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## STATUTORY INSTRUMENTS

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# 2015 No. 2006

## The Welfare Reform (Northern Ireland) Order 2015

### PART 1 **N.I.**

#### General

#### Citation **N.I.**

1. This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015.

#### Commencement **N.I.**

- 2.—(1) Part 1 comes into force on the day after the day on which this Order is made.  
(2) The remaining provisions of this Order come into force on such day or days as the Department may by order appoint.  
(3) An order under paragraph (2) may appoint different days for different areas in relation to—
  - (a) any provision of Part 2 (universal credit) or of Part 1 of Schedule 12;
  - (b) Article 66 or 67 (entitlement to work: jobseeker's allowance and employment and support allowance);
  - (c) Article 107 (consideration of revision before appeal).  
(4) An order under paragraph (2) may make such transitory or transitional provision, or savings, as the Department considers necessary or expedient.

#### Extent **N.I.**

- 3.—(1) This Order extends to Northern Ireland, subject to paragraph (2).  
(2) An amendment, repeal or revocation by this Order has the same extent as the provision to which it relates.

#### Transitory provision **N.I.**

- 4.—(1) Until such date as the Secretary of State may by order made by statutory instrument appoint, a function conferred on a Northern Ireland department to make regulations or an order under—
  - (a) this Order, is to be exercised by the Secretary of State rather than by the Northern Ireland department;
  - (b) any other statutory provision relating to social security or child support maintenance in Northern Ireland, may be exercised by the Secretary of State (as well as by the Northern Ireland department otherwise entitled to exercise the function).  
(2) Paragraph (1)(a) does not apply to regulations under Article 135 (discretionary support) or 137 (payments to persons suffering financial disadvantage).

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(3) The following requirements do not apply to regulations or an order made by the Secretary of State by virtue of paragraph (1)(a) or (b).

(4) The requirements are—

- (a) the regulations are, or the order is, subject to negative resolution or affirmative resolution;
- (b) the regulations are, or the order is, subject to the confirmatory procedure (as defined in Article 49(5));
- (c) the regulations or order may not be made unless a draft has been laid before, and approved by a resolution of, the Assembly;
- (d) the regulations are, or the order is, to be made with the consent or approval of, or in conjunction with, a Northern Ireland department.

(5) Statutory rules made by the Secretary of State by virtue of paragraph (1)(a) or (b) are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946 applies accordingly.

(6) Sub-paragraph (5) does not apply to an order under Article 2(2).

(7) A statutory instrument which contains an order under paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) An order made by statutory instrument under paragraph (1) may contain consequential, transitory or transitional provisions or savings.

## **General interpretation** **N.I.**

5. In this Order—

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

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

“the Department” means the Department for Social Development;

“the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

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VALID FROM 02/05/2016

## **PART 2** **N.I.**

### Universal credit

#### **CHAPTER 1** **N.I.**

#### Entitlement and awards

##### *Introductory*

VALID FROM 27/09/2017

#### **Universal credit** **N.I.**

- 6.—(1) A benefit known as universal credit is payable in accordance with this Part.
- (2) Universal credit may, subject as follows, be awarded to—
- (a) an individual who is not a member of a couple (a “single person”), or
  - (b) members of a couple jointly.
- (3) An award of universal credit is, subject as follows, calculated by reference to—
- (a) a standard allowance,
  - (b) an amount for responsibility for children or young persons,
  - (c) an amount for housing, and
  - (d) amounts for other particular needs or circumstances.

#### **Claims** **N.I.**

- 7.—(1) A claim may be made for universal credit by—
- (a) a single person, or
  - (b) members of a couple jointly.
- (2) Regulations may specify circumstances in which a member of a couple may make a claim as a single person.

##### *Entitlement*

VALID FROM 27/09/2017

#### **Entitlement** **N.I.**

- 8.—(1) A single claimant is entitled to universal credit if the claimant meets—
- (a) the basic conditions, and
  - (b) the financial conditions for a single claimant.
- (2) Joint claimants are jointly entitled to universal credit if—

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- (a) each of them meets the basic conditions, and
- (b) they meet the financial conditions for joint claimants.

### **Basic conditions** **N.I.**

**9.—**(1) For the purposes of Article 8, a person meets the basic conditions who—

- (a) is at least 18 years old,
- (b) has not reached the qualifying age for state pension credit,
- (c) is in Northern Ireland,
- (d) is not receiving education, and
- (e) has accepted a claimant commitment.

(2) Regulations may provide for exceptions to the requirement to meet any of the basic conditions (and, for joint claimants, may provide for an exception for one or both).

(3) For the basic condition in paragraph (1)(a) regulations may specify a different minimum age for prescribed cases.

(4) For the basic condition in paragraph (1)(b) the qualifying age for state pension credit is that referred to in section 1(6) of the State Pension Credit Act (Northern Ireland) 2002.

(5) For the basic condition in paragraph (1)(c) regulations may—

- (a) specify circumstances in which a person is to be treated as being or not being in Northern Ireland;
- (b) specify circumstances in which temporary absence from Northern Ireland is disregarded;
- (c) modify the application of this Part in relation to a person not in Northern Ireland who is by virtue of sub-paragraph (b) entitled to universal credit.

(6) For the basic condition in paragraph (1)(d) regulations may—

- (a) specify what “receiving education” means;
- (b) specify circumstances in which a person is to be treated as receiving or not receiving education.

(7) For the basic condition in paragraph (1)(e) regulations may specify circumstances in which a person is to be treated as having accepted or not accepted a claimant commitment.

### **Financial conditions** **N.I.**

**10.—**(1) For the purposes of Article 8, the financial conditions for a single claimant are that—

- (a) the claimant's capital, or a prescribed part of it, is not greater than a prescribed amount, and
- (b) the claimant's income is such that, if the claimant were entitled to universal credit, the amount payable would not be less than any prescribed minimum.

(2) For those purposes, the financial conditions for joint claimants are that—

- (a) their combined capital, or a prescribed part of it, is not greater than a prescribed amount, and
- (b) their combined income is such that, if they were entitled to universal credit, the amount payable would not be less than any prescribed minimum.

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### **Restrictions on entitlement** **N.I.**

- 11.—(1) Entitlement to universal credit does not arise—
- (a) in prescribed circumstances (even though the requirements in Article 8 are met);
  - (b) if the requirements in Article 8 are met for a period shorter than a prescribed period;
  - (c) for a prescribed period at the beginning of a period during which those requirements are met.
- (2) A period prescribed under paragraph (1)(b) or (c) may not exceed 7 days.
- (3) Regulations may provide for exceptions to paragraph (1)(b) or (c).

### *Awards*

### **Basis of awards** **N.I.**

- 12.—(1) Universal credit is payable in respect of each complete assessment period within a period of entitlement.
- (2) In this Part an “assessment period” is a period of a prescribed duration.
- (3) Regulations may make provision—
- (a) about when an assessment period is to start;
  - (b) for universal credit to be payable in respect of a period shorter than an assessment period;
  - (c) about the amount payable in respect of a period shorter than an assessment period.
- (4) In paragraph (1) “period of entitlement” means a period during which entitlement to universal credit subsists.

### **Calculation of awards** **N.I.**

- 13.—(1) The amount of an award of universal credit is to be the balance of—
- (a) the maximum amount (see paragraph (2)), less
  - (b) the amounts to be deducted (see paragraph (3)).
- (2) The maximum amount is the total of—
- (a) any amount included under Article 14 (standard allowance),
  - (b) any amount included under Article 15 (responsibility for children and young persons),
  - (c) any amount included under Article 16 (housing costs), and
  - (d) any amount included under Article 17 (other particular needs or circumstances).
- (3) The amounts to be deducted are—
- (a) an amount in respect of earned income calculated in the prescribed manner (which may include multiplying some or all earned income by a prescribed percentage), and
  - (b) an amount in respect of unearned income calculated in the prescribed manner (which may include multiplying some or all unearned income by a prescribed percentage).
- (4) In paragraph (3)(a) and (b) the references to income are—
- (a) in the case of a single claimant, to income of the claimant, and
  - (b) in the case of joint claimants, to combined income of the claimants.

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### *Elements of an award*

#### **Standard allowance** **N.I.**

**14.—(1)** The calculation of an award of universal credit is to include an amount by way of an allowance for—

- (a) a single claimant, or
- (b) joint claimants.
- (2) Regulations are to specify the amount to be included under paragraph (1).
- (3) Regulations may provide for exceptions to paragraph (1).

#### **Responsibility for children and young persons** **N.I.**

**15.—(1)** The calculation of an award of universal credit is to include an amount for each child or qualifying young person for whom a claimant is responsible.

- (2) Regulations may make provision for the inclusion of an additional amount if such a child or qualifying young person is disabled.
- (3) Regulations are to specify, or provide for the calculation of, amounts to be included under paragraph (1) or (2).
- (4) Regulations may provide for exceptions to paragraph (1).
- (5) In this Part, “qualifying young person” means a person of a prescribed description.

#### **Housing costs** **N.I.**

**16.—(1)** The calculation of an award of universal credit is to include an amount in respect of any liability of a claimant to make payments in respect of the accommodation the claimant occupies as his or her home.

- (2) For the purposes of paragraph (1)—
  - (a) the accommodation must be in Northern Ireland;
  - (b) the accommodation must be residential accommodation;
  - (c) it is immaterial whether the accommodation consists of the whole or part of a building and whether or not it comprises separate and self-contained premises.
- (3) Regulations may make provision as to—
  - (a) what is meant by payments in respect of accommodation for the purposes of this Article (and, in particular, the extent to which such payments include mortgage payments);
  - (b) circumstances in which a claimant is to be treated as liable or not liable to make such payments;
  - (c) circumstances in which a claimant is to be treated as occupying or not occupying accommodation as his or her home (and, in particular, for temporary absences to be disregarded);
  - (d) circumstances in which land used for the purposes of any accommodation is to be treated as included in the accommodation.
- (4) Regulations are to provide for the determination or calculation of any amount to be included under this Article.
- (5) Regulations may—
  - (a) provide for exceptions to paragraph (1);

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- (b) provide for inclusion of an amount under this Article in the calculation of an award of universal credit—
  - (i) to end at a prescribed time, or
  - (ii) not to start until a prescribed time.

**Other particular needs or circumstances** **N.I.**

17.—(1) The calculation of an award of universal credit is to include amounts in respect of such particular needs or circumstances of a claimant as may be prescribed.

- (2) The needs or circumstances prescribed under paragraph (1) may include—
  - (a) the fact that a claimant has limited capability for work;
  - (b) the fact that a claimant has limited capability for work and work-related activity;
  - (c) the fact that a claimant has regular and substantial caring responsibilities for a severely disabled person.
- (3) Regulations are to specify, or provide for the determination or calculation of, any amount to be included under paragraph (1).
- (4) Regulations may—
  - (a) provide for inclusion of an amount under this Article in the calculation of an award of universal credit—
    - (i) to end at a prescribed time, or
    - (ii) not to start until a prescribed time;
  - (b) provide for the manner in which a claimant's needs or circumstances are to be determined.

**CHAPTER 2** **N.I.**

Claimant responsibilities

*Introductory*

**Work-related requirements: introductory** **N.I.**

18.—(1) This Chapter provides for the Department to impose work-related requirements with which claimants must comply for the purposes of this Part.

- (2) In this Part “work-related requirement” means—
  - (a) a work-focused interview requirement (see Article 20);
  - (b) a work preparation requirement (see Article 21);
  - (c) a work search requirement (see Article 22);
  - (d) a work availability requirement (see Article 23).
- (3) The work-related requirements which may be imposed on a claimant depend on which of the following groups the claimant falls into—
  - (a) no work-related requirements (see Article 24);
  - (b) work-focused interview requirement only (see Article 25);
  - (c) work-focused interview and work preparation requirements only (see Article 26);
  - (d) all work-related requirements (see Article 27).

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### **Claimant commitment** **N.I.**

**19.**—(1) A claimant commitment is a record of a claimant's responsibilities in relation to an award of universal credit.

(2) A claimant commitment is to be prepared by the Department and may be reviewed and updated as the Department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

(a) a record of the requirements that the claimant must comply with under this Part (or such of them as the Department considers it appropriate to include),

(b) any prescribed information, and

(c) any other information the Department considers it appropriate to include.

(5) For the purposes of this Part a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

#### *Work-related requirements*

### **Work-focused interview requirement** **N.I.**

**20.**—(1) In this Part a “work-focused interview requirement” is a requirement that a claimant participate in one or more work-focused interviews as specified by the Department.

(2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.

(3) The purposes which may be prescribed under paragraph (2) include in particular that of making it more likely in the opinion of the Department that the claimant will obtain paid work (or more paid work or better-paid work).

(4) The Department may specify how, when and where a work-focused interview is to take place.

### **Work preparation requirement** **N.I.**

**21.**—(1) In this Part a “work preparation requirement” is a requirement that a claimant take particular action specified by the Department for the purpose of making it more likely in the opinion of the Department that the claimant will obtain paid work (or more paid work or better-paid work).

(2) The Department may under paragraph (1) specify the time to be devoted to any particular action.

(3) Action which may be specified under paragraph (1) includes in particular—

(a) attending a skills assessment;

(b) improving personal presentation;

(c) participating in training;

(d) participating in an employment programme;

(e) undertaking work experience or a work placement;

(f) developing a business plan;

(g) any action prescribed for the purpose in paragraph (1).



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(4) In the case of a person with limited capability for work, the action which may be specified under paragraph (1) includes taking part in a work-focused health-related assessment.

(5) In paragraph (4) “work-focused health-related assessment” means an assessment by a health care professional approved by the Department which is carried out for the purpose of assessing—

- (a) the extent to which the person's capability for work may be improved by taking steps in relation to that person's physical or mental condition, and
  - (b) such other matters relating to that person's physical or mental condition and the likelihood of that person obtaining or remaining in work or being able to do so as may be prescribed.
- (6) In paragraph (5) “health care professional” means—
- (a) a registered medical practitioner,
  - (b) a registered nurse,
  - (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or
  - (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

#### **Work search requirement** **N.I.**

**22.—**(1) In this Part a “work search requirement” is a requirement that a claimant take—

- (a) all reasonable action, and
- (b) any particular action specified by the Department,

for the purpose of obtaining paid work (or more paid work or better-paid work).

(2) The Department may under paragraph (1)(b) specify the time to be devoted to any particular action.

(3) Action which may be specified under paragraph (1)(b) includes in particular—

- (a) carrying out work searches;
- (b) making applications;
- (c) creating and maintaining an online profile;
- (d) registering with an employment agency;
- (e) seeking references;
- (f) any action prescribed for the purpose in paragraph (1).

(4) Regulations may impose limitations on a work search requirement by reference to the work to which it relates; and the Department may in any particular case specify further such limitations on such a requirement.

(5) A limitation under paragraph (4) may in particular be by reference to—

- (a) work of a particular nature,
- (b) work with a particular level of remuneration,
- (c) work in particular locations, or
- (d) work available for a certain number of hours per week or at particular times,

and may be indefinite or for a particular period.

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### **Work availability requirement** **N.I.**

**23.—**(1) In this Part a “work availability requirement” is a requirement that a claimant be available for work.

(2) For the purposes of this Article “available for work” means able and willing immediately to take up paid work (or more paid work or better-paid work).

(3) Regulations may impose limitations on a work availability requirement by reference to the work to which it relates; and the Department may in any particular case specify further such limitations on such a requirement.

(4) A limitation under paragraph (3) may in particular be by reference to—

- (a) work of a particular nature,
- (b) work with a particular level of remuneration,
- (c) work in particular locations, or
- (d) work available for a certain number of hours per week or at particular times,

and may be indefinite or for a particular period.

(5) Regulations may for the purposes of paragraph (2) define what is meant by a person being able and willing immediately to take up work.

### *Application of work-related requirements*

### **Claimants subject to no work-related requirements** **N.I.**

**24.—**(1) The Department may not impose any work-related requirement on a claimant falling within this Article.

(2) A claimant falls within this Article if—

- (a) the claimant has limited capability for work and work-related activity,
- (b) the claimant has regular and substantial caring responsibilities for a severely disabled person,
- (c) the claimant is the responsible carer for a child under the age of one, or
- (d) the claimant is of a prescribed description.

(3) Regulations under paragraph (2)(d) may in particular make provision by reference to one or more of the following—

- (a) hours worked;
- (b) earnings or income;
- (c) the amount of universal credit payable.

(4) Regulations under paragraph (3) may—

- (a) in the case of a claimant who is a member of a couple, make provision by reference to the claimant alone or by reference to the members of the couple together;
- (b) make provision for estimating or calculating any matter for the purpose of the regulations.

(5) Where a claimant falls within this Article, any work-related requirement previously applying to the claimant ceases to have effect.

(6) In this Part “responsible carer”, in relation to a child means—

- (a) a single person who is responsible for the child, or
- (b) a person who is a member of a couple where—

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- (i) the person or the other member of the couple is responsible for the child, and
- (ii) the person has been nominated by the couple jointly as responsible for the child.

**Claimants subject to work-focused interview requirement only** **N.I.**

**25.—**(1) A claimant falls within this Article if—

- (a) the claimant is the responsible carer for a child who is aged at least one and is under a prescribed age (which may not be less than 3), or
- (b) the claimant is of a prescribed description.

(2) The Department may, subject to this Part, impose a work-focused interview requirement on a claimant falling within this Article.

(3) The Department may not impose any other work-related requirement on a claimant falling within this Article (and, where a claimant falls within this Article, any other work-related requirement previously applying to the claimant ceases to have effect).

**Claimants subject to work preparation requirement** **N.I.**

**26.—**(1) A claimant falls within this Article if the claimant does not fall within Article 24 or 25 and—

- (a) the claimant has limited capability for work, or
- (b) the claimant is of a prescribed description.

(2) The Department may, subject to this Part, impose a work preparation requirement on a claimant falling within this Article.

(3) The Department may also, subject to this Part, impose a work-focused interview requirement on a claimant falling within this Article.

(4) The Department may not impose any other work-related requirement on a claimant falling within this Article (and, where a claimant falls within this Article, any other work-related requirement previously applying to the claimant ceases to have effect).

(5) Regulations under paragraph (1)(b) must prescribe a claimant who is the responsible carer for a child aged 3 or 4 if the claimant does not fall within Article 25.

