“the personal allowance”).

(7) For the sum prescribed in regulations made under paragraph (2)(d) there shall be substituted, from the time when the order comes into operation, a sum arrived at by increasing the prescribed sum by the percentage by which the personal allowance has been increase by the order.

(8) If the sum arrived at under paragraph (7) is not a multiple of 50p—

(a) any remainder of 25p or less shall be disregarded;

(b) any remainder of more than 25p shall be rounded up to the nearest 50p.

(9) The order shall state the sum substituted for the sum prescribed in regulations made under paragraph (2)(d).

(10) Nothing in paragraph (7) prevents the making of further regulations under paragraph (2)(d) varying the prescribed sum.

### *Persons under 18*

#### **Severe hardship**

18.—(1) If it appears to the Department—

(a) that a person—

(i) has reached the age of 16 but not the age of 18,

(ii) is not entitled to a jobseeker’s allowance or to income support, and

(iii) is registered for training but is not being provided with any training, and

(b) that severe hardship will result to him unless a jobseeker’s allowance is paid to him, the Department may direct that this Article is to apply to him.

(2) A direction may be given so as to have effect for a specified period.

(3) The Department may revoke a direction if—

(a) it appears to the Department that there has been a change of circumstances as a result of which failure to receive a jobseeker’s allowance need no longer result in severe hardship to the person concerned;

(b) it appears to the Department that the person concerned—

(i) failed to pursue an opportunity of obtaining training, or

(ii) rejected an offer of training,

and has not shown good reason for doing so; or

(c) the Department is satisfied that it was given in ignorance of some material fact or was based on a mistake as to some material fact and considers that, but for the ignorance or mistake, the Department would not have given the direction.

(4) In this Article—

“period” includes—

(a) a period of a determinate length;

(b) a period defined by reference to the happening of a future event; and

- (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

### **Reduced payments**

**19.**—(1) Regulations may provide for the amount of an income-based jobseeker’s allowance payable to any young person to whom this Article applies to be reduced—

- (a) in such circumstances,
- (b) by such a percentage, and
- (c) for such a period,

as may be prescribed.

(2) This Article applies to any young person in respect of whom—

- (a) a direction is in force under Article 18; and
- (b) either of the conditions mentioned in paragraph (3) is satisfied.

(3) The conditions are that—

- (a) the young person was previously entitled to an income-based jobseeker’s allowance and that entitlement ceased by virtue of the revocation of a direction under Article 18;
- (b) he has failed to complete a course of training and no certificate has been issued to him under paragraph (4) with respect to that failure.

(4) Where a young person who has failed to complete a course of training—

- (a) claims that there was good cause for the failure, and
- (b) applies to the Department for a certificate under this paragraph,

the Department shall, if it is satisfied that there was good cause for the failure, issue a certificate to that effect and give a copy of it to the young person.

(5) In this Article “young person” means a person who has reached the age of 16 but not the age of 18.

### **Recovery of overpayments**

**20.** In the Administration Act, insert after section 69—

#### *“Jobseeker’s allowance*

#### **Recovery of jobseeker’s allowance: severe hardship cases.**

**69A.**—(1) Where—

- (a) a severe hardship direction is revoked; and
- (b) it is determined by an adjudication officer that—
  - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and
  - (ii) in consequence of the failure of misrepresentation, payment of a jobseeker’s allowance has been made during the relevant period to the person to whom the direction related, an adjudication officer may determine that the Department is entitled to recover the amount of the payment.

(2) In this section—

“severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and

“the relevant period” means—

- (a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
- (b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.

(3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.

(4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—

- (a) who made the misrepresentation or failed to make the disclosure; and
- (b) whether or not a payment of jobseeker’s allowance has been made in consequence of the misrepresentation or failure.

(5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker’s allowance would not have been paid but for the misrepresentation or failure to disclose.

(6) A certificate under this section shall be conclusive as to any matter certified.

(7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker’s allowance recoverable under subsection (1) above as they apply to a jobseeker’s allowance recoverable under section 69(1) above.

(8) The other provisions of section 69 above do not apply to a jobseeker’s allowance recoverable under subsection (1) above.”.

#### *Denial of jobseeker’s allowance*

#### **Circumstances in which a jobseeker’s allowance is not payable**

**21.**—(1) Even though the conditions for entitlement to a jobseeker’s allowance are satisfied with respect to a person, the allowance shall not be payable in any of the circumstances mentioned in paragraph (5) or (6).

(2) If the circumstances are any of those mentioned in paragraph (5), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be prescribed.

(3) If the circumstances are any of those mentioned in paragraph (6), the period for which the allowance is not to be payable shall be such period (of at least one week but not more than 26 weeks) as may be determined by the adjudication officer.

(4) Regulations may prescribe—

- (a) circumstances which an adjudication officer is to take into account, and
- (b) circumstances which he is not to take into account, in determining a period under paragraph (3).

(5) The circumstances referred to in paragraphs (1) and (2) are that the claimant—

- (a) has, without good cause, refused or failed to carry out any jobseeker’s direction which was reasonable, having regard to his circumstances,
- (b) has, without good cause—



- (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
  - (ii) after a place on such a scheme or programme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him;
  - (iii) given up a place on such a scheme or programme; or
  - (iv) failed to attend such a scheme or programme on which he has been given a place; or
  - (c) has lost his place on such a scheme or programme through misconduct.
- (6) The circumstances referred to in paragraphs (1) and (3) are that the claimant—
- (a) has lost his employment as an employed earner through misconduct;
  - (b) has voluntarily left such employment without just cause;
  - (c) has, without good cause, after a situation in any employment has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or
  - (d) has, without good cause, neglected to avail himself of a reasonable opportunity of employment.
- (7) In such circumstances as may be prescribed, including in particular where he has been dismissed by his employer by reason of redundancy within the meaning of section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965<sup>(10)</sup> after volunteering or agreeing to be so dismissed, a person who might otherwise be regarded as having left his employment voluntarily is to be treated as not having left voluntarily.
- (8) Regulations may—
- (a) prescribe matters which are, or are not, to be taken into account in determining whether a person—
    - (i) has, or does not have, good cause for any act or omission; or
    - (ii) has, or does not have, just cause for any act or omission; or
  - (b) prescribe circumstances in which a person—
    - (i) is, or is not, to be regarded as having, or not having, good cause for any act or omission; or
    - (ii) is, or is not, to be regarded as having, or not having, just cause for any act or omission.
- (9) Subject to any regulations under paragraph (8), in determining whether a person has, or does not have, good cause or (as the case may be) just cause for any act or omission, any matter relating to the level of remuneration in the employment in question shall be disregarded.
- (10) In this Article—
- (a) “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department;
  - (b) “jobseeker’s direction” means a direction in writing given by an employment officer with a view to achieving one or both of the following—
    - (i) assisting the claimant to find employment;
    - (ii) improving the claimant’s prospects of being employed; and
  - (c) “training scheme” and “employment programme” have such meaning as may be prescribed.

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(10) 1965 c. 19.

