

## 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.

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*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<sup>[F1]</sup> Employment Rights (Northern Ireland) Order 1996];
    - (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<sup>[F1]</sup> Article 217] of that Order; and
  - (b) any prescribed sum which the regulations provide is to be treated as related to any sum within paragraph (a).

<b>F1</b> 1996 NI 16
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*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;

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- (d) for the method of determining whether pension payments are made to a person for any week and their amount.

### 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.

[<sup>F2</sup>8A.—(1) Regulations may prescribe circumstances in which a joint-claim couple may be entitled to a joint-claim jobseeker's allowance without each member of the couple satisfying all the conditions referred to in Article 3(2B)(b).

(2) Regulations may prescribe circumstances in which, and a period for which, a transitional case couple may be entitled to a joint-claim jobseeker's allowance without having jointly made a claim for it.

(3) In sub-paragraph (2)—

- (a) “a transitional case couple” means a joint-claim couple a member of which is entitled to an income-based jobseeker's allowance on the coming into operation of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; and
- (b) “period” shall be construed in accordance with Article 5(3).]

**F2** 1999 NI 11

VALID FROM 13/08/2010

[<sup>F3</sup>8B.—(1) This paragraph applies if domestic violence has been inflicted on or threatened against a person (“V”) in prescribed circumstances.

(2) The Department must exercise the powers to make regulations under Articles 8(4) and 9(4) so as to secure that, for an exempt period, V is treated as—

- (a) being available for employment; and
- (b) actively seeking employment.

(3) If V has not entered into a jobseeker's agreement before the exempt period begins, the Department must also exercise the power to make regulations under Article 11(10) so as to secure that V is treated as having entered into a jobseeker's agreement which is in force for the exempt period.

(4) In this paragraph—

“domestic violence” has such meaning as may be prescribed;

“exempt period” means a period of 13 weeks beginning no later than a prescribed period after the date (or last date) on which the domestic violence was inflicted or threatened.

(5) Regulations may make provision for the purposes of this paragraph prescribing circumstances in which domestic violence is, or is not, to be regarded as being inflicted on or threatened against a person.]

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**F3** Sch. 1 para. 8B inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 23(1), 36(1)(h)

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<sup>[F4]</sup> or 8A] to be payable at a prescribed rate;
- (b) for it to be payable for a prescribed period.

**F4** 1999 NI 11

*[<sup>F5</sup>Continuity of claims and awards: persons ceasing to be a joint-claim couple*

**F5** 1999 NI 11

**9A.**—(1) Regulations may make provision about the entitlement to a jobseeker's allowance of persons ( “ex-members”) who cease to be members of a joint-claim couple.

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

- (a) for treating each or either of the ex-members as having made any claim made by the couple or, alternatively, for any such claim to lapse;
- (b) for any award made in respect of the couple to be replaced by an award (a “replacement award”) in respect of each or either of the ex-members of the couple or, alternatively, for any such award to lapse.]

*Continuity of claims and awards: persons again becoming a joint-claim couple*

**9B.**—(1) Regulations may make provision about the entitlement to a jobseeker's allowance of persons ( “ex-members”) who, having ceased to be members of a joint-claim couple, again become the members of a joint-claim couple.

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

- (a) for any claim made by the ex-members when they were previously a joint-claim couple to be revived or otherwise given effect as a claim made by the couple;
- (b) for any award made in respect of the ex-members when they were previously a joint-claim couple to be restored;
- (c) for any such award, or any replacement award (within the meaning of paragraph 9A) made in respect of either of them, to be replaced by an award (a “new award”) in respect of the couple.

*Continuity of claims and awards: couple becoming a joint-claim couple*

**9C.**—(1) Regulations may make provision about the entitlement to a jobseeker's allowance of persons who become members of a joint-claim couple as a result of the<sup>[F6]</sup> couple] of which they are members becoming a joint-claim couple.

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

- (a) for any claim made by either member of the couple before the couple became a joint-claim couple to be given effect as a claim made by the couple;

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- (b) for any award, or any replacement award (within the meaning of paragraph 9A), made in respect of either member of the couple before the couple became a joint-claim couple to be replaced by an award (a “new award”) in respect of the couple.

F6 2004 c.33

*Paragraphs 9A to 9C: supplementary*

**9D.**—(1) Regulations may provide, in relation to any replacement award (within the meaning of paragraph 9A) or new award (within the meaning of paragraph 9B or 9C)—

- (a) for the award to be of an amount determined in a prescribed manner;
- (b) for entitlement to the award to be subject to compliance with prescribed requirements as to the provision of information and evidence.

(2) In paragraphs 9A to 9C and this paragraph—

“award” means an award of a jobseeker's allowance;

“claim” means a claim for a jobseeker's allowance.

*Claims yet to be determined and suspended payments*

**10.**—<sup>F7</sup>(1) In such circumstances as may be prescribed—

- (a) a claimant for a jobseeker's allowance other than a joint-claim jobseeker's allowance,
- (b) a joint-claim couple claiming a joint-claim jobseeker's allowance, or
- (c) a member of such a couple,

may be treated as being entitled to an income-based jobseeker's allowance before his or (as the case may be) the couple's claim for the allowance has been determined.]

(2) In such circumstances as may be prescribed, an income-based jobseeker's allowance shall be<sup>F7</sup> payable<sup>F7</sup> to—

- (a) a claimant of a jobseeker's allowance other than a joint-claim jobseeker's allowance,
- (b) a joint-claim couple claiming a joint-claim jobseeker's allowance, or
- (c) a member of such a couple,

even though payment to him or (as the case may be) the couple] of a jobseeker's allowance has been suspended by virtue of regulations under<sup>F8</sup> 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<sup>F7</sup> or (as the case may be) the couple or the member of the couple] 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—

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- (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.

**F7** 1999 NI 11  
**F8** prosp. in pt. subst. by 1998 NI 10

#### *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*

**14.** 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.

VALID FROM 13/08/2010

#### *<sup>F9</sup>Good or just cause for acts or omission*

**F9** Sch. 1 para. 14B and cross-heading inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 24(1), 36(1)(i)

**14B.**—(1) This paragraph applies to any regulations made under this Order that prescribe matters to be taken into account in determining whether a person has good cause or just cause for any act or omission (including any failure to comply with the regulations).

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- (2) The provision made by the regulations prescribing those matters must include provision relating to—
- (a) the person's physical or mental health or condition;
  - (b) the availability of childcare.]

*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.

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VALID FROM 13/08/2010

*[<sup>F10</sup>Treatment of information supplied as information relating to social security*

**F10** Sch. 1 para. 19 and preceding cross-heading added (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), **ss. 28(3), 36(1)(k)**

**19** Information supplied in pursuance of any provision made by or under this Order shall be taken for all purposes to be information relating to social security.]

*Schedule 2—Amendments*

*Schedule 3—Repeals*



**Status:**

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