**Claimants subject to all work-related requirements** **N.I.**

**27.—**(1) A claimant not falling within any of Articles 24 to 26 falls within this Article.

(2) The Department must, except in prescribed circumstances, impose on a claimant falling within this Article—

- (a) a work search requirement, and
- (b) a work availability requirement.

(3) The Department may, subject to this Part, impose either or both of the following on a claimant falling within this Article—

- (a) a work-focused interview requirement;
- (b) a work preparation requirement.

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### Work-related requirements: supplementary

VALID FROM 27/09/2017

#### Connected requirements **N.I.**

- 28.**—(1) The Department may require a claimant to participate in an interview for any purpose relating to—
- (a) the imposition of a work-related requirement on the claimant;
  - (b) verifying the claimant's compliance with a work-related requirement;
  - (c) assisting the claimant to comply with a work-related requirement.
- (2) The Department may specify how, when and where such an interview is to take place.
- (3) The Department may, for the purpose of verifying the claimant's compliance with a work-related requirement, require a claimant to—
- (a) provide to the Department information and evidence specified by the Department in a manner so specified;
  - (b) confirm compliance in a manner so specified.
- (4) The Department may require a claimant to report to the Department any specified changes in the claimant's circumstances which are relevant to—
- (a) the imposition of work-related requirements on the claimant;
  - (b) the claimant's compliance with a work-related requirement.

#### Imposition of requirements **N.I.**

- 29.**—(1) Regulations may make provision—
- (a) where the Department may impose a requirement under this Part, as to when the requirement must or must not be imposed;
  - (b) where the Department may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;
  - (c) where the Department may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.
- (2) Where the Department may impose a work-focused interview requirement, the Department must have regard to such matters as may be prescribed.
- (3) Where the Department may specify a particular action under Article 21(1) or 22(1)(b), the Department must have regard to such matters as may be prescribed.
- (4) Where the Department may impose a requirement under this Part, the Department may revoke or change what has been imposed or specified.
- (5) Where the Department may specify any action to be taken in relation to a requirement imposed under this Part, the Department may revoke or change what has been specified.
- (6) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Department may determine.
- (7) Regulations must make provision to secure that, in prescribed circumstances, where a claimant has recently been a victim of domestic violence—

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- (a) a requirement imposed on that claimant under this Part ceases to have effect for a period of 13 weeks, and
  - (b) the Department may not impose any other requirement under this Part on that claimant during that period.
- (8) For the purposes of paragraph (7)—
- (a) “domestic violence” has such meaning as may be prescribed;
  - (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under paragraph (7) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
  - (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

#### **Compliance with requirements** **N.I.**

**30.** Regulations may make provision as to circumstances in which a claimant is to be treated as having—

- (a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Department in relation to such a requirement.

#### *Reduction of benefit*

#### **Higher-level sanctions** **N.I.**

**31.—(1)** The amount of an award of universal credit is to be reduced in accordance with this Article in the event of a failure by a claimant which is sanctionable under this Article.

- (2) It is a failure sanctionable under this Article if a claimant falling within Article 27—
- (a) fails for no good reason to comply with a requirement imposed under a work preparation requirement to undertake a work placement of a prescribed description;
  - (b) fails for no good reason to comply with a requirement imposed under a work search requirement to apply for a particular vacancy for paid work;
  - (c) fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work;
  - (d) by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay.
- (3) It is a failure sanctionable under this Article if by reason of misconduct, or voluntarily and for no good reason, a claimant falling within Article 24 by virtue of paragraph (3) of that Article ceases paid work or loses pay so as to cease to fall within that Article and to fall within Article 27 instead.
- (4) It is a failure sanctionable under this Article if, at any time before making the claim by reference to which the award is made, the claimant—
- (a) for no good reason failed to take up an offer of paid work, or
  - (b) by reason of misconduct, or voluntarily and for no good reason, ceased paid work or lost pay,

and at the time the award is made the claimant falls within Article 27.

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- (5) For the purposes of paragraphs (2) to (4) regulations may provide—
  - (a) for circumstances in which ceasing to work or losing pay is to be treated as occurring or not occurring by reason of misconduct or voluntarily;
  - (b) for loss of pay below a prescribed level to be disregarded.
- (6) Regulations are to provide for—
  - (a) the amount of a reduction under this Article;
  - (b) the period for which such a reduction has effect, not exceeding 18 months in relation to any failure sanctionable under this Article.
- (7) Regulations under paragraph (6)(b) may in particular provide for the period of a reduction to depend on either or both of the following—
  - (a) the number of failures by the claimant sanctionable under this Article;
  - (b) the period between such failures.
- (8) Regulations may provide—
  - (a) for cases in which no reduction is to be made under this Article;
  - (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this Article.

#### **Other sanctions** **N.I.**

- 32.—**(1) The amount of an award of universal credit is to be reduced in accordance with this Article in the event of a failure by a claimant which is sanctionable under this Article.
- (2) It is a failure sanctionable under this Article if a claimant—
    - (a) fails for no good reason to comply with a work-related requirement;
    - (b) fails for no good reason to comply with a requirement under Article 28.
  - (3) But a failure by a claimant is not sanctionable under this Article if it is also a failure sanctionable under Article 31.
  - (4) Regulations are to provide for—
    - (a) the amount of a reduction under this Article, and
    - (b) the period for which such a reduction has effect.
  - (5) Regulations under paragraph (4)(b) may provide that a reduction under this Article in relation to any failure is to have effect for—
    - (a) a period continuing until the claimant meets a compliance condition specified by the Department,
    - (b) a fixed period not exceeding 26 weeks which is—
      - (i) specified in the regulations, or
      - (ii) determined in any case by the Department, or
    - (c) a combination of both.
  - (6) In paragraph (5)(a) “compliance condition” means—
    - (a) a condition that the failure ceases, or
    - (b) a condition relating to future compliance with a work-related requirement or a requirement under Article 28.
  - (7) A compliance condition specified under paragraph (5)(a) may be—

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- (a) revoked or varied by the Department;
  - (b) notified to the claimant in such manner as the Department may determine.
- (8) A period fixed under paragraph (5)(b) may in particular depend on either or both the following—
- (a) the number of failures by the claimant sanctionable under this Article;
  - (b) the period between such failures.
- (9) Regulations may provide—
- (a) for cases in which no reduction is to be made under this Article;
  - (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this Article.

**Hardship payments** **N.I.**

**33.**—(1) Regulations may make provision for the making of additional payments by way of universal credit to a claimant (“hardship payments”) where—

- (a) the amount of the claimant's award is reduced under Article 31 or 32, and
  - (b) the claimant is or will be in hardship.
- (2) Regulations under this Article may in particular make provision as to—
- (a) circumstances in which a claimant is to be treated as being or not being in hardship;
  - (b) matters to be taken into account in determining whether a claimant is or will be in hardship;
  - (c) requirements or conditions to be met by a claimant in order to receive hardship payments;
  - (d) the amount or rate of hardship payments;
  - (e) the period for which hardship payments may be made;
  - (f) whether hardship payments are recoverable.

VALID FROM 27/09/2017

*Administration*

**Concurrent exercise of certain functions by Department for Employment and Learning** **N.I.**

<sup>F1</sup>**34.** . . . . .

**Textual Amendments**

**F1** Art. 34 omitted (8.5.2016) by virtue of [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 62** (with art. 9(2)) (Omitted before coming into operation)

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**Delegation and contracting out** **N.I.**

**35.**—(1) The functions of the Department under Articles 18 to 30 may be exercised by, or by the employees of, such person as the Department may authorise for the purpose (an “authorised person”).

(2) An authorisation given by virtue of this Article may authorise the exercise of a function—

- (a) wholly or to a limited extent;
- (b) generally or in particular cases or areas;
- (c) unconditionally or subject to conditions.

(3) An authorisation under this Article—

- (a) may specify its duration;
- (b) may be varied or revoked at any time by the Department;
- (c) does not prevent the Department or another person from exercising the function to which the authorisation relates.

(4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or (as the case may be) an officer of the Department.

(5) Paragraph (4) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

- (a) the authorisation of an authorised person is revoked, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Department as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department (and not as frustrated by reason of the revocation).

<sup>F2</sup>(7) .....

**Textual Amendments**

**F2** Art. 35(7) omitted (8.5.2016) by virtue of [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 63** (with art. 9(2)) (Art. 35(7) omitted before art. 35 comes into operation)

**CHAPTER 3** **N.I.**

Supplementary and general

*Supplementary and consequential*

**Supplementary regulation-making powers** **N.I.**

**36.** Schedule 1 contains supplementary regulation-making powers.



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### **Supplementary and consequential amendments** **N.I.**

37. Schedule 2 contains supplementary and consequential amendments.

### **Power to make supplementary and consequential provision etc.** **N.I.**

38.—(1) The Department may by regulations make such consequential, supplementary, incidental or transitional provision in relation to any provision of this Part as the Department considers appropriate.

(2) Regulations under this Article may amend, repeal or revoke any statutory provision (whenever passed or made).

#### *Universal credit and other benefits*

### **Abolition of benefits** **N.I.**

39.—(1) The following benefits are abolished—

- (a) income-based jobseeker's allowance under the Jobseekers Order;
- (b) income-related employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007;
- (c) income support under section 123 of the Contributions and Benefits Act;
- (d) housing benefit under section 129 of that Act.

(2) In paragraph (1)—

- (a) “income-based jobseeker's allowance” has the same meaning as in the Jobseekers Order;
- (b) “income-related employment and support allowance” means an employment and support allowance entitlement to which is based on section 1(2)(b) of the Welfare Reform Act (Northern Ireland) 2007.

(3) Schedule 3 contains consequential amendments.

PROSPECTIVE

### **Universal credit and the state pension credit** **N.I.**

40. Schedule 4 provides for a housing element of state pension credit in consequence of the abolition of housing benefit by Article 39.

### **Universal credit and working-age benefits** **N.I.**

41. Schedule 5 makes further provision relating to universal credit, jobseeker's allowance and employment and support allowance.

### **Migration to universal credit** **N.I.**

42. Schedule 6 contains provision about the replacement of benefits by universal credit.

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## General

### Capability for work or work-related activity **N.I.**

- 43.**—(1) For the purposes of this Part a claimant has limited capability for work if—
- (a) the claimant's capability for work is limited by his or her physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to work.
- (2) For the purposes of this Part a claimant has limited capability for work-related activity if—
- (a) the claimant's capability for work-related activity is limited by his or her physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to undertake work-related activity.
- (3) The question whether a claimant has limited capability for work or work-related activity for the purposes of this Part is to be determined in accordance with regulations.
- (4) Regulations under this Article must, subject as follows, provide for determination of that question on the basis of an assessment (or repeated assessments) of the claimant.
- (5) Regulations under this Article may for the purposes of an assessment—
- (a) require a claimant to provide information or evidence (and may require it to be provided in a prescribed manner or form);
  - (b) require a claimant to attend and submit to a medical examination at a place, date and time determined under the regulations.
- (6) Regulations under this Article may make provision for a claimant to be treated as having or not having limited capability for work or work-related activity.
- (7) Regulations under paragraph (6) may provide for a claimant who fails to comply with a requirement imposed under paragraph (5) without a good reason to be treated as not having limited capability for work or work-related activity.
- (8) Regulations under paragraph (6) may provide for a claimant to be treated as having limited capability for work until—
- (a) it has been determined whether or not that is the case, or
  - (b) the claimant is under any other provision of regulations under paragraph (6) treated as not having it.
- (9) Regulations under this Article may provide for determination of the question of whether a claimant has limited capability for work or work-related activity even where the claimant is for the time being treated under regulations under paragraph (6) as having limited capability for work or work-related activity.

VALID FROM 27/09/2017

### Information **N.I.**

**44.** Information supplied under Chapter 2 or Article 43 is to be taken for all purposes to be information relating to social security.

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## Couples **N.I.**

**45.**—(1) In this Part “couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household;
- (d) two people of the same sex who are not civil partners of each other but are living together as civil partners.

(2) For the purposes of this Article, two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

(3) For the purposes of this Article regulations may prescribe—

- (a) circumstances in which the fact that two persons are husband and wife or are civil partners is to be disregarded;
- (b) circumstances in which a man and a woman are to be treated as living together as husband and wife;
- (c) circumstances in which people are to be treated as being or not being members of the same household.

## Interpretation of Part 2 **N.I.**

**46.** In this Part—

“assessment period” has the meaning given by Article 12(2);

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

“claim” means claim for universal credit;

“claimant” means a single claimant or each of joint claimants;

“couple” has the meaning given by Article 45;

“disabled” has such meaning as may be prescribed;

“joint claimants” means members of a couple who jointly make a claim or in relation to whom an award of universal credit is made;

“limited capability for work” and “limited capability for work-related activity” are to be construed in accordance with Article 43(1) and (2);

“qualifying young person” has the meaning given in Article 15(5);

“regular and substantial caring responsibilities” has such meaning as may be prescribed;

“responsible carer”, in relation to a child, has the meaning given in Article 24(6);

“severely disabled” has such meaning as may be prescribed;

“single claimant” means a single person who makes a claim for universal credit or in relation to whom an award of universal credit is made as a single person;

“single person” is to be construed in accordance with Article 6(2)(a);

“work” has such meaning as may be prescribed;

“work availability requirement” has the meaning given by Article 23(1);

“work preparation requirement” has the meaning given by Article 21(1);

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- “work search requirement” has the meaning given by Article 22(1);
- “work-focused interview requirement” has the meaning given by Article 20(1);
- “work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;
- “work-related requirement” has the meaning given by Article 18(2).

### *Regulations*

#### **Pilot schemes** N.I.

47.—(1) Any power to make—

- (a) regulations under this Part,
- (b) regulations under the Administration Act relating to universal credit, or
- (c) regulations under the Social Security (Northern Ireland) Order 1998 relating to universal credit,

may be exercised so as to make provision for piloting purposes.

(2) In paragraph (1), “piloting purposes”, in relation to any provision, means the purposes of testing—

- (a) the extent to which the provision is likely to make universal credit simpler to understand or to administer,
- (b) the extent to which the provision is likely to promote—
  - (i) people remaining in work, or
  - (ii) people obtaining or being able to obtain work (or more work or better-paid work), or
- (c) the extent to which, and how, the provision is likely to affect the conduct of claimants or other people in any other way.

(3) Regulations made by virtue of this Article are in the remainder of this Article referred to as a “pilot scheme”.

(4) A pilot scheme may be limited in its application to—

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

(5) A pilot scheme may not have effect for a period exceeding 3 years, but—

- (a) the Department may by order provide that the pilot scheme is to continue to have effect after the time when it would otherwise expire for a period not exceeding 12 months (and may make more than one such order);
- (b) a pilot scheme may be replaced by a further pilot scheme making the same or similar provision.

(6) A pilot scheme may include consequential or transitional provision in relation to its expiry.

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## **Regulations** **N.I.**

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

(2) Any power under this Part to make regulations includes power—

(a) to make such incidental, supplementary, consequential or transitional provision or savings as appear to the Department to be expedient;

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

(3) Each power conferred by this Part is without prejudice to the others.

(4) Where regulations under this Part provide for an amount, the amount may be zero.

(5) Where regulations under this Part provide for an amount for the purposes of an award (or a reduction from an award), the amount may be different in relation to different descriptions of person, and in particular may depend on—

(a) whether the person is a single person or a member of a couple;

(b) the age of the person.

(6) Regulations under Article 16(4) or 17(3) which provide for the determination or calculation of an amount may make different provision for different areas.

## **Assembly control** **N.I.**

**49.**—(1) Subject to the following provisions of this Article, any regulations made under this Part are subject to negative resolution.

(2) Regulations made by virtue of Article 47 (pilot schemes), alone or with other regulations—

(a) must be laid before the Assembly after being made; and

(b) take effect on such date as may be specified in the regulations, but (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 6 months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.

(3) This paragraph applies to any regulations under this Part which—

(a) but for paragraph (4), would be subject to negative resolution, and

(b) are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.

(4) Any regulations to which paragraph (3) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.

(5) In this Article “the confirmatory procedure” means the procedure described in paragraph (2).

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## PART 3 **N.I.**

### Working-age benefits

#### CHAPTER 1 **N.I.**

##### Jobseeker's allowance

#### *Claimant responsibilities for interim period*

VALID FROM 02/05/2016

#### **Claimant commitment for jobseeker's allowance **N.I.****

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

(2) In Article 2 (interpretation), in paragraph (2), after the definition of “employment” insert—  
““employment officer”, for any purpose of this Order, means an officer of the Department or the Department for Employment and Learning or such other person as may be designated for that purpose by an order made by the Department;”

(3) In Article 3 (the jobseeker's allowance), in paragraph (2)(b) for “entered into a jobseeker's agreement which remains in force” substitute “ accepted a claimant commitment ”.

(4) For Article 11 (the jobseeker's agreement) substitute—

#### **“Claimant commitment**

**11.**—(1) For the purposes of this Order a “claimant commitment” is a record of a claimant's responsibilities in relation to an award of a jobseeker's allowance.

(2) A claimant commitment shall—

- (a) be prepared by an employment officer,
- (b) be in such form as the Department thinks fit,
- (c) include any prescribed information, and
- (d) include any other information an employment officer considers it appropriate to include.

(3) Information included in a claimant commitment under paragraph (2)(d) may include—

- (a) information in respect of the conditions mentioned in Article 3(2)(a) and (c);
- (b) details of any requirement imposed on the claimant by virtue of regulations under Article 10 or 19A, or under a jobseeker's direction;
- (c) details of any consequences of a failure to comply with such a requirement.

(4) A claimant shall not be invited to accept a claimant commitment by an employment officer unless, in the opinion of the employment officer, the conditions mentioned in Article 3(2)(a) and (c) would be satisfied with respect to the claimant if he were to act in accordance with, or be treated as acting in accordance with, the proposed claimant commitment.