**Exemptions from Article 21**

22.—(1) Nothing in Article 21, or in regulations under that Article, shall be taken to prevent payment of a jobseeker’s allowance merely because the claimant refuses to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute.

(2) Article 21 does not apply, in the circumstances mentioned in paragraph (5) of that Article, if—

- (a) a direction is in force under Article 18 with respect to the claimant; and
- (b) he has acted in such a way as to risk—
  - (i) having that direction revoked under paragraph (3)(b) of Article 18; or
  - (ii) having the amount of his jobseeker’s allowance reduced by virtue of Article 19, because he has failed to complete a course of training.

(3) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner’s employment without falling within Article 21(6)(b) or (d) should he leave that employment voluntarily and without just cause at any time during a trial period.

(4) In such circumstances as may be prescribed, an income-based jobseeker’s allowance shall be payable to a claimant even though Article 21 prevents payment of a jobseeker’s allowance to him.

(5) A jobseeker’s allowance shall be payable by virtue of paragraph (4) only if the claimant has complied with such requirements as to the provision of information as may be prescribed for the purposes of this paragraph.

(6) Regulations under paragraph (4) may, in particular, provide for a jobseeker’s allowance payable by virtue of that paragraph to be—

- (a) payable at a prescribed rate;
- (b) payable for a prescribed period (which may differ from the period fixed under Article 21(2) or (3)).

(7) In paragraph (3), “trial period” has such meaning as may be prescribed.

(8) Regulations may make provision for determining, for the purposes of this Article, the day on which a person’s employment is to be regarded as commencing.

*Miscellaneous***Supplementary provisions**

23. Further provisions in relation to a jobseeker’s allowance are set out in Schedule 1.

**Members of the forces**

24.—(1) Regulations may modify any provision of this Order, in such manner as the Secretary of State thinks proper, in its application to persons who are or have been members of Her Majesty’s forces.

(2) The regulations may, in particular, provide for Article 21(6)(b) not to apply in relation to a person who is discharged from Her Majesty’s forces at his own request.

(3) For the purposes of this Article, Her Majesty’s forces shall be taken to consist of such establishments and organisations in which persons serve under the control of the Defence Council as may be prescribed by regulations made by the Secretary of State.

(4) The power to make regulations under this Article is exercisable by statutory instrument.

### **Recovery of sums in respect of maintenance**

**25.**—(1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-based jobseeker’s allowance has been made to that person’s spouse.

(2) In this Article “recovery order” means an order requiring the person against whom it is made to make payments to the Department or to such other person or persons as the court may determine.

(3) Regulations under this Article may make provision for the transfer by the Department of the right to receive payments under, and to exercise rights in relation to, a recovery order.

(4) Regulations made under this Article may, in particular, include provision—

- (a) as to the matters to which the court is, or is not, to have regard in determining any application under the regulations; and
- (b) as to the enforcement of recovery orders.

(5) In this Article, “the court” means a court of summary jurisdiction.

### **Effect of alteration of rates**

**26.** In the Administration Act, insert after section 139—

#### **“Effect of alteration of rates of a jobseeker’s allowance.**

**139A.**—(1) This section applies where—

- (a) an award of a jobseeker’s allowance is in force in favour of any person (“the recipient”); and
- (b) an alteration—
  - (i) in any component of the allowance, or
  - (ii) in the recipient’s benefit income, affects the amount of the jobseeker’s allowance to which he is entitled.

(2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker’s allowance to which the recipient is entitled is increased or reduced.

(3) As from the commencing date, the amount of the jobseeker’s allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.

(4) In any case where—

- (a) here is an alteration of a kind mentioned in subsection (1)(b); and
- (b) before the commencing date (but after that date is fixed) an award of a jobseeker’s allowance is made in favour of a person,

the award may provide for the jobseeker’s allowance to be paid as from the commencing date, in which case the amount of the jobseeker’s allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.

(5) In this section—

“alteration” means—

- (a) in relation to any component of a jobseeker’s allowance, its alteration by or under any enactment; and

- (b) in relation to a person's benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 above, to the extent that any such alteration affects the amount of the recipient's benefit income;
- “applicable sums” has the same meaning as in section 139 above;
- “benefit income”, in relation to a recipient, means so much of his income as consists of—
- (a) benefit under the Contributions and Benefits Act; or
- (b) a war disablement pension or war widow's pension;
- “the commencing date” in relation to an alteration, means the date on which the alteration comes into operation in relation to the recipient;
- “component”, in relation to a jobseeker's allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker's allowance.”

### Age increases

27. In the Administration Act, insert after section 140—

**“Implementation of increases in income-based jobseeker's allowance due to attainment of particular ages.**

**140A.—**(1) This section applies where—

- (a) an award of an income-based jobseeker's 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 income-based jobseeker's 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 an adjudication officer; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence on the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to—

- (a) a benefit under the Contributions and Benefits Act; or
- (b) a jobseekers's allowance.

(4) Subsection (3)(b) above does not apply to the question—

- (a) 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) whether, in consequence, the amount of his income-based jobseeker's allowance falls to be varied.

(5) In this section “component”, in relation to a recipient and his jobseeker's allowances, means any of the amounts determined in accordance with regulations made under Article 6(5) of the Jobseekers (Northern Ireland) Order 1995.”

## Part III

### Back to Work Schemes

#### The back to work bonus

**28.**—(1) Regulations may make provision for the payment, in prescribed circumstances, of sums to or in respect of persons who are or have been entitled to a jobseeker’s allowance or to income support.

(2) A sum payable under the regulations shall be known as “a back to work bonus”.

(3) Subject to section 617 of the Income and Corporation Taxes Act 1988<sup>(11)</sup> (which, as amended by paragraph 16 of Schedule 2 to the Jobseekers Act 1995<sup>(12)</sup>, provides for a back to work bonus not to be taxable), a back to work bonus shall be treated for all purposes as payable by way of a jobseeker’s allowance or (as the case may be) income support.

(4) The regulations may, in particular, provide for—

- (a) a back to work bonus to be payable only on the occurrence of a prescribed event;
- (b) a bonus not to be payable unless a claim is made before the end of the prescribed period;
- (c) the amount of a bonus (subject to any maximum prescribed by virtue of sub-paragraph (g)) to be determined in accordance with the regulations;
- (d) enabling amounts to be calculated by reference to periods of entitlement to a jobseeker’s allowance and periods of entitlement to income support;
- (e) treating a bonus as payable wholly by way of income support or wholly by way of a jobseeker’s allowance, in a case where amounts have been calculated in accordance with provision made by virtue of sub-paragraph (d);
- (f) keeping persons who may be entitled to a bonus informed of the amounts calculated in accordance with any provision of the regulations made by virtue of sub-paragraph (c);
- (g) the amount of a bonus not to exceed a prescribed maximum;
- (h) a bonus not to be payable if the amount of the bonus which would otherwise be payable is less than the prescribed minimum;
- (i) prescribed periods to be disregarded for prescribed purposes;
- (j) a bonus which has been paid to a person to be treated, in prescribed circumstances and for prescribed purposes, as income or capital of his or of any other member of his family;
- (k) treating the whole or a prescribed part of an amount which has accrued towards a person’s bonus—
  - (i) as not having accrued towards his bonus; but
  - (ii) as having accrued towards the bonus of another person;
- (l) the whole or a prescribed part of a back to work bonus to be payable, in such circumstances as may be prescribed, to such person, other than the person who is or had been entitled to a jobseeker’s allowance or to income support, as may be determined in accordance with the regulations.