(5) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed claimant commitment to the Department for it to determine—

- (a) whether, if the claimant were to act in accordance with the proposed claimant commitment, he would satisfy—

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- (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 act in accordance with the proposed claimant commitment.
- (6) A reference under paragraph (5) may only relate to information included in the proposed claimant commitment under paragraph (3)(a).
- (7) On a reference under paragraph (5) the Department—
  - (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 of the proposed claimant commitment, as the Department considers appropriate;
  - (c) may direct that, if such conditions as it considers appropriate are satisfied, the proposed claimant commitment is to be treated (if accepted) as having been accepted by the claimant on such date 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 the Department 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 the Department under this Article;
    - (ii) any direction given by the Department under this Article.
- (9) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in Article 3(2)(b).
- (10) For the purposes of this Order a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.”
- (5) For Article 12 (variation of jobseeker's agreement) substitute—

**“Variation of claimant commitment**

- 12.—(1)** A claimant commitment may be varied by an employment officer.
- (2) An employment officer shall not vary a claimant commitment unless, in the opinion of the employment officer, the conditions mentioned in Article 3(2)(a) and (c) would continue to be satisfied with respect to the claimant if he were to act in accordance with, or be treated as acting in accordance with, the varied claimant commitment.
- (3) An employment officer shall, before making a relevant variation of a claimant commitment, notify the claimant of the proposed variation.
- (4) For the purposes of this Article a “relevant variation” of a claimant commitment means a variation which relates to information to be included in the claimant commitment in respect of the conditions mentioned in Article 3(2)(a) and (c).
- (5) The employment officer may, and if asked to do so by the claimant in prescribed circumstances, shall forthwith refer a relevant variation of a claimant commitment proposed by the employment officer or requested by the claimant to the Department to determine—
  - (a) whether, if the claimant were to act in accordance with the claimant commitment as proposed to be varied, he would satisfy—
    - (i) the condition mentioned in Article 3(2)(a), or

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- (ii) the condition mentioned in Article 3(2)(c), and
- (b) in the case of a variation proposed by the employment officer, whether it is reasonable to expect the claimant to have to act in accordance with the claimant commitment as proposed to be varied.
- (6) On a reference under paragraph (5) the Department—
  - (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 it considers appropriate as to—
    - (i) whether the claimant commitment should be varied, and
    - (ii) if so, the terms on which the claimant is to accept the varied claimant commitment, and
  - (c) may direct that, if such conditions as it considers appropriate are satisfied, the claimant commitment, as proposed to be varied, is to be treated (if accepted) as having been accepted by the claimant on such date as may be specified in the direction.
- (7) Regulations may provide—
  - (a) for such matters as may be prescribed to be taken into account by the Department in giving a direction under paragraph (6)(b) or (c), and
  - (b) for such persons as may be prescribed to be notified of—
    - (i) any determination of the Department under this Article;
    - (ii) any direction given by the Department under this Article.”

VALID FROM 01/06/2016

### Interviews **N.I.**

**51.** In Article 10 of the Jobseekers Order (attendance, information and evidence), in paragraphs (1)(a) and (1A)(a) for “attend at such place and at such time” substitute “ participate in an interview in such manner, time and place ”.

VALID FROM 01/06/2016

### Sanctions **N.I.**

**52.—(1)** For Article 21 of the Jobseekers Order (circumstances in which a jobseeker's allowance is not payable) substitute—

#### “Higher-level sanctions

**21.—(1)** The amount of an award of a jobseeker's allowance is to be reduced in accordance with this Article in the event of a failure by the claimant which is sanctionable under this Article.

- (2) It is a failure sanctionable under this Article if a claimant—
  - (a) through misconduct loses employment as an employed earner;
  - (b) without a good reason voluntarily leaves such employment;



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- (c) without a good reason refuses or fails to apply for, or accept if offered, a situation in any employment which an employment officer has informed him is vacant or about to become vacant;
- (d) without a good reason neglects to avail himself of a reasonable opportunity of employment;
- (e) without a good reason fails to participate in any scheme within Article 19A(1) which is prescribed for the purposes of this Article.

(3) For the purposes of paragraph (2)(b), in such circumstances as may be prescribed, including in particular where a person has been dismissed by his employer by reason of redundancy within the meaning of Article 174(1) of the Employment Rights (Northern Ireland) Order 1996 after volunteering or agreeing to be so dismissed, a person who might otherwise be treated as having left his employment voluntarily is to be treated as not having left voluntarily.

(4) Regulations are to provide for—

- (a) the amount of a reduction under this Article;
- (b) the period for which such a reduction has effect, not exceeding 18 months in relation to any failure sanctionable under this Article.

(5) Regulations under paragraph (4)(b) may in particular provide for the period of a reduction to depend on either or both of the following—

- (a) the number of failures by the claimant sanctionable under this Article;
- (b) the period between such failures.

(6) Regulations may provide—

- (a) for cases in which no reduction is to be made under this Article;
- (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.

(7) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this Article by virtue of a failure by one of the claimants which is sanctionable under this Article, the allowance is payable to the other member of the couple.

#### **Other sanctions**

**21A.**—(1) The amount of an award of a jobseeker's allowance is to be reduced in accordance with this Article in the event of a failure by the claimant which is sanctionable under this Article.

(2) It is a failure sanctionable under this Article if a claimant—

- (a) without a good reason fails to comply with regulations under Article 10(1) or (1A);
- (b) without a good reason fails to comply with regulations under Article 19A;
- (c) without a good reason refuses or fails to carry out a jobseeker's direction which was reasonable having regard to his circumstances;
- (d) without a good reason neglects to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
- (e) without a good reason refuses or fails to apply for, or accept if offered, a place on such a scheme or programme which an employment officer has informed him is vacant or about to become vacant;

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- (f) without a good reason gives up a place on such a scheme or programme or fails to attend such a scheme or programme having been given a place on it;
  - (g) through misconduct loses a place on such a scheme or programme.
- (3) But a failure is not sanctionable under this Article if it is also sanctionable under Article 21.
- (4) Regulations are to provide for—
- (a) the amount of a reduction under this Article;
  - (b) the period for which such a reduction has effect.
- (5) Regulations under paragraph (4)(b) may provide that a reduction under this Article in relation to any failure is to have effect for—
- (a) a period continuing until the claimant meets a compliance condition specified by the Department,
  - (b) a fixed period not exceeding 26 weeks which is—
    - (i) specified in the regulations, or
    - (ii) determined in any case by the Department, or
  - (c) a combination of both.
- (6) In paragraph (5)(a) “compliance condition” means—
- (a) a condition that the failure ceases, or
  - (b) a condition relating to—
    - (i) future compliance with a jobseeker's direction or any requirement imposed under Article 10(1) or (1A) or 19A, or
    - (ii) future avoidance of the failures referred to in paragraph (2)(d) to (g).
- (7) A compliance condition specified under paragraph (5)(a) may be—
- (a) revoked or varied by the Department;
  - (b) notified to the claimant in such manner as the Department may determine.
- (8) The period fixed under paragraph (5)(b) may in particular depend on either or both of the following—
- (a) the number of failures by the claimant sanctionable under this Article;
  - (b) the period between such failures.
- (9) Regulations may provide—
- (a) for cases in which no reduction is to be made under this Article;
  - (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.
- (10) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this Article by virtue of a failure by one of the claimants which is sanctionable under this Article, the allowance is payable to the other member of the couple.
- (11) In this Article—
- (a) “jobseeker's direction” means a direction given by an employment officer (in such manner as he thinks fit) 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;

- (b) “training scheme” and “employment programme” have such meaning as may be prescribed.

**Claimants ceasing to be available for employment etc.**

**21B.**—(1) Regulations may make provision for reduction of the amount of an award of a jobseeker's allowance other than a joint-claim jobseeker's allowance if the claimant—

- (a) was previously entitled to such an allowance or was a member of a couple entitled to a joint-claim jobseeker's allowance, and
- (b) ceased to be so entitled by failing to comply with the condition in Article 3(2)(a) or (c) (availability for employment and actively seeking employment).

(2) Regulations may make provision for reduction of the amount of a joint-claim jobseeker's allowance if one of the claimants—

- (a) was previously entitled to a jobseeker's allowance other than a joint-claim jobseeker's allowance, and
- (b) ceased to be so entitled by failing to comply with the condition in Article 3(2)(a) or (c).

(3) Regulations may make provision for reduction of the amount of an award of joint-claim jobseeker's allowance if—

- (a) the couple were previously entitled to a joint-claim jobseeker's allowance but ceased to be so entitled by either or both of them failing to comply with the condition in Article 3(2)(a) or (c), or
- (b) either member of the couple was a member of another couple previously entitled to such an allowance and that couple ceased to be so entitled by that person failing to comply with the condition in Article 3(2)(a) or (c).

(4) Regulations are to provide for—

- (a) the amount of a reduction under this Article;
- (b) the period for which such a reduction has effect.

(5) The period referred to in paragraph (4)(b) must not include any period after the end of the period of 13 weeks beginning with the day on which the claimant's previous entitlement ceased.

(6) Regulations under paragraph (4)(b) may in particular provide for the period of a reduction to depend on either or both of the following—

- (a) the number of occasions on which a claimant's entitlement has ceased as specified in paragraph (1), (2) or (3);
- (b) the period between such occasions.

(7) Regulations may provide for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.

(8) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this Article by virtue of a failure by one of the claimants to comply with the condition in Article 3(2)(a) or (c), the allowance is payable to the other member of the couple.

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### Hardship payments

**21C.**—(1) Regulations may make provision for the making of payments (“hardship payments”) by way of a jobseeker's allowance to a claimant where—

- (a) the amount of the claimant's award is reduced under Articles 21 to 21B, and
- (b) the claimant is or will be in hardship.

(2) Regulations under this Article may in particular make provision as to—

- (a) circumstances in which a claimant is to be treated as being or not being in hardship;
- (b) matters to be taken into account in determining whether a claimant is or will be in hardship;
- (c) requirements or conditions to be met by a claimant in order to receive hardship payments;
- (d) the amount or rate of hardship payments;
- (e) the period for which hardship payments may be made;
- (f) whether hardship payments are recoverable.”

(2) In Schedule 1 to that Order—

- (a) in the heading preceding paragraph 14B for “or just cause” substitute “ reason ”;
- (b) before paragraph 14B insert—

“**14AA.** For any purpose of this Order regulations may provide for—

- (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;
- (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.”;

(c) in paragraph 14B, in sub-paragraph (1)—

- (i) for “this Order” substitute “ paragraph 14AA ”;
- (ii) for “good cause or just cause” substitute “ a good reason ”.

(3) In Schedule 3 to the Social Security (Northern Ireland) Order 1998 (decisions against which an appeal lies), in paragraph 3, sub-paragraphs (ca) and (d) are repealed.

### Procedure for regulation-making powers **N.I.**

**53.** In Article 37 of the Jobseekers Order (Assembly, etc. control), in paragraph (1)(c) (regulations subject to confirmatory procedure), “8, 9,” is repealed.

#### Commencement Information

**II** Art. 53 in operation at 17.2.2016 by S.R. 2016/46, art. 3(2)(a)

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VALID FROM 02/05/2016

### Consequential amendments **N.I.**

54. Schedule 7 contains consequential amendments relating to Articles 50 to 52.

VALID FROM 02/05/2016

### *Claimant responsibilities after introduction of universal credit*

#### Claimant responsibilities for jobseeker's allowance **N.I.**

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

(2) In Article 2 (interpretation), in paragraph (2), at the appropriate places insert—

““work availability requirement” has the meaning given by Article 8E;”;

““work preparation requirement” has the meaning given by Article 8C;”;

““work search requirement” has the meaning given by Article 8D;”;

““work-focused interview requirement” has the meaning given by Article 8B;”;

““work-related requirement” has the meaning given by Article 8;”.

(3) In Article 3(2) (conditions of entitlement), sub-paragraphs (a) and (c) are repealed.

(4) For Articles 8 to 12 (and the italic heading preceding Article 8) substitute—

#### *“Work-related requirements*

##### **Work-related requirements**

8.—(1) The following provisions provide for the Department to impose work-related requirements with which claimants must comply for the purposes of this Order.

(2) In this Order “work-related requirement” means—

- (a) a work-focused interview requirement (see Article 8B);
- (b) a work preparation requirement (see Article 8C);
- (c) a work search requirement (see Article 8D);
- (d) a work availability requirement (see Article 8E).

##### **Claimant commitment**

8A.—(1) A claimant commitment is a record of a claimant's responsibilities in relation to an award of a jobseeker's allowance.

(2) A claimant commitment is to be prepared by the Department and may be reviewed and updated as the Department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

- (a) a record of the requirements that the claimant must comply with under this Order (or such of them as the Department considers it appropriate to include),

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- (b) any prescribed information, and
- (c) any other information the Department considers it appropriate to include.

(5) For the purposes of this Order a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

#### **Work-focused interview requirement**

**8B.**—(1) In this Order a “work-focused interview requirement” is a requirement that a claimant participate in one or more work-focused interviews as specified by the Department.

(2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.

(3) The purposes which may be prescribed under paragraph (2) include in particular that of making it more likely in the opinion of the Department that the claimant will obtain paid work (or more paid work or better-paid work).

(4) The Department may specify how, when and where a work-focused interview is to take place.

#### **Work preparation requirement**

**8C.**—(1) In this Order a “work preparation requirement” is a requirement that a claimant take particular action specified by the Department for the purpose of making it more likely in the opinion of the Department that the claimant will obtain paid work (or more paid work or better-paid work).

(2) The Department may under paragraph (1) specify the time to be devoted to any particular action.

(3) Action which may be specified under paragraph (1) includes in particular—

- (a) attending a skills assessment;
- (b) improving personal presentation;
- (c) participating in training;
- (d) participating in an employment programme;
- (e) undertaking work experience or a work placement;
- (f) developing a business plan;
- (g) any action prescribed for the purpose in paragraph (1).

#### **Work search requirement**

**8D.**—(1) In this Order a “work search requirement” is a requirement that a claimant take—

- (a) all reasonable action, and
- (b) any particular action specified by the Department,

for the purpose of obtaining paid work (or more paid work or better-paid work).

(2) The Department may under paragraph (1)(b) specify the time to be devoted to any particular action.

(3) Action which may be specified under paragraph (1)(b) includes in particular—

- (a) carrying out work searches;

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- (b) making applications;
- (c) creating and maintaining an online profile;
- (d) registering with an employment agency;
- (e) seeking references;
- (f) any other action prescribed for the purpose in paragraph (1).

(4) Regulations may impose limitations on a work search requirement by reference to the work to which it relates; and the Department may in any particular case specify further such limitations on such a requirement.

(5) A limitation under paragraph (4) may in particular be by reference to—

- (a) work of a particular nature,
- (b) work with a particular level of remuneration,
- (c) work in particular locations, or
- (d) work available for a certain number of hours per week or at particular times,

and may be indefinite or for a particular period.

#### **Work availability requirement**

**8E.**—(1) In this Order a “work availability requirement” is a requirement that a claimant be available for work.

(2) For the purposes of this Article “available for work” means able and willing immediately to take up paid work (or more paid work or better-paid work).

(3) Regulations may impose limitations on a work availability requirement by reference to the work to which it relates; and the Department may in any particular case specify further such limitations on such a requirement.

(4) A limitation under paragraph (3) may in particular be by reference to—

- (a) work of a particular nature,
- (b) work with a particular level of remuneration,
- (c) work in particular locations, or
- (d) work available for a certain number of hours per week or at particular times,

and may be indefinite or for a particular period.

(5) Regulations may for the purposes of paragraph (2) define what is meant by able and willing immediately to take up work.

#### **Imposition of work-related requirements**

**8F.**—(1) The Department must, except in prescribed circumstances, impose on a claimant—

- (a) a work search requirement, and
- (b) a work availability requirement.

(2) The Department may, subject to this Order, impose either or both of the following on a claimant—

- (a) a work-focused interview requirement;
- (b) a work preparation requirement.

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### **Connected requirements**

**8G.**—(1) The Department may require a claimant to participate in an interview for any purpose relating to—

- (a) the imposition of a work-related requirement on the claimant;
- (b) verifying the claimant's compliance with a work-related requirement;
- (c) assisting the claimant to comply with a work-related requirement.

(2) The Department may specify how, when and where such an interview is to take place.

(3) The Department may, for the purpose of verifying the claimant's compliance with a work-related requirement, require a claimant to—

- (a) provide to the Department information and evidence specified by the Department in a manner so specified;
- (b) confirm compliance in a manner so specified.

(4) The Department may require a claimant to report to the Department any specified changes in the claimant's circumstances which are relevant to—

- (a) the imposition of work-related requirements on the claimant;
- (b) the claimant's compliance with a work-related requirement.

### **Imposition of work-related and connected requirements: supplementary**

**8H.**—(1) Regulations may make provision—

- (a) where the Department may impose a requirement under the preceding provisions, as to when the requirement must or must not be imposed;
- (b) where the Department may specify any action to be taken in relation to a requirement under the preceding provisions, as to what action must or must not be specified;
- (c) where the Department may specify any other matter in relation to such a requirement, as to what must or must not be specified in respect of that matter.

(2) Where the Department may impose a work-focused interview requirement, the Department must have regard to such matters as may be prescribed.

(3) Where the Department may specify a particular action under Article 8C(1) or 8D(1) (b), the Department must have regard to such matters as may be prescribed.

(4) Where the Department may impose a requirement under the preceding provisions, the Department may revoke or change what has been imposed or specified.

(5) Where the Department may specify any action to be taken in relation to a requirement imposed under the preceding provisions, the Department may revoke or change what has been specified.

(6) Notification of a requirement imposed under the preceding provisions (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Department may determine.

(7) Regulations must make provision to secure that, in prescribed circumstances, where a claimant has recently been a victim of domestic violence—

- (a) a requirement imposed on the claimant under the preceding provisions ceases to have effect for a period of 13 weeks, and
- (b) the Department may not impose any other requirement on the claimant during that period.



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- (8) For the purposes of paragraph (7)—
- (a) “domestic violence” has such meaning as may be prescribed;
  - (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under paragraph (7) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
  - (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

#### **Compliance with work-related and connected requirements**

**8I.** Regulations may make provision as to circumstances in which a claimant is to be treated as having—

- (a) complied with or not complied with any requirement imposed under the preceding provisions or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Department in relation to such a requirement.

#### **Higher-level sanctions**

**8J.**—(1) The amount of an award of jobseeker's allowance is to be reduced in accordance with this Article in the event of a failure by a claimant which is sanctionable under this Article.