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<sup>(11)</sup> 1988 c. 1.

<sup>(12)</sup> 1995 c. 18.

**Employment of long-term unemployed: deductions by employers**

29.—(1) An employee is a “qualifying employee” in relation to his employer for the purposes of this Article if, immediately before beginning his employment with that employer, he had been entitled to a jobseeker’s allowance for a continuous period of not less than two years.

(2) An employee is also a “qualifying employee” in relation to his employer for the purposes of this Article if—

- (a) immediately before beginning his employment with that employer, he had been unemployed for a continuous period of not less than two years;
- (b) he is under pensionable age; and
- (c) he falls within a prescribed description of person.

(3) Regulations may make provision for any employer who employs a person who is a qualifying employee in relation to him, to make deductions from the employer’s contributions payments in accordance with the regulations and in prescribed circumstances.

(4) Those regulations may, in particular, make provision as to the period for which deductions may be made by an employer.

(5) Regulations may provide, in relation to cases where an employer is a qualifying employee in relation to more than one employer at the same time, for the right to make deductions to be confined to one employer—

- (a) determined in accordance with the regulations; and
- (b) certified by the Department, in accordance with the regulations, to be the employer entitled to make those deductions.

(6) Regulations may—

- (a) provide that, in prescribed circumstances, a person who would not otherwise satisfy the condition in paragraph (1) is to be treated as satisfying it;
- (b) provide that, in prescribed circumstances, a person who would not otherwise satisfy the condition in paragraph (2)(a) is to be treated as satisfying it;
- (c) prescribe circumstances in which, for prescribed purposes, two or more employers are to be treated as one;
- (d) make provision for the payment, in prescribed circumstances, by the Department or by the Commissioners of Inland Revenue on behalf of the Department, of sums to employers who are unable to make the whole or part of any deductions which they are entitled to make;
- (e) require persons to maintain such records in connection with deductions made by them as may be prescribed;
- (f) require persons who have made deductions to furnish to the Department such documents and information, at such time, as may be prescribed.

(7) Where, in accordance with any provision of regulations made under this Article, an amount has been deducted from an employer’s contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions as having been—

- (a) paid (on such date as may be determined in accordance with the regulations); and
- (b) received by the Department, towards discharging the employer’s liability in respect of such contributions.

(8) In this Article—

“contributions payments”, in relation to an employer, means the aggregate of the payments which he is required to make by way of primary or secondary Class 1 contributions;

“deductions” means deductions made in accordance with regulations under paragraph (3); and “employee” and “employer” have such meaning as may be prescribed.

### **Expedited claims for housing benefit**

**30.**—(1) This Article provides for the making of regulations to enable priority to be given to certain persons with a view to claims for housing benefit made by or in respect of persons who cease to be entitled to a jobseekers’s allowance or income support being dealt with quickly.

(2) In section 61 of the Administration Act (adjudication of claims for housing benefit), insert after subsection (2)—

“(2A) Regulations may make provision requiring the Housing Executive, where claims for housing benefit are made to it by, or in respect of, persons who have been entitled to a jobseeker’s allowance or to income support to give priority, in prescribed circumstances, to those claims over other claims for that benefit.”.

### **Pilot schemes**

**31.**—(1) Any regulations to which this paragraph applies may be made so as to have effect for a specified period not exceeding 12 months.

(2) Any regulations which, by virtue of paragraph (1), are to have effect for a limited period are referred to in this Article as “a pilot scheme”.

(3) A pilot scheme may provide that its provisions are to apply only in relation to—

- (a) one or more specified areas or localities;
- (b) one or more specified classes of person;
- (c) persons selected—
  - (i) by reference to prescribed criteria; or
  - (ii) on a sampling basis.

(4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same, or similar, provision (apart from the specified period) to that made by the previous scheme.

(6) Subject to paragraph (8), paragraph (1) applies to—

- (a) regulations made under this Order, other than—
  - (i) regulations made under Article 6(2) or (5) which have the effect of reducing any age-related amount or applicable amount; or
  - (ii) regulations made under Article 29;
- (b) regulations made under the Administration Act, so far as they relate to a jobseekers’s allowance;
- (c) regulations made under Part VII of the Benefits Act (income-related benefits), other than any mentioned in paragraph (7); and
- (d) regulations made under the Administration Act, so far as they relate to income-related benefits payable under Part VII of the Benefits Act.

(7) The regulations referred to in paragraph (6)(c) are—

- (a) regulations under section 127(5) of the Benefits Act which have the effect of reducing the appropriate maximum family credit;

- (b) regulations under section 128(8) of that Act which have the effect of reducing the appropriate maximum disability working allowance;
- (c) regulations under section 129(4) of that Act which have the effect of reducing the appropriate maximum housing benefit; and
- (d) regulations reducing any of the sums prescribed under section 131(1) of that Act.

(8) Paragraph (1) applies only if the regulations are made with a view to ascertaining whether their provisions will, or will be likely to, encourage persons to obtain or remain in work or will, or will be likely to, facilitate the obtaining by persons of work or their remaining in work.

## Part IV

### Miscellaneous and Supplemental

#### Termination of awards

**32.**—(1) Regulations may make provision allowing, in prescribed circumstances, an award of income support to be brought to an end by an adjudication officer where the person to whom it was made, or where he is a member of a married or unmarried couple his partner, will be entitled to a jobseeker's allowance if the award is brought to an end.

(2) Regulations may make provision allowing, in prescribed circumstances, an award of a jobseeker's allowance to be brought to an end by an adjudication officer where the person to whom it was made, or where he is a member of a married or unmarried couple his partner, will be entitled to income support if the award is brought to an end.

(3) In this Article "partner" means the other member of the couple concerned.

#### Insolvency

**33.**—(1) In section 69 of the Administration Act (overpayments), after subsection (10) insert—

“(10A) Where—

- (a) a jobseeker's allowance is payable to a person from whom any amount is recoverable as mentioned in subsection (8) above; and
- (b) that person is subject to a bankruptcy order,

a sum deducted from that benefit under that subsection shall not be treated as income of his for the purposes of the Insolvency (Northern Ireland) Order 1989.”.

(2) In section 74 of the Administration Act (recovery of social fund awards), after subsection (3) insert—

“(3A) Where—

- (a) a jobseeker's allowance is payable to a person from whom an award is recoverable under subsection (3) above; and
- (b) that person is subject to a bankruptcy order, a sum deducted from that benefit under subsection (2) above shall not be treated as income of his for the purposes of the Insolvency (Northern Ireland) Order 1989.”.

#### Inspectors

**34.**—(1) An inspector appointed under section 104 of the Administration Act (appointment and powers of inspectors) shall have power, for purposes of this Order—

- (a) to enter at all reasonable times any premises liable to inspection under this Article,



- (b) to make such examination and inquiry there as may be necessary for ascertaining whether the provisions of this Order are being, or have been, complied with;
- (c) to examine, either alone or (if he thinks fit) in the presence of any other person, in relation to any matters arising under this Order on which he may reasonably require information, any person whom he finds there;
- (d) to exercise such other powers as may be necessary for carrying this Order into effect.

(2) The premises liable to inspection under this Article are anywhere an inspector has reasonable grounds for supposing that—

- (a) one or more persons are employed;
- (b) a trade or business is being carried on;
- (c) a personal or occupational pension scheme is being administered; or
- (d) information relating to the carrying on of any trade or business is kept by the person carrying on that trade or business,

but do not include a private dwelling-house unless the inspector has reasonable grounds for supposing that the dwelling-house is being used for the purposes of a trade or business.

(3) An inspector applying for admission to any premises, in the exercise of his powers under this Article, shall produce his certificate of appointment if asked to do so.

(4) Where any premises—

- (a) are liable to be inspected by an inspector or officer appointed or employed by another government department, or
- (b) are under the control of another government department,

the Department may make arrangements with that department for any of the powers or duties of inspectors under this Article to be exercised or discharged by an inspector or officer employed by that department.

(5) A person to whom this paragraph applies shall—

- (a) furnish to an inspector all such information, and
- (b) produce for his inspection all such documents, as the inspector may reasonably require for purposes of this Order.

(6) Paragraph (5) applies to—

- (a) any licensing authority;
- (b) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services.

(7) Except where paragraph (5) applies, subsections (6) and (7) of section 104 of the Administration Act (furnishing of information about contributions etc.) shall have effect as if this Order were among the legislation mentioned in subsection (8) of that section.

(8) In the application of subsection (7) of section 104 in relation to this Order, the reference in paragraph (a) to section 104 of that Act shall be read as a reference to this Article.

(9) No person shall be required under this Article to answer any questions or to give evidence tending to incriminate himself, or in the case of a person who is married, his or her spouse.

(10) In this Article “licensing authority” means a district council acting in its capacity as an authority responsible for granting any licence.

(11) In this Article, and in subsection (7) of section 104 of the Administration Act, as it applies in relation to this Order, “premises” includes any—

- (a) place;

- (b) moveable structure or tent;
- (c) vehicle, vessel, aircraft or hovercraft;
- (d) installation which is an offshore installation for the purposes of the Mineral Working (Offshore Installations) Act 1971(13).

### Offences

**35.**—(1) A person is guilty of an offence if, for the purpose of obtaining a jobseeker’s allowance (whether for himself or for some other person) or for any other purpose connected with this Order, he—

- (a) makes a statement or representation which he knows to be false; or
- (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular.

(2) A person is guilty of an offence if he—

- (a) intentionally delays or obstructs an inspector in the exercise of any power under Article 34; or
- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under that Article.

(3) Regulations under Article 29 may provide for contravention of any of their provisions to be an offence.

(4) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

(5) A person guilty of an offence under paragraph (2), or under any regulations made under Article 29, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) A person who is convicted of an offence under paragraph (2)(b)—

- (a) is guilty of a further offence if the refusal or neglect is continued by him after his conviction; and
- (b) shall be liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.

(7) A person who is convicted of an offence of contravening any regulations under Article 29 (“the original offence”)—

- (a) is guilty of a further offence if the contravention is continued by him after his conviction, and
- (b) shall be liable to a fine not exceeding £40 for each day on which the contravention is continued, if regulations provide for this paragraph to apply in relation to the original offence.

### Regulations and orders

**36.**—(1) Where any power under this Order to make regulations or orders is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(2) Any such power includes power—

(a) to make such incidental, supplemental, consequential or transitional provision as appears to the Department or Secretary of State to be expedient; and

(b) to provide for a person to exercise a discretion in dealing with any matter.

(3) Any power to make regulations or an order for the purposes of any provision of this Order is without prejudice to any power to make regulations or an order for the purposes of any other provision.

### **Assembly, etc. control**

**37.**—(1) Paragraph (2) applies in relation to the following regulations (whether made alone or with other regulations)—

(a) regulations made under any provision of this Order other than—

(i) Article 8, 9, 28, 31 or 39, or

(ii) paragraph (b) of the definition of “pension payments” in Article 2(2), or

(iii) paragraph 17 of Schedule 1, before the date on which jobseeker’s allowances first become payable;

(b) the first regulations to be made under Article 28;

(c) regulations made under Article 8, 9, 31, paragraph (b) of the definition of “pension payments” in Article 2(2) or paragraph 17 of Schedule 1.

(2) Regulations to which this paragraph applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(3) Regulations or orders made under this Order by the Department, other than orders made under Article 1(2), 11(13) or 21(10)(a) shall be subject to negative resolution.

(4) Regulations made under this Order by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **General financial arrangements**

**38.**—(1) There shall be paid out of the National Insurance Fund and into the Consolidated Fund sums estimated by the Department to balance payments made by it by way of contribution-based jobseeker’s allowance.

(2) The Department shall pay into the National Insurance Fund sums estimated by it to balance sums recovered by it in connection with payments of contribution-based jobseeker’s allowance.

(3) The Department shall pay into the National Insurance Fund sums estimated by it to be equal to the aggregate of the amounts deducted by employers in accordance with regulations under Article 29.

(4) The Department shall pay into the Consolidated Fund sums estimated by it to balance sums recovered by it in connection with payments made by way of income-based jobseeker’s allowance.

(5) Estimates under this Article shall be made by the Department—

(a) in any manner which, after consulting the Government Actuary or the Deputy Government Actuary, the Department considers appropriate and the Department of Finance and Personnel has approved; and

(b) at such times as the Department considers appropriate and the Department of Finance and Personnel has approved.

(6) Payments which are required to be made by this Article shall be made at such times and in such manner as the Department considers appropriate and the Department of Finance and Personnel has approved.