- (2) It is a failure sanctionable under this Article if a claimant—
- (a) fails for no good reason to comply with a requirement imposed under a work preparation requirement to undertake a work placement of a prescribed description;
  - (b) fails for no good reason to comply with a requirement imposed under a work search requirement to apply for a particular vacancy for paid work;
  - (c) fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work;
  - (d) by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay.
- (3) It is a failure sanctionable under this Article if, at any time before making the claim by reference to which the award is made, the claimant—
- (a) for no good reason failed to take up an offer of paid work, or
  - (b) by reason of misconduct, or voluntarily and for no good reason, ceased paid work or lost pay.
- (4) For the purposes of paragraphs (2) and (3) regulations may provide—
- (a) for circumstances in which ceasing to work or losing pay is to be treated as occurring or not occurring by reason of misconduct or voluntarily;
  - (b) for loss of pay below a prescribed level to be disregarded.
- (5) Regulations are to specify—
- (a) the amount of a reduction under this Article;
  - (b) the period for which such a reduction has effect, not exceeding 18 months in relation to any failure sanctionable under this Article.

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(6) Regulations under paragraph (5)(b) may in particular provide for the period of a reduction to depend on either or both of the following—

- (a) the number of failures by the claimant sanctionable under this Article;
- (b) the period between such failures.

(7) Regulations may provide—

- (a) for cases in which no reduction is to be made under this Article;
- (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
- (c) for the termination or suspension of a reduction under this Article.

### **Other sanctions**

**8K.**—(1) The amount of an award of a jobseeker's allowance is to be reduced in accordance with this Article in the event of a failure by a claimant which is sanctionable under this Article.

(2) It is a failure sanctionable under this Article if a claimant—

- (a) fails for no good reason to comply with a work-related requirement;
- (b) fails for no good reason to comply with a requirement under Article 8G.

(3) But a failure by a claimant is not sanctionable under this Article if it is also a failure sanctionable under Article 8J.

(4) Regulations must specify—

- (a) the amount of a reduction under this Article;
- (b) the period for which such a reduction has effect.

(5) Regulations under paragraph (4)(b) may provide that a reduction under this Article in relation to any failure is to have effect for—

- (a) a period continuing until the claimant meets a compliance condition specified by the Department,
- (b) a fixed period not exceeding 26 weeks which is—
  - (i) specified in the regulations, or
  - (ii) determined in any case by the Department, or
- (c) a combination of both.

(6) In paragraph (5)(a) “compliance condition” means—

- (a) a condition that the failure ceases, or
- (b) a condition relating to future compliance with a work-related requirement or a requirement under Article 8G.

(7) A compliance condition specified under paragraph (5)(a) may be—

- (a) revoked or varied by the Department;
- (b) notified to the claimant in such manner as the Department may determine.

(8) A period fixed under paragraph (5)(b) may in particular depend on either or both the following—

- (a) the number of failures by the claimant sanctionable under this Article;
- (b) the period between such failures.

(9) Regulations may provide—

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- (a) for cases in which no reduction is to be made under this Article;
- (b) for a reduction under this Article made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
- (c) for the termination or suspension of a reduction under this Article.

### **Concurrent exercise of certain functions by Department for Employment and Learning**

**8L.**—(1) The Department for Employment and Learning may exercise, concurrently with the Department, the functions of the Department under the provisions of this Part specified in paragraph (2); and references to the Department in those provisions are to be construed accordingly.

- (2) The provisions are—
  - (a) Article 8A(2) and (4)(a) and (c);
  - (b) Article 8B(1), (3) and (4);
  - (c) Article 8C(1) and (2);
  - (d) Article 8D(1)(b), (2) and (4);
  - (e) Article 8E(3);
  - (f) Article 8G(1), (2), (3) and (4);
  - (g) Article 8H(1)(b) and (c), (3) and (5);
  - (h) Article 8I(b).

### **Delegation and contracting out**

**8M.**—(1) The functions of the Department under Articles 8 to 8I may be exercised by, or by the employees of, such person as the Department may authorise for the purpose (an “authorised person”).

(2) An authorisation given by virtue of this Article may authorise the exercise of a function—

- (a) wholly or to a limited extent;
- (b) generally or in particular cases or areas;
- (c) unconditionally or subject to conditions.

(3) An authorisation under this Article—

- (a) may specify its duration;
- (b) may be varied or revoked at any time by the Department;
- (c) does not prevent the Department or another person from exercising the function to which the authorisation relates.

(4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or (as the case may be) an officer of the Department.

(5) Paragraph (4) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or

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(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

(a) the authorisation of an authorised person is revoked, and

(b) at the time of the revocation so much of any contract made between the authorised person and the Department as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department (and not as frustrated by reason of the revocation).

(7) This Article applies in relation to the functions exercisable by the Department for Employment and Learning by virtue of Article 8L as it applies in relation to the functions of the Department mentioned in paragraph (1); and references to the Department in paragraphs (1) to (6) are to be construed accordingly.”

(5) In Article 31 (pilot schemes), in paragraph (8), for the words from “ascertaining” to the end substitute—

“testing the extent to which the provision made by the regulations is likely to promote—

(a) people remaining in work, or

(b) people obtaining or being able to obtain work (or more work or better-paid work).”

## CHAPTER 2 **N.I.**

### Employment and support allowance

#### *Conditions of entitlement*

#### **Dual entitlement** **N.I.**

**56.** In section 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance), after subsection (6) insert—

“(6A) In subsection (3)(f), in relation to a contributory allowance, the reference to a couple entitled to a joint-claim jobseeker's allowance does not include a couple so entitled by virtue of regulations under paragraph 8A of Schedule 1 to the Jobseekers Order.”

#### **Commencement Information**

**I2** Art. 56 in operation at 17.2.2016 by S.R. 2016/46, art. 3(2)(b)(i)

VALID FROM 17/03/2016

#### **Period of entitlement to contributory allowance** **N.I.**

**57.—(1)** After section 1 of the Welfare Reform Act (Northern Ireland) 2007 insert—

##### **“1A Duration of contributory allowance**

(1) The period for which a person is entitled to a contributory allowance by virtue of the first and second conditions set out in Part 1 of Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established

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by reference (under the second condition set out in Part 1 of Schedule 1) to the same two tax years.

(2) In subsection (1) the “relevant maximum number of days” is—

- (a) 365 days; or
- (b) if the Department by order specifies a greater number of days, that number of days.

(3) The fact that a person's entitlement to a contributory allowance has ceased as a result of subsection (1) does not prevent his being entitled to a further such allowance if—

- (a) he satisfies the first and second conditions set out in Part 1 of Schedule 1, and
- (b) the two tax years by reference to which he satisfies the second condition include at least one year which is later than the second of the two years by reference to which (under the second condition) his previous entitlement was established.

(4) The period for which a person is entitled to a contributory allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth) shall not exceed—

- (a) 365 days; or
- (b) if the Department by order specifies a greater number of days, that number of days.

(5) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to a contributory allowance, the following are not to be counted—

- (a) days in which the person is a member of the support group,
- (b) days not falling within paragraph (a) in respect of which the person is entitled to the support component referred to in section 2(1)(b), and
- (c) days in the assessment phase, where the days immediately following that phase fall within paragraph (a) or (b).

(6) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to a contributory allowance, days occurring before the coming into operation of this section are to be counted (as well as those occurring afterwards).”

(2) In section 25 of that Act (regulations)—

- (a) in the heading, after “regulations” insert “ and orders ”;
- (b) in subsections (1) and (2) after “regulations” insert “ or an order ”.

(3) In section 26 of that Act (Assembly control) in subsection (1) after “this Part” insert “ or any order made under section 1A ”.

(4) In Schedule 4 to that Act (transition relating to Part 1), in paragraph 7(2), at the end insert—

- “(f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.”

VALID FROM 28/11/2016

#### **Further entitlement after time-limiting N.I.**

**58.**—(1) After section 1A of the Welfare Reform Act (Northern Ireland) 2007 (as inserted by Article 57) insert—

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### **“1B Further entitlement after time-limiting**

(1) Where a person's entitlement to a contributory allowance has ceased as a result of section 1A(1) or (4) but—

- (a) the person has not at any subsequent time ceased to have (or to be treated as having) limited capability for work,
- (b) the person satisfies the basic conditions, and
- (c) the person has (or is treated as having) limited capability for work-related activity,

the claimant is entitled to an employment and support allowance by virtue of this section.

(2) An employment and support allowance entitlement which is based on this section is to be regarded as a contributory allowance for the purposes of this Part.”

(2) In section 1 of that Act (employment and support allowance), in the definition of “contributory allowance” in subsection (7), after “subsection (2)(a)” insert “ (and see section 1B(2)) ”.

### **Condition relating to youth** **N.I.**

**59.** In section 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance), after subsection (3) insert—

“(3A) After the coming into operation of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth).”

### **Commencement Information**

**I3** Art. 59 in operation at 17.2.2016 by S.R. 2016/46, art. 3(2)(b)(ii)

VALID FROM 02/05/2016

### *Claimant responsibilities for interim period*

### **Claimant commitment for employment and support allowance** **N.I.**

**60.**—(1) The Welfare Reform Act (Northern Ireland) 2007 is amended as follows.

(2) In section 1(3) (employment and support allowance) after paragraph (a) insert—

“(aa) has accepted a claimant commitment,”.

(3) After section 1B (as inserted by Article 58) insert—

#### **“1C Claimant commitment**

(1) For the purposes of this Part a “claimant commitment” is a record of the claimant's responsibilities in relation to an award of an employment and support allowance.

(2) A claimant commitment is to be prepared by the Department or the Department for Employment and Learning and may be reviewed and updated as that department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

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- (a) any prescribed information, and
- (b) any other information the Department or the Department for Employment and Learning considers it appropriate to include.

(5) For the purposes of this Part a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

(6) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 1(3)(aa)."

(4) In section 15(2)(b) (directions about work-related activity) for the words from "by" to "14" substitute "in such manner as the Department or the Department for Employment and Learning thinks fit".

(5) In section 16(1) (contracting out) before paragraph (a) insert—

“(za) any function under section 1C in relation to a claimant commitment;”.

(6) In Schedule 2 (supplementary provisions) after paragraph 4 insert—

#### *“Exemption*

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

(7) In section 25(2) of the Welfare Reform Act (Northern Ireland) 2010 (action plans: well-being of children), in subsection (5) inserted into section 14 of the Welfare Reform Act (Northern Ireland) 2007—

(a) after “preparing any” insert “ claimant commitment or ”;

(b) after “action plan,” insert “ the Department or ”.

VALID FROM 27/09/2017

#### **Work experience etc. N.I.**

**61.** [<sup>F3</sup>In section 13 of the Welfare Reform Act (Northern Ireland) 2007 (work-related activity), after subsection (7) insert—

“(8) The reference to activity in subsection (7) includes work experience or a work placement.”]

#### **Textual Amendments**

**F3** Art. 61 repealed (27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 12 Pt. 5](#); [S.R. 2017/190](#), [art. 9](#) (with arts. 10-25)

#### **Commencement Information**

**I4** Art. 61 in operation at 27.9.2017 by [S.R. 2017/190](#), [art. 3\(1\)\(2\)\(d\)](#)

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VALID FROM 01/06/2016

## Hardship payments **N.I.**

62. After section 16 of the Welfare Reform Act (Northern Ireland) 2007 insert—

### “16A Hardship payments

- (1) Regulations may make provision for the making of payments (“hardship payments”) by way of an employment and support allowance to a person where—
- (a) the amount otherwise payable to the person in respect of an employment and support allowance is reduced by virtue of regulations under section 11(3), 12(3) or 13(3), and
  - (b) the person is or will be in hardship.
- (2) Regulations under this section may in particular make provision as to—
- (a) circumstances in which a person is to be treated as being or not being in hardship;
  - (b) matters to be taken into account in determining whether a person is or will be in hardship;
  - (c) requirements or conditions to be met by a person in order to receive hardship payments;
  - (d) the amount or rate of hardship payments;
  - (e) the period for which hardship payments may be made.”

VALID FROM 02/05/2016

### *Claimant responsibilities after introduction of universal credit*

## Claimant responsibilities for employment and support allowance **N.I.**

- 63.—(1) The Welfare Reform Act (Northern Ireland) 2007 is amended as follows.  
 (2) For sections 11 to 16 (and the italic heading preceding section 11) substitute—

### *“Work-related requirements*

#### **11 Work-related requirements**

- (1) The following provisions of this Part provide for the Department to impose work-related requirements with which persons entitled to an employment and support allowance must comply for the purposes of this Part.
- (2) In this Part “work-related requirement” means—
- (a) a work-focused interview requirement (see section 11B);
  - (b) a work preparation requirement (see section 11C).
- (3) The work-related requirements which may be imposed on a person depend on which of the following groups the person falls into—



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- (a) persons subject to no work-related requirements (see section 11D);
- (b) persons subject to work-focused interview requirement only (see section 11E);
- (c) persons subject to work-focused interview and work preparation requirements (see section 11F).

#### **11A Claimant commitment**

(1) A claimant commitment is a record of the responsibilities of a person entitled to an employment and support allowance in relation to the award of the allowance.

(2) A claimant commitment is to be prepared by the Department and may be reviewed and updated as the Department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

- (a) a record of the requirements that the person must comply with under this Part (or such of them as the Department considers it appropriate to include),
- (b) any prescribed information, and
- (c) any other information the Department considers it appropriate to include.

(5) For the purposes of this Part a person accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

#### **11B Work-focused interview requirement**

(1) In this Part a “work-focused interview requirement” is a requirement that a person participate in one or more work-focused interviews as specified by the Department.

(2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.

(3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Department that the person will obtain paid work (or more paid work or better-paid work).

(4) The Department may specify how, when and where a work-focused interview is to take place.

#### **11C Work preparation requirement**

(1) In this Part a “work preparation requirement” is a requirement that a person take particular action specified by the Department for the purpose of making it more likely in the opinion of the Department that the person will obtain paid work (or more paid work or better-paid work).

(2) The Department may under subsection (1) specify the time to be devoted to any particular action.

(3) Action which may be specified under subsection (1) includes in particular—

- (a) attending a skills assessment;
- (b) improving personal presentation;
- (c) participating in training;
- (d) participating in an employment programme;
- (e) undertaking work experience or a work placement;
- (f) developing a business plan;

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(g) any action prescribed for the purpose in subsection (1).

(4) The action which may be specified under subsection (1) includes taking part in a work-focused health-related assessment.

(5) In subsection (4) “work-focused health-related assessment” means an assessment by a health care professional approved by the Department which is carried out for the purpose of assessing—

- (a) the extent to which the person's capability for work may be improved by taking steps in relation to the person's physical or mental condition, and
- (b) such other matters relating to the person's physical or mental condition and the likelihood of the person obtaining or remaining in work or being able to do so as may be prescribed.

(6) In subsection (5) “health care professional” means—

- (a) a registered medical practitioner,
- (b) a registered nurse,
- (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or
- (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

#### **11D Persons subject to no work-related requirements**

(1) The Department may not impose any work-related requirement on a person falling within this section.

(2) A person falls within this section if—

- (a) the person has limited capability for work and work-related activity,
- (b) the person has regular and substantial caring responsibilities for a severely disabled person,
- (c) the person is a single person responsible for a child under the age of one,
- (d) the person is of a prescribed description.

(3) Where a person falls within this section, any work-related requirement previously applying to the person ceases to have effect.

(4) In this section—

“regular and substantial caring responsibilities” has such meaning as may be prescribed;

“severely disabled” has such meaning as may be prescribed.

#### **11E Persons subject to work-focused interview requirement only**

(1) A person falls within this section if—

- (a) the person is a single person responsible for a child who is aged at least one and is under a prescribed age (which may not be less than 3), or
- (b) the person is of a prescribed description.

(2) The Department may, subject to this Part, impose a work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

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(3) The Department may not impose a work preparation requirement on a person falling within this section (and, where a person falls within this section, a work preparation requirement previously applying to the person ceases to have effect).

#### **11F Persons subject to work preparation and work-focused interview requirement**

(1) A person who does not fall within section 11D or 11E falls within this section.

(2) The Department may, subject to this Part, impose a work preparation requirement or work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

#### **11G Connected requirements**

(1) The Department may require a person entitled to an employment and support allowance to participate in an interview for any purpose relating to—

- (a) the imposition of a work-related requirement on the person;
- (b) verifying the person's compliance with a work-related requirement;
- (c) assisting the person to comply with a work-related requirement.

(2) The Department may specify how, when and where such an interview is to take place.

(3) The Department may, for the purpose of verifying a person's compliance with a work-related requirement, require the person to—

- (a) provide to the Department information and evidence specified by the Department in a manner so specified;
- (b) confirm compliance in a manner so specified.

(4) The Department may require a person to report to the Department any specified changes in that person's circumstances which are relevant to—

- (a) the imposition of work-related requirements on the person;
- (b) the person's compliance with a work-related requirement.

#### **11H Imposition of requirements**

(1) Regulations may make provision—

- (a) where the Department may impose a requirement under this Part, as to when the requirement must or must not be imposed;
- (b) where the Department may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;
- (c) where the Department may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.

(2) Where the Department may impose a work-focused interview requirement, the Department must have regard to such matters as may be prescribed.

(3) Where the Department may specify a particular action under section 11C(1), the Department must have regard to such matters as may be prescribed.

(4) Where the Department may impose a requirement under this Part, the Department may revoke or change what has been imposed or specified.

(5) Where the Department may specify any action to be taken in relation to a requirement imposed under this Part, the Department may revoke or change what has been specified.

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(6) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Department may determine.

(7) Regulations must make provision to secure that, in prescribed circumstances, where a person has recently been a victim of domestic violence—

- (a) a requirement imposed on that person under this Part ceases to have effect for a period of 13 weeks, and
- (b) the Department may not impose any other requirement on that person during that period.

(8) For the purposes of subsection (7)—

- (a) “domestic violence” has such meaning as may be prescribed;
- (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (7) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
- (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

### **11I Compliance with requirements**

**11I.** Regulations may make provision as to circumstances in which a person is to be treated as having—

- (a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Department in relation to such a requirement.

### **11J Sanctions**

(1) The amount of an award of an employment and support allowance is to be reduced in accordance with this section in the event of a failure by a person which is sanctionable under this section.

(2) It is a failure sanctionable under this section if a person—

- (a) fails for no good reason to comply with a work-related requirement;
- (b) fails for no good reason to comply with a requirement under section 11G.

(3) Regulations are to specify—

- (a) the amount of a reduction under this section, and
- (b) the period for which such a reduction has effect.

(4) Regulations under subsection (3)(b) may provide that a reduction under this section in relation to any failure is to have effect for—

- (a) a period continuing until the person meets a compliance condition specified by the Department,
- (b) a fixed period not exceeding 26 weeks which is—
  - (i) specified in the regulations, or
  - (ii) determined in any case by the Department, or
- (c) a combination of both.