### **Transitional provisions**

**39.**—(1) The Department or the Secretary of State may by regulations make such transitional provision, consequential provision or savings as it or he considers necessary or expedient for the purposes of or in connection with—

- (a) the coming into operation of any provision of this Order; or
  - (b) the operation of any enactment repealed or amended by any such provision during any period when the repeal or amendment is not wholly in operation.
- (2) Regulations under this Article may in particular make provision—
- (a) for the termination or cancellation of awards of unemployment benefit or income support;
  - (b) for a person whose award of unemployment benefit or income support has been terminated or cancelled under regulations made by virtue of sub-paragraph (a) to be treated as having been awarded a jobseeker’s allowance (a “transitional allowance”)—
    - (i) of such a kind,
    - (ii) for such period,
    - (iii) of such an amount, and
    - (iv) subject to such conditions,as may be determined in accordance with the regulations;
  - (c) for a person’s continuing entitlement to a transitional allowance to be determined by reference to such provision as may be made by the regulations;
  - (d) for the termination of an award of a transitional allowance,
  - (e) for the review of an award of a transitional allowance;
  - (f) for a contribution-based jobseeker’s allowance not to be payable for a prescribed period where a person is disqualified for receiving unemployment benefit;
  - (g) that days which were days of unemployment for the purposes of entitlement to unemployment benefit, and such other days as may be prescribed, are to be treated as having been days during which a person was, or would have been, entitled to a jobseeker’s allowance;
  - (h) that days which were days of entitlement to unemployment benefit, and such other days as may be prescribed, are to be treated as having been days of entitlement to a contribution-based jobseeker’s allowance;
  - (i) that the rate of a contribution-based transitional allowance is to be calculated by reference to the rate of unemployment benefit paid or payable.

(3) The power of the Secretary of State to make regulations under this Article is exercisable by statutory instrument.

### **Amendments and repeals**

- 40.**—(1) Schedule 2 makes consequential amendments.
- (2) The repeals in Schedule 3 have effect.

*N. H. Nicholls*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 23.

#### Supplementary Provisions

##### *Remunerative work*

1.—(1) For the purposes of this Order, “remunerative work” has such meaning as may be prescribed.

(2) Regulations may prescribe circumstances in which, for the purposes of this Order—

- (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.

##### *Capacity for work*

2.—(1) The question whether a person is capable or incapable of work shall be determined, for the purposes of this Order, in accordance with the provisions of Part XIIA of the Benefits Act.

(2) References in Part XIIA of the Benefits Act to the purposes of that Act shall be construed, where those provisions have effect for the purposes of this Order by virtue of sub-paragraph (1), as references to the purposes of this Order.

(3) Section 167B of the Benefits Act (incapacity for work: the own occupation test) shall have effect, as applied by sub-paragraph (1) for the purposes of this Order, as if for the references in subsections (3) and (4)(a) to any purpose of the Benefits Act there were substituted references to any purpose of this Order.

##### *Linking periods*

3. Regulations may provide—

- (a) for jobseeking periods which are separated by not more than a prescribed number of weeks to be treated, for purposes of this Order, as one jobseeking period;
- (b) for prescribed periods (“linked periods”) to be linked, for purposes of this Order, to any jobseeking period.

##### *Waiting days*

4. Except in prescribed circumstances, a person is not entitled to a jobseeker’s allowance in respect of a prescribed number of days at the beginning of a jobseeking period.

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

5. Regulations may make provision in relation to—

- (a) entitlement to a jobseeker's allowance, or
- (b) the amount payable by way of such an allowance, in respect of any period of less than a week.

*Employment protection sums*

6.—(1) In relation to any contribution-based jobseeker's allowance, regulations may make provision—

- (a) for any employment protection sum to be treated as earnings payable by such person, to such person and for such period as may be determined in accordance with the regulations; and
  - (b) for any such period, so far as it is not a period of employment, to be treated as a period of employment.
- (2) In this paragraph “employment protection sum” means—
- (a) any sum, or a prescribed part of any sum—
    - (i) payable, in respect of arrears of pay, under an order for reinstatement or re-engagement made under the Industrial Relations (Northern Ireland) Order 1976(14);
    - (ii) payable, by way of pay, under an order made under that Order for the continuation of contract of employment;
    - (iii) payable, by way of remuneration, under a protective award made under Article 51 of that Order; and
  - (b) any prescribed sum which the regulations provide is to be treated as related to any sum within paragraph (a).

*Pension payments*

7. Regulations may make provision, for the purposes of any provision of, or made under, this Order—

- (a) for such sums by way of pension payments to be disregarded for prescribed purposes;
- (b) as to the week in which any pension payments are to be treated as having begun;
- (c) for treating, in a case where—
  - (i) a lump sum is paid to a person in connection with a former employment of his or arrangements are made for a lump sum to be so paid; or
  - (ii) benefits of any description are made available to a person in connection with a former employment of his or arrangements are made for them to be made so available; or
  - (iii) pension payments to a person are assigned, reduced or postponed or are made otherwise than weekly,such payments as being made to that person by way of weekly pension payments as are specified in or determined under the regulations;
- (d) for the method of determining whether pension payments are made to a person for any week and their amount.

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(14) 1976 NI 16.

*Status: This is the original version (as it was originally made).*

### *Exemptions*

8. Regulations may prescribe circumstances in which a person may be entitled to an income-based jobseeker's allowance without—
- (a) being available for employment;
  - (b) having entered into a jobseeker's agreement; or
  - (c) actively seeking employment.
9. Regulations may provide—
- (a) for an income-based jobseeker's allowance to which a person is entitled by virtue of regulations under paragraph 8 to be payable at a prescribed rate;
  - (b) for it to be payable for a prescribed period.

### *Claims yet to be determined and suspended payments*

10.—(1) In such circumstances as may be prescribed, a claimant may be treated as being entitled to an income-based jobseeker's allowance before his claim for a jobseeker's allowance has been determined.

(2) In such circumstances as may be prescribed, an income-based jobseeker's allowance shall be payable to a claimant even though payment to him of a jobseeker's allowance has been suspended by virtue of regulations under section 5(1)(o) of the Administration Act.

(3) A jobseeker's allowance shall be payable by virtue of sub-paragraph (1) or (2) only if the claimant has complied with such requirements as to the provision of information as may be prescribed for the purposes of this paragraph.

(4) Regulations may make provision for a jobseeker's allowance payable by virtue of sub-paragraph (1) or (2) to be—

- (a) payable at a prescribed rate;
- (b) payable for a prescribed period;
- (c) treated as being a contribution-based jobseeker's allowance for the purposes of Article 7.

(5) Regulations may make provision—

- (a) for the recovery, by prescribed means and in prescribed circumstances, of the whole or part of any amount paid by virtue of sub-paragraph (1) or (2);
- (b) for the whole or part of any amount paid by virtue of sub-paragraph (1) to be treated, if an award is made on the claim referred to there, as having been paid on account of the jobseeker's allowance awarded;
- (c) for the whole or part of any amount paid by virtue of sub-paragraph (2) to be treated, if the suspension referred to there is lifted, as having been paid on account of the suspended allowance.

### *Presence in and absence from Northern Ireland*

11.—(1) Regulations may provide that in prescribed circumstances a claimant who is not in Northern Ireland may nevertheless be entitled to a contribution-based jobseeker's allowance.

(2) Regulations may make provision for the purposes of this Order as to the circumstances in which a person is to be treated as being or not being in Northern Ireland.



*Households*

12. Regulations may make provision for the purposes of this Order as to the circumstances in which persons are to be treated as being or not being members of the same household.

*Responsibility for another person*

13. Regulations may make provision for the purposes of this Order as to the circumstances in which one person is to be treated as responsible or not responsible for another.