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(5) In subsection (4)(a) “compliance condition” means—

- (a) a condition that the failure ceases, or
- (b) a condition relating to future compliance with a work-related requirement or a requirement under section 11G.

(6) A compliance condition specified under subsection (4)(a) may be—

- (a) revoked or varied by the Department;
- (b) notified to the person in such manner as the Department may determine.

(7) A period fixed under subsection (4)(b) may in particular depend on either or both the following—

- (a) the number of failures by the person sanctionable under this section;
- (b) the period between such failures.

(8) Regulations may provide—

- (a) for cases in which no reduction is to be made under this section;
- (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
- (c) for the termination or suspension of a reduction under this section.

### **11K Concurrent exercise of certain functions by Department for Employment and Learning**

(1) The Department for Employment and Learning may exercise, concurrently with the Department, the functions of the Department under the provisions of this Part specified in subsection (2); and references to the Department in those provisions are to be construed accordingly.

(2) The provisions are—

- (a) section 11A(2) and (4)(a) and (c);
- (b) section 11B(1), (3) and (4);
- (c) section 11C(1) and (2);
- (d) section 11G(1), (2), (3) and (4);
- (e) section 11H(1)(b) and (c), (3) and (5);
- (f) section 11I(b).

### **11L Delegation and contracting out**

(1) The functions of the Department under sections 11 to 11I may be exercised by, or by the employees of, such person as the Department may authorise for the purpose (an “authorised person”).

(2) An authorisation given by virtue of this section may authorise the exercise of a function—

- (a) wholly or to a limited extent;
- (b) generally or in particular cases or areas;
- (c) unconditionally or subject to conditions.

(3) An authorisation under this section—

- (a) may specify its duration;

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(b) may be varied or revoked at any time by the Department;

(c) does not prevent the Department or another person from exercising the function to which the authorisation relates.

(4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or (as the case may be) an officer of the Department.

(5) Subsection (4) does not apply—

(a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or

(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

(a) the authorisation of an authorised person is revoked, and

(b) at the time of the revocation so much of any contract made between the authorised person and the Department as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Department (and not as frustrated by reason of the revocation).

(7) This section applies in relation to the functions exercisable by the Department for Employment and Learning by virtue of section 11K as it applies in relation to the functions of the Department mentioned in subsection (1); and references to the Department in subsections (1) to (6) are to be construed accordingly.”

(3) In section 19 (pilot schemes), in subsection (3), for the words from “ascertaining” to the end substitute—

“testing the extent to which the provision made by the regulations is likely to promote—

(a) people remaining in work, or

(b) people obtaining or being able to obtain work (or more work or better-paid work).”

(4) In section 24 (interpretation), in subsection (1)—

(a) at the appropriate places insert—

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

““single person” means an individual who is not a member of a couple (within the meaning of Part 2 of the Welfare Reform (Northern Ireland) Order 2015);”;

““work” has such meaning as may be prescribed;”;

““work-focused interview requirement” has the meaning given by section 11B;”;

““work preparation requirement” has the meaning given by section 11C;”;

““work-related requirement” has the meaning given by section 11;”;

(b) for the definition of “work-related activity” substitute—

““work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;”.

(5) In section 25 (regulations), in subsection (3), for “to 15” substitute “ to 11J ”.

(6) In Schedule 2 (supplementary)—

(a) in the heading preceding paragraph 10A, for “cause” substitute “ reason ”;

(b) before paragraph 10A insert—

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**“10ZA.** Regulations may for any purpose of this Part provide for—

- (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;
- (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.”;
- (c) in paragraph 10A, in sub-paragraph (1)—
  - (i) for “section 11, 12 or 13” substitute “ paragraph 10ZA ”;
  - (ii) for “good cause” substitute “ a good reason ”.
- (7) In that Schedule, after paragraph 10A insert—

*“Responsibility for children*

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

- (8) In that Schedule, in paragraph 13 (information), for “13” substitute “ 11K ”.

VALID FROM 16/01/2017

## CHAPTER 3 **N.I.**

### Income support

#### **Entitlement of lone parents to income support etc. **N.I.****

**64.—**(1) In section 123(1A)(b) of the Contributions and Benefits Act (lone parents with a child under 7 to be included in regulations as a category of person entitled to income support), for “7” substitute “ 5 ”.

(2) In section 8 of the Welfare Reform Act (Northern Ireland) 2010 (Assembly procedure: regulations imposing work-related activity requirements on lone parents of children under 7), in the heading and in subsection (1), for “7” substitute “ 5 ”.

PROSPECTIVE

#### **Claimant commitment for income support **N.I.****

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

(2) In section 123 (income support)—

(a) in subsection (1), after paragraph (e) insert—

“(ea) he has accepted a claimant commitment;”;

(b) after subsection (1B) insert—

“(1C) Regulations may prescribe circumstances in which a person may be entitled to income support without having accepted a claimant commitment.”

(3) After that section insert—

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### “123A Claimant commitment

(1) For the purposes of this Part a “claimant commitment” is a record of the claimant’s responsibilities in relation to an award of income support.

(2) A claimant commitment is to be prepared by the Department or the Department for Employment and Learning and may be reviewed and updated as that department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

(a) any prescribed information, and

(b) any other information the Department or the Department for Employment and Learning considers it appropriate to include.

(5) For the purposes of section 123 and this section a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

(6) Regulations may provide that in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 123(1)(ea).”

(4) In section 2F of the Administration Act (directions about work-related activity), in subsection (3)(b), for the words from “by” to “2E” substitute “in such manner as the Department thinks fit”.

(5) In section 2G of that Act (contracting out), after subsection (1)(c) insert—

“(d) any function under section 123A of the Contributions and Benefits Act in relation to a claimant commitment.”

PROSPECTIVE

## CHAPTER 4 **N.I.**

### Entitlement to work

#### **Entitlement to work: jobseeker's allowance** **N.I.**

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

(2) In Article 3 (jobseeker's allowance), in paragraph (2), before sub-paragraph (a) insert—

“(za) is entitled to be in employment in the United Kingdom;”.

(3) In that Article, after paragraph (3) insert—

“(3A) For the purposes of paragraph (2)(za), a person is entitled to be in employment in the United Kingdom if, and only if—

(a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the person has been granted such leave and—

(i) the leave is not invalid,

(ii) the leave has not for any reason ceased to have effect, and

(iii) the leave is not subject to a condition preventing the person from accepting any employment.”

(4) In Schedule 1 (supplementary provisions), after paragraph 8 insert—



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“**8ZA.** Regulations may prescribe circumstances in which a person may be entitled to a jobseeker’s allowance without being entitled to be in employment in the United Kingdom.”

**Entitlement to work: employment and support allowance** **N.I.**

**67.**—(1) The Welfare Reform Act (Northern Ireland) 2007 is amended as follows.

(2) In section 1 (employment and support allowance), in subsection (3), before paragraph (a) insert—

“(za) is entitled to be in employment in the United Kingdom.”

(3) In that section, after subsection (3A) insert—

“(3B) For the purposes of subsection (3)(za), a person is entitled to be in employment in the United Kingdom if, and only if—

(a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the person has been granted such leave and—

(i) the leave is not invalid,

(ii) the leave has not for any reason ceased to have effect, and

(iii) the leave is not subject to a condition preventing the person from accepting any employment.”

(4) In Schedule 2 (supplementary provisions), after paragraph 4A (as inserted by Article 60) insert—

*“Entitlement to work in the United Kingdom*

**4B.** Regulations may provide that in prescribed circumstances a person who is not entitled to be in employment in the United Kingdom may nevertheless be entitled to an employment and support allowance.”

**Entitlement to work: maternity allowance and statutory payments** **N.I.**

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

(2) In section 35 (state maternity allowance)—

(a) in subsection (1), after paragraph (d) insert—

“and

(e) at the commencement of the week referred to in paragraph (a) above she was entitled to engage in the employment referred to in paragraph (b) above.”;

(b) in subsection (3), before paragraph (a) insert—

“(za) for circumstances in which subsection (1)(e) above does not apply.”.

(3) In section 160 (statutory maternity pay)—

(a) in subsection (2), after paragraph (a) insert—

“(aa) that at the end of the week immediately preceding that 14th week she was entitled to be in that employment.”;

(b) in subsection (9), after paragraph (d) insert—

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“(da) provide for circumstances in which subsection (2)(aa) above does not apply;”.

(4) In section 167ZA (statutory paternity pay: birth)—

(a) in subsection (2), after paragraph (b) insert—

“(ba) that at the end of the relevant week he was entitled to be in that employment;”;

(b) after subsection (3) insert—

“(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”

(5) In section 167ZB (statutory paternity pay: adoption)—

(a) in subsection (2), after paragraph (b) insert—

“(ba) that at the end of the relevant week he was entitled to be in that employment;”;

(b) after subsection (3) insert—

“(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”

(6) In section 167ZL (statutory adoption pay: entitlement)—

(a) in subsection (2), after paragraph (b) insert—

“(ba) that at the end of the relevant week he was entitled to be in that employment;”;

(b) in subsection (3), after “(2)(b)” insert “, (ba) ”;

(c) in subsection (8), before paragraph (a) insert—

“(za) exclude the application of subsection (2)(ba) above in prescribed circumstances;”.

(7) After section 169 (age) insert—

**“169A Entitlement to be in employment**

**169A.** For the purposes of this Act a person is entitled to engage in or to be in any employment if (and only if)—

(a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the person has been granted such leave and—

(i) the leave is not invalid,

(ii) the leave has not for any reason ceased to have effect, and

(iii) the leave is not subject to a condition preventing the person from accepting that employment.”

(8) In Schedule 11 (statutory sick pay: circumstances in which periods of entitlement do not arise)—

(a) in paragraph 2, after sub-paragraph (h) insert—

“(i) the employee is not entitled to be in his employment on the relevant date.”;

(b) after paragraph 8 insert—

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“9. Paragraph 2(i) above does not apply in prescribed circumstances.”

**Entitlement to work: statutory shared parental pay** **N.I.**

69.—(1) Part 12ZC of the Contributions and Benefits Act (inserted by section 5 of the Work and Families Act (Northern Ireland) 2015) is amended as follows.

(2) In section 167ZU(2) (entitlement: birth) after paragraph (c) insert—

“(ca) that at the end of that prescribed week the claimant mother was entitled to be in that employment.”

(3) In section 167ZU(4) (entitlement: birth) after paragraph (d) insert—

“(da) that at the end of that prescribed week the claimant was entitled to be in that employment.”

(4) In section 167ZW(2) (entitlement: adoption) after paragraph (c) insert—

“(ca) that at the end of that prescribed week claimant A was entitled to be in that employment.”

(5) In section 167ZW(4) (entitlement: adoption) after paragraph (d) insert—

“(da) that at the end of that prescribed week claimant B was entitled to be in that employment.”

**PART 4** **N.I.**

Other benefit changes

VALID FROM 02/05/2016

*Industrial injuries benefit*

VALID FROM 01/06/2016

**Injuries arising before 5th July 1948** **N.I.**

70.—(1) In Part 5 of the Contributions and Benefits Act (industrial injuries benefit), the following provisions are repealed—

- (a) in section 94(1), the words “after 4th July 1948”;
- (b) in section 103(2)(a), the words “after 4th July 1948”;
- (c) in section 108(1), the words “and which developed after 4th July 1948”;
- (d) in section 108(3), the words “but not before 5th July 1948”;
- (e) in section 109(5)(a), the words “after 4th July 1948”;
- (f) in section 109(5)(b) and (6)(a), the words “and developed after 4th July 1948”.

(2) Accordingly, section 111 of, and Schedule 8 to, that Act (which relate to compensation and benefits in respect of industrial injuries before 5th July 1948) are repealed.

(3) The Department may make regulations subject to negative resolution—

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- (a) for, and in relation to, the payment of industrial injuries benefit to persons to whom, before the commencement of this Article, compensation or benefits were payable under section 111 of, and Schedule 8 to, the Contributions and Benefits Act;
  - (b) for claims for the payment of such compensation or benefit to be treated as claims for industrial injuries benefit.
- (4) In paragraph (3) “industrial injuries benefit” has the meaning given by section 121(1) of the Contributions and Benefits Act.

VALID FROM 31/10/2016

### Persons under 18 **N.I.**

**71.**—(1) In Schedule 4 to the Contributions and Benefits Act (rates of benefits), Part 5 (rates of industrial injuries benefit) is amended as follows.

(2) In entry 1 (which relates to disablement pension (weekly rates)), in the second column (“Rate”)—

- (a) in the opening words, for the words from “in that Table” to the end of paragraph (b) substitute “ in column (2) of that Table. ”;
- (b) in the Table, column (3) is repealed.

(3) In entry 4 (which relates to the maximum of aggregate of weekly benefit payable for successive accidents), in the second column (“Rate”)—

- (a) paragraph (a) is repealed, except for the monetary amount specified;
- (b) paragraph (b) is repealed, including the monetary amount specified.

### Trainees **N.I.**

**72.**—(1) After section 95 of the Contributions and Benefits Act insert—

#### “95A Employment training schemes etc.

(1) In the industrial injuries and diseases provisions any reference to employed earner's employment shall be taken to include participation in an employment training scheme or employment training course of a prescribed description (and “employed earner” shall be construed accordingly).

(2) In those provisions, a reference to an employer, in relation to any such participation, shall be taken to be a prescribed person.

(3) In this section “industrial injuries and diseases provisions” has the same meaning as in section 95(4) above.”

(2) In Article 33(1) of the Industrial Training (Northern Ireland) Order 1984 (power to make payments in respect of trainees equivalent to social security benefits payable in respect of employees), after “in pursuance of” insert “ Parts 2 to 4 of ”.

(3) The Department may make regulations subject to negative resolution—

- (a) for, and in relation to, the payment of industrial injuries benefit to persons to whom, before the commencement of this Article, payments were payable under Article 33(1) of the Industrial Training (Northern Ireland) Order 1984;
- (b) for claims for such payments to be treated as claims for industrial injuries benefit.

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(4) In paragraph (3) “industrial injuries benefit” has the meaning given by section 121(1) of the Contributions and Benefits Act.

VALID FROM 31/10/2016

#### **Restriction on new claims for industrial death benefit** **N.I.**

**73.** In Part 6 of Schedule 7 to the Contributions and Benefits Act (industrial death benefit), in paragraph 14, after sub-paragraph (1) insert—

“(1A) No claim may be made for industrial death benefit after the coming into operation of this sub-paragraph.”

VALID FROM 31/10/2016

#### **Determinations** **N.I.**

**74.—(1)** Article 29(2) of the Social Security (Northern Ireland) Order 1998 (which provides for decisions as to whether an accident is an industrial accident in the absence of a claim for benefit) is repealed.

(2) In Article 30 of that Order (effect of decision), in paragraph (1), the words from “(given” to “otherwise)” are repealed.

VALID FROM 09/09/2016

#### *Housing benefit*

#### **Housing benefit: determination of appropriate maximum** **N.I.**

**75.—(1)** Section 129A of the Contributions and Benefits Act (appropriate maximum housing benefit) is amended as follows.

(2) In subsection (3), for “The regulations may provide” substitute “ The provision which may be made by the regulations includes provision ”.

(3) For subsections (4) and (5) substitute—

“(4) The regulations may, for the purpose of determining the AMHB, provide for the amount of the liability mentioned in section 129(1)(a) above to be taken to be an amount other than the actual amount of that liability (and, without prejudice to the generality of this subsection, may provide for it to be taken to be the amount of an Executive determination).

(5) The regulations may, for that purpose, make provision for determining the amount of liability under section 129(1)(a) above which a person is treated as having by virtue of regulations under section 133(2)(j) below (and, without prejudice to the generality of this subsection, may provide for that amount to be the amount of an Executive determination).”

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## Social fund

VALID FROM 28/11/2016

### Ending of discretionary payments **N.I.**

**76.**—(1) Section 134(1)(b) of the Contributions and Benefits Act (discretionary payments out of social fund) is repealed.

(2) In consequence of the provision made by paragraph (1), the office of the social fund Commissioner is abolished.

(3) Payments are to be made out of the social fund into the Consolidated Fund in respect of—

(a) amounts allocated under section 147 of the Administration Act to the making of such payments as are mentioned in section 134(1)(b) but which are not so applied in consequence of paragraph (1);

(b) sums relating to such payments as are mentioned in section 134(1)(b) that are paid into the social fund under section 144 of the Administration Act.

(4) The payments are to be such as the Department determines in accordance with any directions of the Department of Finance and Personnel to be appropriate.

(5) Paragraph (3) is not to prevent the Department from re-allocating amounts allocated under section 147(1) of the Administration Act.

(6) The Department may by order subject to negative resolution provide for the transfer of property, rights and liabilities from the social fund Commissioner.

(7) An order under this Article may—

(a) provide for the transfer of property, rights and liabilities whether or not they would otherwise be capable of being transferred;

(b) make such supplementary, incidental, consequential or transitional provision as the Department considers appropriate.

(8) Schedule 8 contains consequential amendments.

### Purposes of discretionary payments **N.I.**

**77.** In section 134 of the Contributions and Benefits Act (payments out of the social fund), in subsection (1)(b), for “to meet other needs” substitute—

“to meet—

(i) other needs, and

(ii) in the case of payments by way of budgeting loan, those needs for which provision is made by paragraph (a),”.

### Commencement Information

**I5** [Art. 77](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(3\)](#)

### Determination of amount or value of budgeting loan **N.I.**

**78.**—(1) Section 136 of the Contributions and Benefits Act (principles of determination) is amended as follows.

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(2) In subsection (4), after paragraph (d) insert—

“(da) that the amount or value of a budgeting loan is not to exceed a sum specified or determined as specified in the direction;”.

(3) After subsection (4) insert—

“(4ZA) A direction under subsection (4)(da) may require the sum to be determined by applying, or by a method that includes applying, a multiplier specified in the direction in circumstances specified in the direction to the most recent relevant sum published by the Department.

(4ZB) A relevant sum is a sum determined from time to time by reference to so much of any relevant allocation under section 147(1) to (4) of the Administration Act as is available for making payments.”

#### Commencement Information

16 [Art. 78](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(3\)](#)

#### Community care grants **N.I.**

79. Sections 15 to 17 of the Welfare Reform Act (Northern Ireland) 2010 (provisions relating to community care grants), which have not been brought into operation, are repealed.