*Relevant education*

13. Regulations may make provision for the purposes of this Order—
- (a) as to what is or is not to be treated as relevant education; and
  - (b) as to the circumstances in which a person is or is not to be treated as receiving relevant education.

*Calculation of periods*

15. Regulations may make provision for calculating periods for any purpose of this Order.

*Employment on ships, etc.*

16.—(1) Regulations may modify any provision of this Order 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, so far as that provision relates to a contribution-based jobseeker's allowance.
- (2) The regulations may in particular provide—
- (a) for any such provision 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 British consular official or other prescribed person;
  - (d) for enabling payment of the whole, or any part of a contribution-based jobseeker's allowance to be paid to such of the claimant's dependants as may be prescribed.

*Additional conditions*

17. Regulations may require additional conditions to be satisfied with respect to the payment of a jobseeker's allowance to any person who is, has been, or is to be, in employment which falls within a prescribed description.

*Benefits Act purposes*

18. Regulations may provide for—
- (a) a jobseeker's allowance;
  - (b) a contribution-based jobseeker's allowance; or
  - (c) an income-based jobseeker's allowance, to be treated, for prescribed purposes of the Benefits Act, as a benefit, or a benefit of a prescribed description.

SCHEDULE 2

Article 40(1).

Consequential Amendments

*The Industrial Relations (Northern Ireland) Order 1976 (NI 16)*

1.—(1) Article 72 of the Industrial Relations (Northern Ireland) Order 1976 (recoupment of certain benefits) is amended as follows.

(2) In paragraphs (1) to (5) and (7), for “unemployment benefit” substitute, in each place, “jobseeker’s allowance”.

(3) In paragraph (1)(b), for “either benefit” substitute “jobseeker’s allowance or income support”.

(4) In paragraph (2)(b), after “recoupment of” insert “an income-based jobseeker’s allowance or”.

(5) In paragraph (4), after “reference to the” insert “jobseeker’s allowance or”.

(6) In paragraph (7), in the appropriate place, insert—

““income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

*The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)*

2.—(1) The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 is amended as follows.

(2) In Article 3(1)(b) (persons eligible for advice and assistance), after “income support” insert “, an income-based jobseeker’s allowance (payable under the Jobseekers (Northern Ireland) Order 1995)”.

(3) In Article 7(2) (contributions from persons receiving advice or assistance), after “income support” insert “, an income-based jobseeker’s allowance (payable under the Jobseekers (Northern Ireland) Order 1995)”.

(4) In Article 14(5) (regulations as to cases in which persons are to be taken to be in receipt of income support), after “income support” insert “, an income-based jobseeker’s allowance (payable under the Jobseekers (Northern Ireland) Order 1995)”.

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

3. In Article 131(3) of the Education Reform (Northern Ireland) Order 1989 (charges and remissions: parents receiving benefit), after “family credit” insert “or an income-based jobseeker’s allowance (payable under the Jobseekers (Northern Ireland) Order 1995)”.

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

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

(2) In Article 2(2) (interpretation), after the definition of “income support” insert—

““income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

(3) In Article 9(1) (applications by those receiving benefit), after “income support,” insert “an income-based jobseeker’s allowance,”.

(4) In Article 16(2) (use by Department of information acquired under other enactments), after “benefit Acts” insert “or the Jobseekers (Northern Ireland) Order 1995”.

(5) In Article 43(11) (definitions), in the definition of “relevant benefit”, after “income support,” insert “an income-based jobseeker’s allowance.”

(6) In Article 44(2)(b) (regulations about fees), after “income support,” insert “an income-based jobseeker’s allowance.”

(7) In paragraph 5(4) of Schedule 1 (assessable income), after “income support” insert “, an income-based jobseeker’s allowance”.

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

**5.** In section 22 of the Benefits Act (earnings factors), in subsections (2)(a) and (5) , after “entitlement to” insert, in each place, “a contribution-based jobseeker’s allowance or to”.

**6.** In section 61 of the Benefits Act (exclusion of increase of benefit for failure to satisfy contribution condition), for subsection (2) substitute—

“(2) Where a person is entitled to short-term incapacity benefit at a rate determined under section 30B(3) above and the retirement pension by reference to which the rate of the benefit is determined—

(a) would have been payable only by virtue of section 60 above, and

(b) would, in consequence of a failure to satisfy a contribution condition, have contained no basic pension,

the benefit shall not be increased under section 47(1) above or under Part IV below on account of a child or an adult.”.

**7.** In section 82 of the Benefits Act (short-term benefit: increase for adult dependants), for subsection (2) substitute—

“(2) Subject, in particular, to subsection (5) and section 87 below, the weekly rate of a maternity allowance shall be increased by the amount specified in relation to that benefit in Schedule 4, Part IV, column (3) (“the amount of the relevant increase”) for any period to which this subsection applies by virtue of subsection (3) or (4) below.”

**8.** In section 84 of the Benefits Act (pension increase for dependent husband), for subsection (1) (a) substitute—

“(a) which began immediately on the termination of a period for which the pensioner was entitled to an increase in incapacity benefit by virtue of any provision of regulations under section 86A below prescribed for the purposes of this paragraph, and”.

**9.** In section 87 of the Benefits Act (rate of increase where associated retirement pension is attributable to reduced contributions), for subsection (1)(a) substitute—

“(a) is entitled to short-term incapacity benefit under section 30A(2)(b) above; and”.

**10.** In section 91 of the Benefits Act (effect of trade disputes on entitlement to dependency increases), for subsection (2) substitute—

“(2) A person falls within the subsection if—

(a) he is prevented for being entitled to a jobseeker’s allowance by Article 16 of the Jobseekers (Northern Ireland) Order 1995 (trade disputes); or

(b) he would be so prevented if he were otherwise entitled to that benefit.”.

**11.** In section 116 of the Benefits Act (application to Her Majesty’s forces), in subsection (2), for the words following “provide” substitute—

*Status: This is the original version (as it was originally made).*

“, in the case of persons who are employed earners in respect of their membership of those forces, for reducing the rate of the contributions payable in respect of their employment and for determining—

- (a) the amounts payable on account of those contributions by the Secretary of State and the time and manner of payment, and
- (b) the deduction (if any) to be made on account of those contributions from the pay of those persons.”.

**12.** In section 121(1) of the Benefits Act (interpretation of Parts I to VI of that Act), after the definition of “contract of service” insert—

““contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

**13.—**(1) Section 123 of the Benefits Act (entitlement to income support) is amended as follows.

(2) For subsection (1)(a) substitute—

“(a) he is of or over the age of 16;”.

(3) Omit “and” at the end of subsection (1)(c).

(4) For subsection (1)(d) substitute—

“(d) except in such circumstances as may be prescribed, he is not receiving relevant education;”.

(5) After subsection (1)(d) insert—

“(e) he falls within a prescribed category of person; and

(f) he is not entitled to a jobseeker’s allowance and, if he is a member of a married or unmarried couple, the other member of the couple is not entitled to an income-based jobseeker’s allowance.”.

**14.** In section 125 of the Benefits Act (income support: trade disputes)—

(a) in subsection (1)(a), for “is disqualified under section 27 above for receiving unemployment benefit” substitute “is prevented from being entitled to a jobseeker’s allowance by Article 16 of the Jobseekers (Northern Ireland) Order 1995 (trade disputes)”; and

(b) in subsection (1)(b), for “disqualified” substitute “prevented”.

**15.** In section 126 of the Benefits Act (effect of return to work), for “disqualified for receiving unemployment benefit” substitute “prevented from being entitled to a jobseeker’s allowance”.

**16.** In section 127 of the Benefits Act (family credit), in subsection (4)(b), after “income support” insert “, an income-based jobseeker’s allowance”.

**17.** In section 128 of the Benefits Act (disability working allowance), in subsections (2)(a)(iii) and (7)(b), after “income support” insert, in each place, “,an income-based jobseeker’s allowance”.

**18.—**(1) Section 133 of the Benefits Act (interpretation of Part VII and supplementary provisions) is amended as follows.

(2) In subsection (1), after the definition of “family” insert—

““income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

(3) For subsection (2)(d) substitute—

“(d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work;”.

**19.**—(1) Schedule 7 to the Benefits Act (industrial injuries benefit) is amended as follows.

(2) In paragraph 3(10), for “it has for the purposes of unemployment benefit” substitute a “a jobseeking period and any period linked to such a period has for the purposes of the Jobseekers (Northern Ireland) Order 1995”.

(3) For paragraph 13(1) substitute—

“(10) “Day of interruption of employment” means a day which forms part of—

(a) a jobseeking period (as defined by the Jobseekers (Northern Ireland) Order 1995),  
or

(b) a linked period (as defined by that Order).”.

**20.** In Schedule 13 to the Benefits Act (relationship of statutory maternity pay with benefits and other payments), for paragraph 1 substitute—

“**1.** Except as may be prescribed, a day which falls within the maternity pay period shall not be treated as a day of incapacity for work for the purposes of determining, for this Act, whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.”.

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

**21.** In section 1 of the Administration Act (entitlement to benefit dependent on claim), in the definition of “benefit” in subsection (4), after “Benefits Act,” insert—

“(aa) a jobseeker’s allowance;”.

**22.** In section 5 of the Administration Act (claims and payments regulations), after subsection (2) (a) insert—

“(aa) a jobseeker’s allowance;”.

**22.** In section 5 of the Administration Act (claims and payments regulations), after subsection (2) (a) insert—

**23.**—(1) Section 13A of the Administration Act (payment out of benefit of sums in respect of mortgage interest, etc.) is amended as follows.

(2) In subsection (1) after “income support” insert (in each place) “or an income-based jobseeker’s allowance”.

(3) In the definition of “qualifying associate”, in subsection (4)—

(a) after “support” insert “or an income-based jobseeker’s allowance” ; and

(b) after “Act” insert “or (as the case may be) under the Jobseekers (Northern Ireland) Order 1995.”.

(4) In the definition of “relevant benefits” in subsection (4), after “Act;” insert—

“(aa) a jobseeker’s allowance;”.

**24.** In section 15(1) of the Administration Act (questions for adjudication by the Department), omit “and” at the end of paragraph (g) and after paragraph (h) insert—

“;and

(i) any question arising under Article 29 of the Jobseekers (Northern Ireland) Order 1995, or under any provision of regulations under that Article, as to—

(i) whether a person is, or was, an employee or employer of another;

(ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under Article 29 of that Order;

*Status: This is the original version (as it was originally made).*

- (iii) whether a payment falls to be made to an employer in accordance with those regulations;
- (iv) the amount that falls to be so deducted or paid; or
- (v) whether two or more employers are, by virtue of regulations under Article 29 of that Order, to be treated as one.”.

**25.**—(1) Section 18 of the Administration Act (claims and questions to be submitted to the adjudication officer) is amended as follows.

(2) In subsection (1), omit “and” at the end of paragraph (b) and after paragraph (c) insert—  
“; and

(d) any question whether a jobseeker’s allowance is not payable to a person by virtue of Article 21 of the Jobseekers (Northern Ireland) Order 1995.”.

(3) In subsection (2), after “which”, insert—

(a) “may be determined by an adjudication officer under Article 11(6) or 12(5) of the Jobseekers (Northern Ireland) Order 1995; or”.

(b)

(4) After subsection (6)(a) insert—

“(aa) a jobseeker’s allowance;”.

**26.** In section 23 of the Administration Act (review of decisions), in subsection (1)(e), for “section 25A(4) or (5) of the Contributions and Benefits Act” substitute “Article 8(6) or 9(7) of the Jobseekers (Northern Ireland) Order 1995”.

**27.** In section 56 of the Administration Act (determination of questions and matters arising out of, or pending, reviews and appeals)—

(a) in subsection (1), after “Benefits Act” insert “, the Jobseekers (Northern Ireland) Order 1995” ; and

(b) in subsection (4), after “unemployment benefit” insert “or a jobseeker’s allowance”.

**28.** In section 59 of the Administration Act (supplementary matters relating to determinations), after subsection (4)(a) insert—

“(aa) a jobseeker’s allowance;”.

**29.** In section 66 of the Administration Act (restrictions on entitlement to benefit in certain cases of error), in the definition of “benefit” in subsection (4), after “Act;” insert—

“(aa) a jobseeker’s allowance;”.

**30.** In section 68 of the Administration Act (correction of errors and setting aside of decisions), in subsection (3), omit “or” at the end and after paragraph (1) insert—

“; or

(m) the Jobseekers (Northern Ireland) Order 1995.”.

**31.** In section 69 of the Administration Act (recovery of overpayments), after subsection (11) (a) insert—

“(aa) subject to section 69A below, a jobseeker’s allowance;”.