#### Commencement Information

17 [Art. 79](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(3\)](#)

PROSPECTIVE

#### *State pension credit*

#### State pension credit: carers **N.I.**

80.—(1) The State Pension Credit Act (Northern Ireland) 2002 is amended as follows.

(2) In section 2 (guarantee credit), in subsection (8), for paragraphs (a) and (b) substitute—

“(a) the claimant has regular and substantial caring responsibilities, or

(b) the claimant is a member of a couple the other member of which has such responsibilities;”.

(3) In section 17 (interpretation), in subsection (1), in the appropriate place insert—

““regular and substantial caring responsibilities” has such meaning as may be prescribed;”.

#### State pension credit: capital limit **N.I.**

81.—(1) In section 1 of the State Pension Credit Act (Northern Ireland) 2002 (entitlement), in subsection (2)—

(a) in paragraph (b), the final “and” is repealed;

(b) at the end insert—

“and

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(d) his capital does not exceed a prescribed amount.”

(2) In section 19 of that Act (regulations and orders), in subsection (4), before paragraph (a) insert—

“(za) section 1(2)(d);”.

## PART 5 N.I.

### Personal independence payment

VALID FROM 02/05/2016

#### *Personal independence payment*

#### **Personal independence payment N.I.**

**82.**—(1) An allowance known as personal independence payment is payable in accordance with this Part.

(2) A person's entitlement to personal independence payment may be an entitlement to—

- (a) the daily living component (see Article 83);
- (b) the mobility component (see Article 84); or
- (c) both those components.

(3) A person is not entitled to personal independence payment unless the person meets prescribed conditions relating to residence and presence in Northern Ireland.

#### **Daily living component N.I.**

**83.**—(1) A person is entitled to the daily living component at the standard rate if—

- (a) the person's ability to carry out daily living activities is limited by the person's physical or mental condition; and
- (b) the person meets the required period condition.

(2) A person is entitled to the daily living component at the enhanced rate if—

- (a) the person's ability to carry out daily living activities is severely limited by the person's physical or mental condition; and
- (b) the person meets the required period condition.

(3) In this Article, in relation to the daily living component—

- (a) “the standard rate” means such weekly rate as may be prescribed;
- (b) “the enhanced rate” means such weekly rate as may be prescribed.

(4) In this Part “daily living activities” means such activities as may be prescribed for the purposes of this Article.

(5) See Articles 85 and 86 for provision about determining—

- (a) whether the requirements of paragraph (1)(a) or (2)(a) are met;
- (b) whether a person meets “the required period condition” for the purposes of paragraph (1)(b) or (2)(b).



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(6) This Article is subject to the provisions of this Part, or regulations under it, relating to entitlement to the daily living component (see in particular Articles 87 (terminal illness) and 88 (persons of pensionable age)).

#### **Mobility component** **N.I.**

**84.—**(1) A person is entitled to the mobility component at the standard rate if—

- (a) the person is of or over the age prescribed for the purposes of this paragraph;
- (b) the person's ability to carry out mobility activities is limited by the person's physical or mental condition; and
- (c) the person meets the required period condition.

(2) A person is entitled to the mobility component at the enhanced rate if—

- (a) the person is of or over the age prescribed for the purposes of this paragraph;
- (b) the person's ability to carry out mobility activities is severely limited by the person's physical or mental condition; and
- (c) the person meets the required period condition.

(3) In this Article, in relation to the mobility component—

- (a) “the standard rate” means such weekly rate as may be prescribed;
- (b) “the enhanced rate” means such weekly rate as may be prescribed.

(4) In this Part “mobility activities” means such activities as may be prescribed for the purposes of this Article.

(5) See Articles 85 and 86 for provision about determining—

- (a) whether the requirements of paragraph (1)(b) or (2)(b) are met;
- (b) whether a person meets “the required period condition” for the purposes of paragraph (1)(c) or (2)(c).

(6) This Article is subject to the provisions of this Part, or regulations under it, relating to entitlement to the mobility component (see in particular Articles 87 and 88).

(7) Regulations may provide that a person is not entitled to the mobility component for a period (even though the requirements in paragraph (1) or (2) are met) in prescribed circumstances where the person's condition is such that during all or most of the period the person is unlikely to benefit from enhanced mobility.

#### **Ability to carry out daily living activities or mobility activities** **N.I.**

**85.—**(1) For the purposes of this Part, the following questions are to be determined in accordance with regulations—

- (a) whether a person's ability to carry out daily living activities is limited by the person's physical or mental condition;
- (b) whether a person's ability to carry out daily living activities is severely limited by the person's physical or mental condition;
- (c) whether a person's ability to carry out mobility activities is limited by the person's physical or mental condition;
- (d) whether a person's ability to carry out mobility activities is severely limited by the person's physical or mental condition.

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(2) Regulations must make provision for determining, for the purposes of each of Articles 83(1) and (2) and 84(1) and (2), whether a person meets “the required period condition” (see further Article 86).

(3) Regulations under this Article—

- (a) must provide for the questions mentioned in paragraphs (1) and (2) to be determined, except in prescribed circumstances, on the basis of an assessment (or repeated assessments) of the person;
- (b) must provide for the way in which an assessment is to be carried out;
- (c) must provide for relevant medical evidence to be taken into account in assessing a person and may make provision about other matters which are, or are not, to be taken into account.

(4) The regulations may, in particular, make provision—

- (a) about the information or evidence required for the purpose of determining the questions mentioned in paragraphs (1) and (2);
- (b) about the way in which that information or evidence is to be provided;
- (c) requiring a person to participate in such a consultation, with a person approved by the Department, as may be determined under the regulations (and to attend for the consultation at a place, date and time determined under the regulations).

(5) The regulations may include provision—

- (a) for a negative determination to be treated as made if a person fails without a good reason to comply with a requirement imposed under paragraph (4);
- (b) about what does or does not constitute a good reason for such a failure;
- (c) about matters which are, or are not, to be taken into account in determining whether a person has a good reason for such a failure.

(6) In paragraph (5)(a) a “negative determination” means a determination that a person does not meet the requirements of—

- (a) Article 83(1)(a) and (b) or (2)(a) and (b) (daily living component);
- (b) Article 84(1)(a) to (c) or (2)(a) to (c) (mobility component).

#### **Required period condition: further provision** N.I.

**86.**—(1) Regulations under Article 85(2) must provide for the question of whether a person meets “the required period condition” for the purposes of Article 83(1) or (2) or 84(1) or (2) to be determined by reference to—

- (a) whether, as respects every time in the previous 3 months, it is likely that if the relevant ability had been assessed at that time that ability would have been determined to be limited or (as the case may be) severely limited by the person's physical or mental condition; and
- (b) whether, as respects every time in the next 9 months, it is likely that if the relevant ability were to be assessed at that time that ability would be determined to be limited or (as the case may be) severely limited by the person's physical or mental condition.

(2) In paragraph (1) “the relevant ability” means—

- (a) in relation to Article 83(1) or (2), the person's ability to carry out daily living activities;
- (b) in relation to Article 84(1) or (2), the person's ability to carry out mobility activities.

(3) In paragraph (1)—

- (a) “assessed” means assessed in accordance with regulations under Article 85;

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(b) “the previous 3 months” means the 3 months ending with the prescribed date;

(c) “the next 9 months” means the 9 months beginning with the day after that date.

(4) Regulations under Article 85(2) may provide that in prescribed cases the question of whether a person meets “the required period condition” for the purposes of Article 83(1) or (2) or 84(1) or (2)—

(a) is not to be determined in accordance with the provision made by virtue of paragraphs (1) to (3);

(b) is to be determined in accordance with provision made in relation to those cases by the regulations.

*Entitlement and payability: further provision*

**Terminal illness** **N.I.**

**87.**—(1) This Article applies to a person who—

(a) is terminally ill; and

(b) has made a claim for personal independence payment expressly on the ground of terminal illness.

(2) A person to whom this Article applies is entitled to the daily living component at the enhanced rate (and accordingly Article 83(1) and (2) does not apply to such a person).

(3) Article 84(1)(c) and (2)(c) (required period condition for mobility component) does not apply to a person to whom this Article applies.

(4) For the purposes of this Article a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.

(5) For the purposes of this Article, where—

(a) a person purports to make a claim for personal independence payment on behalf of another, and

(b) the claim is made expressly on the ground that the person on whose behalf it purports to be made is terminally ill,

that person is to be regarded as making the claim despite its being made without that person's knowledge or authority.

(6) In paragraph (2) “the enhanced rate” has the meaning given by Article 83(3).

VALID FROM 02/05/2016

**Persons of pensionable age** **N.I.**

**88.**—(1) A person is not entitled to the daily living component or the mobility component for any period after the person reaches the relevant age.

(2) In paragraph (1) “the relevant age” means—

(a) pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995); or

(b) if higher, 65.

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(3) Paragraph (1) is subject to such exceptions as may be provided by regulations.

VALID FROM 02/05/2016

#### **No entitlement to daily living component where UK is not competent state** **N.I.**

**89.**—(1) A person to whom a relevant EU Regulation applies is not entitled to the daily living component for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.

(2) Each of the following is a “relevant EU Regulation” for the purposes of this Article—

- (a) Council Regulation (EC) No 1408/71 of 14th June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;
- (b) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29th April 2004 on the coordination of social security systems.

VALID FROM 02/05/2016

#### **Care home residents** **N.I.**

**90.**—(1) Regulations may provide that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in paragraph (2).

(2) The condition is that the person is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for the person are borne out of public funds by virtue of a specified statutory provision.

(3) In this Article “care home” means an establishment that provides accommodation together with nursing or personal care.

(4) The following are “qualifying services” for the purposes of paragraph (2)—

- (a) accommodation;
- (b) board;
- (c) personal care;
- (d) such other services as may be prescribed.

(5) The reference in paragraph (2) to a “specified statutory provision” is to a statutory provision which is specified for the purposes of that paragraph by regulations or is of a description so specified.

(6) The power to specify a statutory provision for the purposes of paragraph (2) includes power to specify it only in relation to its application for a particular purpose.

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VALID FROM 02/05/2016

### **Hospital in-patients** **N.I.**

**91.**—(1) Regulations may provide as mentioned in either or both of the following sub-paragraphs—

- (a) that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in paragraph (2);
- (b) that no amount in respect of personal independence payment which is attributable to entitlement to the mobility component is payable in respect of a person for a period when the person meets the condition in paragraph (2).

(2) The condition is that the person is undergoing medical or other treatment as an in-patient at a hospital or similar institution in circumstances in which any of the costs of the treatment, accommodation and any related services provided for the person are borne out of public funds.

(3) For the purposes of paragraph (2) the question of whether any of the costs of medical or other treatment, accommodation and related services provided for a person are borne out of public funds is to be determined in accordance with the regulations.

VALID FROM 02/05/2016

### **Prisoners** **N.I.**

**92.** Except to the extent that regulations provide otherwise, no amount in respect of personal independence payment is payable in respect of a person for a period during which the person is undergoing imprisonment or detention in legal custody.

VALID FROM 20/06/2016

### *Supplementary*

### **Claims, awards and information** **N.I.**

**93.**—(1) A person is not entitled to personal independence payment for any period before the date on which a claim for it is made or treated as made by that person or on that person's behalf.

(2) An award of personal independence payment is to be for a fixed term except where the person making the award considers that a fixed term award would be inappropriate.

(3) In deciding whether a fixed term award would be inappropriate, that person must have regard to guidance issued by the Department.

(4) Information supplied under this Part is to be taken for all purposes to be information relating to social security.

### **Report to the Assembly** **N.I.**

**94.** The Department must lay before the Assembly an independent report on the operation of assessments under Article 85—

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- (a) within 2 years beginning with the date on which the first regulations under that Article come into operation; and
- (b) within 4 years beginning with that date.

VALID FROM 02/05/2016

### General

PROSPECTIVE

#### **Abolition of disability living allowance** N.I.

95. Sections 71 to 76 of the Contributions and Benefits Act (disability living allowance) are repealed.

#### **Amendments** N.I.

96. Schedule 9 contains amendments relating to this Part.

#### **Power to make supplementary and consequential provision** N.I.

97.—(1) Regulations may make such consequential, supplementary or incidental provision in relation to any provision of this Part as the Department considers appropriate.

(2) Regulations under this Article may amend, repeal, revoke or otherwise modify any statutory provision.

#### **Transitional** N.I.

98.—(1) Regulations may make such provision as the Department considers necessary or expedient in connection with the coming into operation of any provision of this Part.

(2) Schedule 10 (transitional provision for introduction of personal independence payment) has effect.

#### **Regulations** N.I.

99.—(1) A power to make regulations under this Part includes—

- (a) power to make incidental, supplementary, consequential or transitional provision or savings;
  - (b) power to provide for a person to exercise a discretion in dealing with any matter.
- (2) Regulations made under this Part are subject to negative resolution.

#### **Interpretation of Part 4** N.I.

100. In this Part—

“daily living activities” has the meaning given by Article 83(4);

“daily living component” means the daily living component of personal independence payment;

“mobility activities” has the meaning given by Article 84(4);  
“mobility component” means the mobility component of personal independence payment.

## PART 6 N.I.

### Social security: general

#### *Benefit cap*

#### **Benefit cap** N.I.

**101.**—(1) Regulations may provide for a benefit cap to be applied to the welfare benefits to which a single person or couple is entitled.

(2) For the purposes of this Article, applying a benefit cap to welfare benefits means securing that, where a single person's or couple's total entitlement to welfare benefits in respect of the reference period exceeds the relevant amount, their entitlement to welfare benefits in respect of any period of the same duration as the reference period is reduced by an amount up to or equalling the excess.

(3) In paragraph (2) the “reference period” means a period of a prescribed duration.

(4) Regulations under this Article may in particular—

- (a) make provision as to the manner in which total entitlement to welfare benefits for any period, or the amount of any reduction, is to be determined;
- (b) make provision as to the welfare benefit or benefits from which a reduction is to be made;
- (c) provide for exceptions to the application of the benefit cap;
- (d) make provision as to the intervals at which the benefit cap is to be applied;
- (e) make provision as to the relationship between application of the benefit cap and any other reduction in respect of a welfare benefit;
- (f) provide that where in consequence of a change in the relevant amount, entitlement to a welfare benefit increases or decreases, that increase or decrease has effect without any further decision of the Department;
- (g) make supplementary and consequential provision.

(5) In this Article the “relevant amount” is an amount specified in regulations.

(6) The amount specified under paragraph (5) is to be determined by reference to estimated average earnings.

(7) In this Article—

- “couple” means two persons of a prescribed description;
- “estimated average earnings” has the same meaning as in section 96 of the Welfare Reform Act 2012;
- “single person” means a person who is not a member of a couple;
- “welfare benefit” means any prescribed benefit, allowance, payment or credit.

(8) Regulations under paragraph (7) may not prescribe as welfare benefits—

- (a) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,
- (b) state pension credit under the State Pension Credit Act (Northern Ireland) 2002, or
- (c) retirement pensions under Part 2 or 3 of the Contributions and Benefits Act.

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#### Commencement Information

**18** Art. 101 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(a)

#### Benefit cap: supplementary and consequential **N.I.**

**102.**—(1) Regulations under Article 101 are subject to negative resolution.

(2) In Schedule 2 to the Social Security (Northern Ireland) Order 1998 (decisions against which no appeal lies) after paragraph 8 insert—

*“Reduction on application of benefit cap*

**8A.** A decision to apply the benefit cap in accordance with regulations under Article 101 of the Welfare Reform (Northern Ireland) Order 2015.”

(3) In Schedule 12 to the Pensions Act (Northern Ireland) 2015 (state pension: amendments), omit paragraph 44.

#### Commencement Information

**19** Art. 102 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(a)

VALID FROM 02/05/2016

#### *Claims and awards*

#### Claims and awards **N.I.**

**103.**—(1) Section 5(1) of the Administration Act (regulations about claims and payments) is amended as follows.

(2) In paragraph (d) (conditional awards), for the words from “the condition” to the end substitute—

“(i) the condition that the requirements for entitlement are satisfied at a prescribed time after the making of the award, or

(ii) other prescribed conditions;”.

(3) In paragraph (e), for “those requirements” substitute “ the conditions referred to in paragraph (d) ”.

(4) In paragraph (g) (claims made on behalf of another), after “applies” insert “ (including in particular, in the case of a benefit to be claimed by persons jointly, enabling one person to claim for such persons jointly) ”.

(5) In paragraph (k) (notice of change of circumstances etc.), at the end insert “ or of any other change of circumstance of a prescribed description ”.

#### Powers to require information relating to claims and awards **N.I.**

**104.**—(1) Section 5 of the Administration Act (regulations about claims and payments) is amended as follows.



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(2) In subsection (1), paragraphs (h) and (hh) (powers to make provision requiring the furnishing of information or evidence) are repealed.

(3) After that subsection insert—

“(1A) Regulations may make provision for requiring a person of a prescribed description to supply any information or evidence which is, or could be, relevant to—

- (a) a claim or award relating to a benefit to which this section applies, or
- (b) potential claims or awards relating to such a benefit.”

(4) Subsection (2A) is repealed.

(5) In Article 22 of the Social Security (Northern Ireland) Order 1998 (suspension for failure to furnish information, etc), in paragraph (3), for “subsection (1)(hh) of section 5” substitute “section 5(1A)”.

VALID FROM 02/05/2016

### *Payments*

#### **Payments to joint claimants** **N.I.**

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

“(2B) The power in subsection (1)(j) to make provision for the person to whom a benefit is to be paid includes, in the case of a benefit awarded to persons jointly, power to make provision for the Department to determine to which of them all or any part of a payment should be made, and in particular for the Department—

- (a) to determine that payment should be made to whichever of those persons they themselves nominate, or
- (b) to determine that payment should be made to one of them irrespective of any nomination by them.”

#### **Payments on account** **N.I.**

**106.**—(1) In section 5(1) of the Administration Act (regulations about claims and payments), for paragraph (s) substitute—

“(s) for the making of a payment on account of such a benefit—

- (i) in cases where it is impracticable for a claim to be made or determined immediately, or for an award to be determined or paid in full immediately,
- (ii) in cases of need, or
- (iii) in cases where the Department considers in accordance with prescribed criteria that the payment can reasonably be expected to be recovered;”.

(2) Section 18 of the Welfare Reform Act (Northern Ireland) 2010 (payments on account), which has not been brought into operation, is repealed.