**32.**—(1) Section 71 of the Administration Act (adjustment of benefits) is amended as follows.

(2) In subsection (1)—

(a) after “Act” insert “, or a contribution-based jobseeker’s allowance;” ; and

- (b) for “its receipt” substitute “receipt of that benefit”.
- (3) For subsection (4) substitute—
  - “(4) Regulations may provide for adjusting—
    - (a) benefit as defined in section 121 of the Contributions and Benefits Act; or
    - (b) a contribution-based jobseeker’s allowance,payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.”.
- 33.** In section 72 (recovery and abatement of income support), in subsections (1)(b), (2)(b) and (3) after “support” insert, in each place, “or an income-based jobseeker’s allowance”.
- 34.** In section 74 of the Administration Act (recovery of social fund awards), in subsection (6) (d), after “support” insert “or an income-based jobseeker’s allowance”.
- 35.** In section 77(1) of the Administration Act (interpretation of Part IV), in the definition of “benefit” after “means” insert “a jobseeker’s allowance or”.
- 36.**—(1) Section 100 of the Administration Act (failure to maintain) is amended as follows.
  - (2) In subsection (1)(b), after “support” insert “or an income-based jobseeker’s allowance”.
  - (3) In subsection (3), at the beginning insert “Subject to subsection (4) below,”.
  - (4) After subsection (3) insert—
    - “(4) For the purposes of this section, in its application to an income-based jobseeker’s allowance, a person is liable to maintain another if that other person is his or her spouse.”.
- 37.** In section 104 of the Administration Act (appointment and powers of inspectors), add at the end of subsection (9) “;but “relevant benefit” does not include a jobseeker’s allowance”.
- 38.**—(1) Section 110 of the Administration Act (legal proceedings) is amended as follows.
  - (2) In subsection (1), after “Act” insert “or the Jobseekers (Northern Ireland) Order 1995”.
  - (3) In subsection (2)(a), after “housing benefit” insert “, for an offence under the Jobseekers (Northern Ireland) Order 1995,”.
- 39.** In section 111 of the Administration Act (questions arising in proceedings), in subsection (1) (a), after “Act” insert “or the Jobseekers (Northern Ireland) Order 1995”.
- 40.**—(1) Section 116 of the Administration Act (disclosure of information by Inland Revenue) is amended as follows.
  - (2) In subsection (1)(c)—
    - (a) after “Benefits Act” insert “, the Jobseekers (Northern Ireland) Order 1995” ; and
    - (b) for “either of them” substitute “either of those Acts or that Order”.
  - (3) In subsection (3)(b)—
    - (a) after “Benefits Act” insert “, the Jobseekers (Northern Ireland) Order 1995” ; and
    - (b) for “either of them” substitute “either of those Acts or that Order”.
- 41.** In section 118(1) of the Administration Act (notification of deaths)—
  - (a) after “Benefits Act” insert “, Parts II and III of the Jobseekers (Northern Ireland) Order 1995” ; and
  - (b) for “either of them” substitute “either of those Acts or those Parts”.

*Status: This is the original version (as it was originally made).*

**42.** In section 119 of the Administration Act (information to be provided by personal representatives in certain cases), in subsection (1), after “support” insert, “an income-based jobseeker’s allowance”.

**43.** In section 120 of the Administration Act (information for purposes of housing benefit), in subsections (1) and (2), after “Benefits Act” insert, in each place, “, the Jobseekers (Northern Ireland) Order 1995”.

**44.** In section 144(1) of the Administration Act (destination of repayments), after “Subject to” insert “Article 38 of the Jobseekers (Northern Ireland) Order 1995 and to”.

**45.** In section 149 of the Administration Act (functions of the Social Security Advisory Committee), in subsection (5), after “payments;” insert—

“(aa) the provisions of the Jobseekers (Northern Ireland) Order 1995;”.

**46.—**(1) Section 153(4) of the Administration Act (co-ordination with Great Britain) is amended as follows.

(2) In paragraph (a), after “Benefits Act” insert “, the Jobseekers (Northern Ireland) Order 1995”.

(3) In paragraph (b), after “Benefits Act” insert “, the Jobseekers Act 1995”.

(4) After “income support;” insert—

“(ia) income-based jobseeker’s allowance;”.

**47.—**(1) Section 154 of the Administration Act (reciprocal arrangements with Great Britain) is amended as follows.

(2) In subsection (1), after “Benefits Act” insert “, the Jobseekers (Northern Ireland) Order 1995”.

(3) After subsection (2)(a) insert—

“(aa) income-based jobseeker’s allowance;”.

(4) In subsection (3), after “this Act” insert (in each place) “, the Jobseekers (Northern Ireland) Order 1995”.

**48.—**(1) Section 155 of the Administration Act (reciprocal agreements with countries outside the United Kingdom) is amended as follows.

(2) In subsection (3), after “this Act” insert “, the Jobseekers (Northern Ireland) Order 1995”.

(3) In subsection (4), after “Benefits Act;” insert—

“(aa) to the Jobseekers (Northern Ireland) Order 1995;”.

(4) After subsection (5)(a) insert—

“(aa) jobseeker’s allowance;”.

**49.** In section 156 of the Administration Act (payment of travelling expenses by Department), after “Benefits Act” (in both places) insert “, the Jobseekers (Northern Ireland) Order 1995”.

**50.** In section 163 of the Administration Act (certain benefit to be inalienable), after subsection (1)(a) insert—

“(aa) a jobseeker’s allowance;”.

**51.—**(1) Section 167(1) of the Administration Act (interpretation) is amended as follows.

(2) In the definition of “benefit”, after “Act” insert “and includes a jobseeker’s allowance”.

(3) After the definition of “Consolidated Fund” insert—



““contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

(4) After the definition of “the Housing Executive” insert—

““income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;”.

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

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

(2) In Article 2(2) (interpretation), after the definition of “ill-treatment” insert—

““income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995”.

(3) In Article 18(9) (person receiving benefit not to be liable to repay assistance), at the end add “or of an income-based jobseeker’s allowance”.

(4) In Article 24(3) (person receiving benefit not to be liable to repay charges), at the end add “or of an income-based jobseeker’s allowance”.

(5) In Article 39(4) (person receiving benefit not to be liable to make contributions), at the end add “or of an income-based jobseeker’s allowance”.

SCHEDULE 3

Article 40(2).

Repeals

Chapter or Number	Short title	Extent of repeal
1976 NI 16.	The Industrial Relations (Northern Ireland) Order 1976.	In Article 72(7), the definition of “unemployment benefit”.
1992 c. 7.	The Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In section 20, subsection (1) (a) and in subsection (2), in the definition of “short-term benefit”, paragraph (a).  In section 21(2), in the Table relating to short-term benefits, the entry relating to unemployment benefit.  Section 25.  Section 25A.  Section 25B.  Sections 26 to 30.  Section 80(2)(a).  Section 82(1).  In section 123, “and” at the end of subsection (1)(c) and subsections (2) and (3).

**Status:** This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
		Section 124.
		In section 159(1), the definition of “period of interruption of employment”.
		In Schedule 3, paragraph 1.
		In Schedule 4, paragraph 1 of Part I and paragraph 1 of Part IV.
		In Schedule 11, in paragraph 2(g), “; within the meaning of section 27 above,”.
		In Schedule 12, in paragraph 1, “a period of interruption of employment for the purposes of unemployment benefit or”.
1992 c. 8.	The Social Security Administration (Northern Ireland) Act 1992.	In section 15(1)(g), “and” at the end.
		In section 18(1)(b), “and” at the end.
		In section 68(3)(k), “or” at the end.
		In section 69(11)(b), “subject to section 70 below,”.
		Section 70.
1994 NI 12.	The Social Security (Incapacity for Work) (Northern Ireland) Order 1994.	In Schedule 1, paragraphs 4 to 6, 19, 21, 24(2) and (4), 30, 35 to 37, 39, 41, 44(2) and 46.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which is made only for purposes corresponding to those of the Jobseekers Act 1995, introduces the jobseeker’s allowance, which replaces unemployment benefit and income support for unemployed people. It also makes provision to promote the employment of the unemployed.