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VALID FROM 17/03/2016

## *Appeals*

### **Power to require consideration of revision before appeal** **N.I.**

**107.**—(1) The Social Security (Northern Ireland) Order 1998 is amended as follows.

(2) In Article 13 (appeal to appeal tribunal), in paragraph (2)—

(a) the words from “in relation to” to the end become sub-paragraph (a), and

(b) after that sub-paragraph insert—

“, or

(b) where regulations under paragraph (3A) so provide.”

(3) After paragraph (3) of that Article insert—

“(3A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal under paragraph (2) in relation to a decision only if the Department has considered whether to revise the decision under Article 10.

(3B) The regulations may in particular provide that that condition is met only where—

(a) the consideration by the Department was on an application,

(b) the Department considered issues of a specified description, or

(c) the consideration by the Department satisfied any other condition specified in the regulations.

(3C) The references in paragraphs (3A) and (3B) to regulations and to the Department are subject to any statutory provision under or by virtue of which the functions under this Chapter are transferred to or otherwise made exercisable by a person other than the Department.”

(4) After paragraph (5) of that Article insert—

“(5A) Regulations may provide that, where in accordance with regulations under paragraph (3A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under Article 10.”

(5) In Article 75(2)(a) (confirmatory procedure for certain regulations) after “13(2)” insert “or (3A)”.

(6) Schedule 11 contains similar amendments to other legislation.

(7) Paragraph (8) applies where regulations under a provision mentioned in paragraph (9) are made so as to have effect in relation to a limited area (by virtue of provision made under Article 2(3)).

(8) Any power to make, in connection with those regulations, provision as respects decisions and appeals may be exercised so that that provision applies only in relation to the area mentioned in paragraph (7).

(9) The provisions referred to in paragraph (7) are—

(a) Article 13(3A) of the Social Security (Northern Ireland) Order 1998;

(b) paragraph (2A) of Article 22 of the Child Support (Northern Ireland) Order 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000);

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- (c) paragraph (3A) of Article 22 of the Child Support (Northern Ireland) Order 1991 (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000);
- (d) Article 13(2A) of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;
- (e) paragraph 6(5A) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;
- (f) section 5(1A) of the Mesothelioma, etc., Act (Northern Ireland) 2008.

VALID FROM 02/05/2016

### *Electronic communications*

#### **Electronic communications** **N.I.**

**108.**—(1) In section 165 of the Administration Act (regulations and orders - general), after subsection (5) insert—

“(5A) The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001.

(5B) For the purposes of subsection (5A), references in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001 to an order under section 1 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”

(2) In Article 74 of the Social Security (Northern Ireland) Order 1998 (regulations and orders), after paragraph (5) insert—

“(5A) The provision referred to in paragraph (5) includes, in a case where regulations under this Order require or authorise the use of electronic communications, provision referred to in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001.

(5B) For the purposes of paragraph (5A), references in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001 to an order under section 2 of that Act are to be read as references to regulations under this Order; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”

### *Recovery of benefits*

VALID FROM 04/04/2016

#### **Recovery of benefit payments** **N.I.**

**109.**—(1) In the Administration Act, after section 69ZA insert—

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### *“Recovery of benefit payments*

#### **69ZB Recovery of overpayments of certain benefits**

(1) The Department may recover any amount of the following paid in excess of entitlement—

- (a) universal credit,
- (b) jobseeker's allowance,
- (c) employment and support allowance, and
- (d) except in prescribed circumstances, housing credit (within the meaning of the State Pension Credit Act (Northern Ireland) 2002).

(2) An amount recoverable under this section is recoverable from—

- (a) the person to whom it was paid, or
- (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—

- (a) reversed or varied on an appeal, or
- (b) revised or superseded under Article 10 or Article 11 of the Social Security (Northern Ireland) Order 1998,

except where regulations otherwise provide.

(4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.

(6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

(7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—

- (a) by deduction from benefit (section 69ZC);
- (b) by deduction from earnings (section 69ZD);
- (c) through the courts etc (section 69ZE);
- (d) by adjustment of benefit (section 69ZF).

#### **69ZC Deduction from benefit**

(1) An amount recoverable from a person under section 69ZB may be recovered by deducting the amount from payments of prescribed benefit.

(2) Where an amount recoverable from a person under section 69ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—

- (a) from prescribed benefits to which the person is entitled,

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- (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
- (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.

(3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.

(4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged.

### **69ZD Deduction from earnings**

(1) Regulations may provide for amounts recoverable under section 69ZB to be recovered by deductions from earnings.

(2) In this section “earnings” has such meaning as may be prescribed.

(3) Regulations under subsection (1) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department;
- (b) requiring the employer, on being served with a notice by the Department, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Department if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.

### **69ZE Court action etc.**

(1) An amount recoverable under section 69ZB is, if the county court so orders, recoverable as if it were payable under an order of that court.

(2) Any costs of the Department in recovering an amount of benefit under this section may be recovered by it as if they were amounts recoverable under section 69ZB.

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### **69ZF Adjustment of benefit**

**69ZF.** Regulations may for the purpose of the recovery of amounts recoverable under section 69ZB make provision—

- (a) for treating any amount paid to a person under an award which it is subsequently determined was not payable—
  - (i) as properly paid, or
  - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding arrears payable by virtue of the subsequent determination;
- (b) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
  - (i) the other person is entitled to a payment for that period, or
  - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

### **69ZG Recovery of payments on account**

- (1) The Department may recover any amount paid under section 5(1)(s) (payments on account).
- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (5) Sections 69ZC, 69ZD and 69ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 69ZB.

### **69ZH Recovery of hardship payments etc.**

- (1) The Department may recover any amount paid by way of—
  - (a) payment under Article 33 of the Welfare Reform (Northern Ireland) Order 2015 (universal credit hardship payments) which is recoverable under that Article,
  - (b) a payment under Article 21C of the Jobseekers Order (jobseeker's allowance hardship payments) which is recoverable under that Article,
  - (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Order (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
  - (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc.) which is recoverable under that paragraph, or

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- (e) a payment which is recoverable under section 5B(5A)(d) or (7)(d), 6(2A)(d) or (4)(d), 7(3)(aa) or (4)(d) or 8(2A)(d) or (4)(d) of the Social Security Fraud Act (Northern Ireland) 2001.
- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.
- (5) Sections 69ZC to 69ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 69ZB.”
- (2) In section 69 of that Act (overpayments - general), in subsection (11)(ab), at the end insert “excluding housing credit (see section 69ZB) ”.
- (3) In section 109A of that Act (penalty as alternative to prosecution), in subsection (1), after “69” insert “, 69ZB ”.
- (4) In section 109B of that Act (penalty as alternative to prosecution: colluding employers, etc)—
  - (a) for subsection (4) substitute—
    - “(4) If the recipient of a notice under subsection (3) agrees, in the specified manner, to pay the penalty—
      - (a) the amount of the penalty shall be recoverable from the recipient by the Department or the Housing Executive; and
      - (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.
  - (4A) Sections 69ZC, 69ZD and 69ZE apply in relation to amounts recoverable under subsection (4)(a) as to amounts recoverable by the Department under section 69ZB (and, where the notice is given by the Housing Executive, those sections so apply as if references to the Department were to the Housing Executive).”;
  - (b) in subsection (9), the definition of “relevant benefit” is repealed.
- (5) In Schedule 1 to the Jobseekers Order (supplementary provision)—
  - (a) in paragraph 9, at the end insert—
    - “(c) as to whether the whole or part of any amount of a jobseeker's allowance which is payable as specified in paragraph (a) is recoverable.”;
  - (b) in paragraph 10, for sub-paragraph (5)(a) substitute—
    - “(a) as to whether the whole or part of any amount paid by virtue of sub-paragraph (1) or (2) is recoverable;”.
- (6) In Article 13 of the Social Security (Northern Ireland) Order 1998 (appeal to appeal tribunal), in paragraph (4), after “69” insert “, 69ZB, 69ZG, 69ZH ”.
- (7) In Schedule 3 to that Order (decisions against which an appeal lies), after paragraph 6 insert—

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**6A.** A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act (Northern Ireland) 2002) is recoverable under section 69ZB of the Administration Act.

**6B.** A decision as to the amount of payment recoverable under section 69ZB, 69ZG or 69ZH of the Administration Act.”

VALID FROM 02/05/2016

### **Deduction from earnings: other cases** **N.I.**

**110.**—(1) In section 69 of the Administration Act (overpayments - general), after subsection (9) insert—

“(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) to be recovered by deductions from earnings.

(9B) In subsection (9A) “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department;
- (b) requiring the employer, on being served with a notice by the Department, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Department if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.”

(2) In section 69ZA of that Act (overpayments out of the social fund), before subsection (3) insert—



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“(2A) Subsection (9A) of section 69 as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsections (1) and (4) of that section by virtue of subsection (1) above.”

(3) In section 73 of that Act (overpayments of housing benefit), at the end insert—

“(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.

(9) In subsection (8) “earnings” has such meaning as may be prescribed.

(10) Regulations under subsection (8) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department, the Department of Finance and Personnel or the Housing Executive;
- (b) requiring the employer, on being served with a notice by the Department, the Department of Finance and Personnel or the Housing Executive, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department, the Department of Finance and Personnel or the Housing Executive;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department, the Department of Finance and Personnel or the Housing Executive;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Department, the Department of Finance and Personnel or the Housing Executive if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.”

(4) In section 74 of that Act (recovery of social fund awards), after subsection (3A) insert—

“(3B) Regulations may provide for amounts recoverable under subsection (1) from a person specified in subsection (3) to be recovered by deductions from earnings.

(3C) In subsection (3B) “earnings” has such meaning as may be prescribed.

(3D) Regulations under subsection (3B) may include provision referred to in section 69(9C).”

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## Application of the Limitation (Northern Ireland) Order 1989 **N.I.**

**111.**—(1) Article 2 of the Limitation (Northern Ireland) Order 1989 (interpretation) is amended as follows.

(2) In paragraph (2), in the definition of “action”, at the end insert “ (and see paragraph (11)) ”.

(3) At the end insert—

“(11) References in this Order to an action do not include any method of recovery of a sum recoverable under—

- (a) Part 3 of the Social Security Administration (Northern Ireland) Act 1992,
- (b) section 126(c) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, or
- (c) Part 1 of the Tax Credits Act 2002, other than a proceeding in a court of law.”

(4) The amendments made by this Article have effect as if they had come into operation at the same time as Article 2 of the Limitation (Northern Ireland) Order 1989, except for the purposes of proceedings brought before the coming into operation of this Article.

### Commencement Information

**I10** [Art. 111](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(4\)\(b\)](#)

## *Investigation and prosecution of offences*

## Powers to require information relating to investigations **N.I.**

**112.** In section 103B of the Administration Act (power to require information), in subsection (2) —

(a) after paragraph (i) (but before the final “and”) insert—

“(ia) a person of a prescribed description;”;

(b) in paragraph (j), for “(i)” substitute “ (ia) ”.

### Commencement Information

**I11** [Art. 112](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(4\)\(c\)](#)

## Time limits for legal proceedings **N.I.**

**113.** In section 110 of the Administration Act (legal proceedings), in subsection (2)—

(a) in paragraph (a), for “other than an offence relating to housing benefit” substitute “ (other than proceedings to which paragraph (b) applies) ”;

(b) in paragraph (b), after “proceedings” insert “ brought by the Department of Finance and Personnel or the Housing Executive ”.

### Commencement Information

**I12** [Art. 113](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(4\)\(d\)](#)

## Prosecution powers of the Housing Executive **N.I.**

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

(2) After section 110 insert—

### “**110ZA Housing Executive powers to prosecute housing benefit fraud**

(1) The Housing Executive may not bring proceedings against a person for a benefit offence relating to housing benefit unless—

- (a) the Housing Executive has already started an investigation in relation to that person in respect of the offence,
- (b) the proceedings arise in prescribed circumstances or are of a prescribed description, or
- (c) the Department has directed that the Housing Executive may bring the proceedings.

(2) The Department may direct that in prescribed circumstances the Housing Executive may not bring proceedings by virtue of subsection (1)(a) despite the requirements in that provision being met.

(3) A direction under subsection (1)(c) or (2) may relate to particular proceedings or any description of proceedings.

(4) If the Department prescribes conditions for the purposes of this section, the Housing Executive may bring proceedings in accordance with this section only if any such condition is satisfied.

(5) The Department may continue proceedings which have been brought by the Housing Executive in accordance with this section as if the proceedings had been brought in the Department's name or it may discontinue the proceedings if—

- (a) the proceedings were brought by virtue of subsection (1)(a),
- (b) the Department makes provision under subsection (1)(b) which has the effect that the Housing Executive would no longer be entitled to bring the proceedings in accordance with this section,
- (c) the Department withdraws a direction under subsection (1)(c) in relation to the proceedings, or
- (d) a condition prescribed under subsection (4) ceases to be satisfied in relation to the proceedings.

(6) In exercising a power to bring proceedings in accordance with this section, the Housing Executive must have regard to the code of practice for prosecutors published by the Director of Public Prosecutions for Northern Ireland under section 37 of the Justice (Northern Ireland) Act 2002—

- (a) in determining whether the proceedings should be instituted;
- (b) in determining what charges should be preferred;
- (c) in considering what representations to make to a magistrates' court about mode of trial;
- (d) in determining whether to discontinue proceedings.

(7) Regulations shall define “an investigation in respect of a benefit offence” for the purposes of this section.”

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(3) Section 110A (Housing Executive powers to prosecute benefit fraud) (as inserted by section 43 of the Welfare Reform Act (Northern Ireland) 2007) is amended as follows.

- (4) In the heading, after “prosecute” insert “ other ”.
- (5) In subsection (2)—
  - (a) for “unless” substitute “ only if ”;
  - (b) in paragraph (b), for “must not”, substitute “ may ”.
- (6) In subsection (4)(b), for “gives” substitute “ withdraws ”.

VALID FROM 04/04/2016

*Penalties as alternative to prosecution*

**Penalty in respect of benefit fraud not resulting in overpayment** **N.I.**

**115.**—(1) Section 109A of the Administration Act (penalty as alternative to prosecution) is amended as follows.

- (2) After subsection (1) insert—
  - “(1A) This section also applies where—
    - (a) it appears to the Department or the Housing Executive that there are grounds for instituting proceedings against a person for an offence (under this Act or any other statutory provision) relating to an act or omission on the part of that person in relation to any benefit, and
    - (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Department or the Housing Executive under or by virtue of section 69, 69ZB, 69A or 73.”
- (3) In subsection (2)(a) for “such proceedings” substitute “ proceedings referred to in subsection (1) or (1A) ”.
- (4) In subsection (4)—
  - (a) in paragraph (a), after “is” insert “ or would have been ”;
  - (b) in paragraph (b), at the end insert “ or to the act or omission referred to in subsection (1A)(a). ”
- (5) In subsections (6) and (7), at the beginning insert “ In a case referred to in subsection (1) ”.
- (6) In subsection (7B)(a), after “is”, in both places, insert “ or would have been ”.
- (7) In subsection (8) after “subsection (1)(a)” insert “ or (1A)(b) ”.
- (8) In the Social Security Fraud Act (Northern Ireland) 2001—
  - (a) in section 5B(1)(b), the words “by reference to an overpayment” are repealed and for “the offence mentioned in subsection (1)(b) of the appropriate penalty provision” substitute “ the offence to which the notice relates ”;
  - (b) in sections 5C(2)(b) and (3), 7(7)(b) and (8) and 8(7)(b) and (8), for “the overpayment” substitute “ any overpayment made ”.

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**Amount of penalty** **N.I.**

**116.**—(1) In section 109A of the Administration Act (penalty as alternative to prosecution), for subsection (3) substitute—

“(3) The amount of the penalty in a case falling within subsection (1) is 50 per cent. of the amount of the overpayment (rounded down to the nearest whole penny), subject to—

- (a) a minimum amount of £350, and
  - (b) a maximum amount of £2000.
- (3A) The amount of the penalty in a case falling within subsection (1A) is £350.
- (3B) The Department may by order amend—
- (a) the percentage for the time being specified in subsection (3);
  - (b) any figure for the time being specified in subsection (3)(a) or (b) or (3A).”

(2) In section 166 of the Administration Act (Assembly, etc. control of orders and regulations), in subsection (2), before paragraph (a) insert—

“(za) to any order made under section 109A(3B);”.

VALID FROM 02/05/2016

*Loss of benefit*

**Benefit offences: period of sanction** **N.I.**

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

(2) Section 5B (loss of benefit in case of conviction, penalty or caution for benefit offence) is amended as follows.

(3) In subsection (11), for “the period of four weeks” substitute “ the relevant period ”.

(4) After subsection (11) insert—

- “(11A) For the purposes of subsection (11) the relevant period is—
- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
  - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or
  - (c) in a case falling within subsection (1)(b) or (c), the period of four weeks.”

(5) After subsection (13) insert—

- “(14) In this section and section 6 “relevant offence” means—
- (a) the common law offence of conspiracy to defraud, or
  - (b) a prescribed offence which, in the offender's case, is committed in such circumstances as may be prescribed, and which, on conviction—
    - (i) is found by the court to relate to an overpayment (as defined in section 109A(8) of the Administration Act) of at least £50,000,
    - (ii) is punished by a custodial sentence of at least one year (including a suspended sentence as defined in section 33(1) of the Treatment of Offenders Act (Northern Ireland) 1968), or

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(iii) is found by the court to have been committed over a period of at least two years.”

(6) After subsection (14) (inserted by paragraph (5)) insert—

“(15) The Department may by order amend subsection (11A)(a), (b) or (c), or (14)(b)(i), (ii) or (iii) to substitute a different period or amount for that for the time being specified there.”

(7) In section 6 (loss of benefit for second or subsequent conviction of benefit offence), after subsection (1) insert—

“(1A) The following restrictions do not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.”

(8) In section 10 (loss of benefit regulations)—

(a) in the heading, after “benefit” insert “ orders and ”;

(b) in subsection (3) after paragraph (d) insert—

“or

(e) a provision prescribing an offence under section 5B(14)(b).”;

(c) after subsection (3) insert—

“(3A) An order under section 5B(15) shall be subject to the confirmatory procedure.

(3B) In this section “the confirmatory procedure” means the procedure described in subsection (3).”;

(d) in subsection (4) after “make”, in both places, insert “ an order or ”.

#### **Benefit offences: sanctions for repeated benefit fraud N.I.**

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

(2) In section 5B (loss of benefit in case of conviction, penalty or caution for benefit offence), in subsection (3) for “later” substitute “ current ”.

(3) Section 6 (loss of benefit for second or subsequent conviction of benefit offence) is amended as follows.

(4) In the heading, for “second or subsequent conviction of benefit offence” substitute “ repeated benefit fraud ”.

(5) For subsection (1)(a) to (e) substitute—

“(a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),

(b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),

(c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section or section 7 or 8 in relation to the offender or any person who was then a member of the offender's family,

(d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous application of this section or either of those sections in relation to the offender or any person who was then a member of the offender's family, and

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(e) the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period.”.

(6) In subsection (6), for the words from “in relation to” to the end, substitute “ in an offender’s case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings ”.

(7) After that subsection insert—

“(6A) For the purposes of subsection (6) the relevant period is—

- (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
- (b) in any other case, 26 weeks.”

(8) After subsection (7) insert—

“(7A) Subsection (7B) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of this section in relation to that person—

- (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
- (b) it is decided on an appeal or in accordance with regulations under the Social Security (Northern Ireland) Order 1998 or the Social Security Act 1998 that any overpayment to which the agreement relates is not recoverable or due, or
- (c) the amount of any overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security (Northern Ireland) Order 1998 or the Social Security Act 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.

(7B) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed if P had not agreed to pay the penalty.”

(9) In subsection (8), the following definitions are inserted at the appropriate places—

““appropriate penalty provision” has the meaning given in section 5B(2)(a);”;

““disqualifying event” has the meaning given in section 5B(13).”

(10) After that subsection insert—

“(8A) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—

- (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year periods mentioned there;
- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
- (c) in the case of the earlier disqualifying event mentioned in subsection (6A)(a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
- (d) in the case of the previous disqualifying event mentioned in subsection (6A)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.”

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(11) After subsection (10) insert—

“(11) The Department may by order amend subsection (6A) to substitute different periods for those for the time being specified there.

(12) An order under subsection (11) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case.”

(12) In section 10 (loss of benefit regulations), in subsection (3A) (as inserted by Article 117(8)(c)), after “5B(15)” insert “ or 6(11) ”.

PROSPECTIVE

### Cautions **N.I.**

**119.** In section 5B of the Social Security Fraud Act (Northern Ireland) 2001 (loss of benefit in case of conviction, penalty or caution for benefit offence)—

- (a) in the heading, for “, penalty or caution” substitute “ or penalty ”;
- (b) in subsection (1), after paragraph (a) insert “ or ”;
- (c) subsection (1)(c) (cautions) and the preceding “or” are repealed;
- (d) in subsection (13), in the definition of “disqualifying event”, for “(1)(a),” substitute “ (1)(a) or ”.

### *Information-sharing*

#### **Information-sharing in relation to provision of overnight care etc. **N.I.****

**120.**—(1) This Article applies where a relevant body holds information falling within paragraph (2) in relation to a person who is receiving or is likely to receive a relevant service.

(2) The information referred to in paragraph (1) is—

- (a) information as to the fact of the provision or likely provision of the service;
- (b) information about when the provision of the service begins or ends or is likely to do so;
- (c) other prescribed information relating to the service provided and how it is funded (including the extent to which it is funded by the recipient).

(3) In this Article “relevant service” means—

- (a) a service consisting of overnight care in the individual's own home provided by or on behalf of a relevant body;
- (b) a residential care service provided by or on behalf of a relevant body;
- (c) a service consisting of overnight accommodation in a hospital provided by a Health and Social Care Trust.

(4) In paragraph (3)(c) “hospital” means hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 but excluding an institution for providing dental treatment maintained in connection with a dental school.

(5) The relevant body may supply the information to a person specified in paragraph (6) for purposes relating to the payment of a relevant benefit to the individual.

(6) The persons referred to in paragraph (5) are—

- (a) the Department;



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- (b) a person providing services to the Department;
  - (c) the Housing Executive or the Department of Finance and Personnel;
  - (d) a person authorised to exercise any function of the Housing Executive or that Department relating to a relevant benefit;
  - (e) a person providing services relating to a relevant benefit to the Housing Executive or that Department.
- (7) In this Article “relevant benefit” means—
- (a) universal credit;
  - (b) housing benefit;
  - (c) any prescribed benefit.
- (8) In this Article and Article 121—
- “the Housing Executive” means the Northern Ireland Housing Executive;
- “relevant body” means—
- (a) a Health and Social Care trust;
  - (b) the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

#### **Commencement Information**

**I13** Art. 120 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(e)

#### **Information-sharing in relation to welfare services etc. N.I.**

**121.**—(1) The Department, or a person providing services to the Department, may supply relevant information to a qualifying person for prescribed purposes relating to welfare services or rates.

(2) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services may supply that information to—

- (a) the Department, or
- (b) a person providing services to the Department,

for a prescribed purpose relating to a relevant social security benefit.

(3) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services, housing benefit or rates may—

- (a) use the information for another prescribed purpose relating to welfare services, housing benefit or rates;
- (b) supply it to another qualifying person for use in relation to the same or another prescribed purpose relating to welfare services, housing benefit or rates.

(4) Relevant information supplied under paragraph (1) or (3) to a qualifying person may be supplied by that person to a person who provides qualifying welfare services for purposes connected with the provision of those services.

(5) In paragraph (4) services are qualifying welfare services if—

- (a) a relevant body, or
- (b) a person who is a qualifying person by virtue of paragraph (7)(n), contributes or will contribute to the expenditure incurred in their provision.

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(6) Paragraphs (1) to (4) do not apply in a case where the supply or use of information is authorised by Article 120.

(7) In this Article “qualifying person” means—

- (a) a relevant body;
- (b) the Department of Education;
- (c) an education and library board;
- (d) the Department for Regional Development;
- (e) the Department of Justice;
- (f) the Housing Executive;
- (g) a person authorised to exercise any function of any of the persons specified in sub-paragraphs (a) to (f) relating to welfare services;
- (h) a person providing to any of the persons specified in sub-paragraphs (a) to (f) services relating to welfare services;
- (i) DFP;
- (j) a person authorised to exercise any function of DFP or the Housing Executive relating to rates;
- (k) a person providing to DFP or the Housing Executive services relating to rates;
- (l) a person authorised to exercise any function of DFP or the Housing Executive relating to housing benefit;
- (m) a person providing to DFP or the Housing Executive services relating to housing benefit;
- (n) a prescribed person or a person of a prescribed description.

(8) In this Article—

“DFP” means the Department of Finance and Personnel;

“relevant information” means information relating to—

- (a) any relevant social security benefit, or
- (b) welfare services;

“relevant social security benefit” has the meaning given in section 115CA(7) of the Administration Act;

“welfare services” includes—

- (a) services which provide accommodation, support, assistance, advice or counselling to individuals with particular needs,
- (b) any other prescribed services,

and for these purposes “assistance” includes assistance by means of a grant or loan or the provision of goods or services.

#### Commencement Information

**I14** Art. 121 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(f)

#### Unlawful disclosure of information **N.I.**

**122.**—(1) A person to whom paragraph (2) applies is guilty of an offence if the person discloses without lawful authority any information—

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- (a) which comes to the person by virtue of Article 121(1), (3) or (4), and
  - (b) which relates to a particular person.
- (2) This paragraph applies to—
- (a) a person mentioned in Article 121(7)(a), (c), (f), (g), (h), (j) and (k);
  - (b) a person who provides qualifying welfare services (within the meaning of Article 121);
  - (c) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person mentioned in sub-paragraph (a) or (b);
  - (d) a person who is or has been an employee of a person mentioned in sub-paragraph (b) or Article 121(7)(a) to (k).
- (3) A person guilty of an offence under this Article is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.
- (4) It is not an offence under this Article—
- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person (“D”) charged with an offence under this Article to prove that at the time of the alleged offence—
- (a) D believed that D was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) D believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) A disclosure is made with lawful authority if it is so made for the purposes of section 117 of the Administration Act.
- (7) This Article does not affect that section.
- (8) Regulations under Article 121(7)(n) may include provision for applying the provisions of this Article to—
- (a) a person who is a qualifying person within the meaning of Article 121 by virtue of the regulations, or
  - (b) a person associated with such a qualifying person by reason of the person's office or employment or otherwise.

#### **Commencement Information**

**I15** Art. 122 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(g)

#### **Articles 120 to 122: supplementary** **N.I.**

- 123.**—(1) In Articles 120 and 121, “benefit” includes any allowance, payment, credit or loan.
- (2) Any power to make regulations under Articles 120 and 121 includes power—
- (a) without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, to make different provision for different areas;

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- (b) to make such incidental, supplemental, consequential, transitional or saving provision as the Department thinks necessary or expedient.
- (3) Regulations made under Article 120 and 121 are subject to negative resolution.
- (4) Sections 39 (information relating to certain benefits) and 40 (unlawful disclosure of certain information) of the Welfare Reform Act (Northern Ireland) 2007 are repealed but this is subject to paragraph (5).
- (5) Notwithstanding paragraph (4), the following provisions of that Act continue to have effect—
  - (a) section 39 insofar as it permits the use, supply or provision by any person of information which came to that person, by virtue of subsection (1), (2) or (5) of that section, before the day on which subsection (4) comes into operation;
  - (b) section 40 insofar as it relates to the disclosure by any person of such information.

#### Commencement Information

**I16** Art. 123 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(h)

#### Information-sharing for social security or employment purposes etc. **N.I.**

**124.** In Article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (supply of information for certain purposes), in paragraph (2)(b), after “designated” insert “ (specifically or by description) ”.

#### Commencement Information

**I17** Art. 124 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(i)

#### *Reports by Department*

#### Reports by Department **N.I.**

**125.** In Article 76 of the Social Security (Northern Ireland) Order 1998 (reports by Department) for paragraph (1) substitute—

“(1) The Department shall prepare, either annually or at such times or intervals as may be prescribed, a report on—

- (a) the standards achieved by the Department in the making of decisions against which an appeal lies to an appeal tribunal constituted under Chapter 1 of Part 2;
  - (b) the standards of advice and assistance provided under Article 138 of the Welfare Reform (Northern Ireland) Order 2015; and
  - (c) the operation of sanctions.
- (1A) For the purposes of paragraph (1)(c) a sanction is—
- (a) the reduction in the amount of an award of universal credit, a jobseeker's allowance, income support or an employment and support allowance on account of a failure by a person to comply with any requirement or any other conduct of a person;
  - (b) the loss of, or reduction in the amount of, any sanctionable benefit under the Social Security Fraud Act (Northern Ireland) 2001.

(1B) A report under paragraph (1)(c) must contain details of—

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- (a) the number of persons affected by sanctions;
- (b) the periods for which such persons are affected;
- (c) the reasons for which sanctions are imposed;
- (d) the benefits or allowances which are reduced or lost.”

#### Commencement Information

**I18** Art. 125 in operation at 17.2.2016 by S.R. 2016/46, art. 3(4)(j)

## PART 7 **N.I.**

### Miscellaneous

#### *Child support maintenance*

PROSPECTIVE

#### Supporting maintenance agreements **N.I.**

**126.**—(1) In Article 11 of the Child Support (Northern Ireland) Order 1991 (maintenance agreements), after paragraph (2) insert—

“(2A) The Department may, with a view to reducing the need for applications under Article 7—

- (a) take such steps as it considers appropriate to encourage the making and keeping of maintenance agreements, and
- (b) in particular, before accepting an application under that Article, invite the applicant to consider with the Department whether it is possible to make such an agreement.”

(2) In Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 (maintenance calculations: transfer of cases to new rules), in paragraph 3, after sub-paragraph (2) insert—

“(3) The Department may before accepting an application required by provision under sub-paragraph (2)(b) invite the applicant to consider with the Department whether it is possible to make a maintenance agreement (within the meaning of Article 11 of the Child Support Order).”

#### Collection of child support maintenance **N.I.**

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

(2) In Article 7 (child support maintenance)—

- (a) in paragraph (2), the words from “or” to “made” are repealed;
- (b) after paragraph (2) insert—

“(2A) The Department may only make arrangements under paragraph (2)(a) if—

- (a) the non-resident parent agrees to the arrangements, or
- (b) the Department is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”

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(3) In Article 29 (collection of child support maintenance), in paragraph (1) after “may” insert “(subject to Article 7(2A))”.

#### Commencement Information

**I19** Art. 127(1)(2)(a) in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(a) (with art. 2)

PROSPECTIVE

#### Indicative maintenance calculations **N.I.**

**128.** After Article 11 of the Child Support (Northern Ireland) Order 1991 insert—

##### “Maintenance agreements: indicative calculations

**11A.**—(1) A person with care or non-resident parent in relation to any qualifying child or qualifying children may apply to the Department for an indicative calculation with respect to that child or any of those children.

(2) An indicative calculation is a calculation of the amount of child support maintenance which the Department considers would in accordance with Article 13 be fixed by a maintenance calculation if such a calculation were made with respect to the child or children in question.

(3) An indicative calculation does not create any liability on any person to pay child support maintenance.

(4) The Department may limit the number of applications it will accept under this Article in any particular case in such manner as it thinks fit.

(5) Where a person who is alleged to be the parent of a child with respect to whom an application for an indicative calculation has been made denies being one of the child's parents, the Department shall not make the indicative calculation on the assumption that the person is one of the child's parents unless the case falls within paragraph (b) of Case A3 in Article 27(2).”

#### Recovery of child support maintenance by deduction from benefit **N.I.**

**129.** In Article 40 of the Child Support (Northern Ireland) Order 1991 (as substituted by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000), for paragraphs (1) and (2) substitute—

“(1) The power of the Department to make regulations under section 5 of the Social Security Administration (Northern Ireland) Act 1992 by virtue of subsection (1)(q) of that section may be exercised with a view to securing the making of payments in respect of child support maintenance by a non-resident parent.

(2) The reference in paragraph (1) to the making of payments in respect of child support maintenance includes the recovery of—

(a) arrears of child support maintenance; and

(b) fees payable under section 3 of the Child Maintenance Act (Northern Ireland) 2008.”

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#### Commencement Information

**I20** Art. 129 in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(b)

#### Fees **N.I.**

**130.**—(1) Section 3 of the Child Maintenance Act (Northern Ireland) 2008 (fees) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (d), at the end insert “ (including provision for the apportionment of fees and the matters to be taken into account in determining an apportionment) ”;

(b) in paragraph (g) “waiver,” is repealed;

(c) after paragraph (g) insert—

“(h) about waiver of fees (including the matters to be taken into account in determining a waiver).”

(3) After subsection (3) insert—

“(3A) The Department must review the effect of the first regulations made under subsection (1).

(3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into operation.

(3C) After the review, the Department must make and publish a report containing—

(a) the conclusions of the review; and

(b) a statement as to what the Department proposes to do in view of those conclusions.

(3D) The report must be laid before the Assembly by the Department.”

#### Commencement Information

**I21** Art. 130 in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(b)

#### Exclusion from individual voluntary arrangements **N.I.**

**131.** In the Insolvency (Northern Ireland) Order 1989, in Article 9 (interpretation), at the end insert—

“(5) Liability under the Child Support (Northern Ireland) Order 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.”

#### Commencement Information

**I22** Art. 131 in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(b)

### *Employment and training*

#### Use of jobcentres by sex industry **N.I.**

**132.** In the Employment and Training Act (Northern Ireland) 1950, after section 1 (duty of Department to make arrangements as to employment and training) insert—

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#### “1A Restriction on section 1 arrangements: sex industry

- (1) Arrangements made by the Department under section 1 may not include arrangements in respect of employment for sexual purposes.
- (2) For the purposes of this section employment is for sexual purposes if—
- (a) it involves the employee engaging in an activity, and
  - (b) the employee's activity, or the way in which it is performed, may reasonably be assumed to be intended solely or principally to stimulate one or more other persons sexually (by whatever means).
- (3) The Department may by order subject to negative resolution specify exceptions to subsection (1).”

#### Commencement Information

**I23** [Art. 132](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(5\)\(c\)](#)

#### *Reduced dog licence fees for those in receipt of income-related benefits*

#### Reduced fee for dog licences **N.I.**

- 133.**—(1) The Dogs (Northern Ireland) Order 1983 is amended as follows.
- (2) In Article 7 (fees for dog licences)—
- (a) for paragraph (3)(b) substitute—
    - “(b) a licence issued to a person who at the time of the application for the licence is—
      - (i) in receipt of an income-related benefit, or
      - (ii) a member of a couple in receipt of an income-related benefit;”.
  - (b) after paragraph (9), insert—
    - “(10) In this Article “income-related benefit” means—
      - (a) universal credit under the Welfare Reform (Northern Ireland) Order 2015;
      - (b) state pension credit under the State Pension Credit Act (Northern Ireland) 2002;
      - (c) income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
      - (d) housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
      - (e) income-based jobseekers allowance under the Jobseeker's (Northern Ireland) Order 1995;
      - (f) income-related employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007;
      - (g) working tax credit under the Tax Credits Act 2002.”

#### Commencement Information

**I24** [Art. 133](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(5\)\(d\)](#)



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VALID FROM 27/09/2017

*Rate relief schemes: application of housing benefit law*

**Rate relief schemes: application of housing benefit law** **N.I.**

**134.** In Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief scheme in respect of dwellings) in paragraph (3) for sub-paragraph (a) substitute—

- “(a) provision for purposes corresponding to those of any statutory provision—
- (i) which has any application in relation to housing benefit or universal credit; or
  - (ii) which, at any time specified in the regulations (being a time before the coming into operation of the regulations), had any application in relation to housing benefit;”.

*Discretionary support*

**Discretionary support** **N.I.**

**135.**—(1) The Department may, in accordance with regulations under this Article—

- (a) make payments by way of grant or loan to prescribed persons;
- (b) provide, or arrange for the provision of, goods or services to prescribed persons.

(2) Anything done under paragraph (1)(a) or (b) is referred to in this Article as the provision of discretionary support.

(3) Regulations may make provision—

- (a) for the Department to provide discretionary support only in prescribed circumstances;
- (b) conferring a discretion on the Department (subject to any provision made by virtue of sub-paragraph (c) or (d))—
  - (i) as to whether or not to provide discretionary support in a particular case, and
  - (ii) as to the nature of the discretionary support and (in the case of support by way of payments) as to the amount of the payments and the period for or in respect of which they are made;
- (c) imposing a limit on the amount of the discretionary support that the Department may make in any particular case;
- (d) restricting the period for or in respect of which the Department may provide discretionary support in any particular case;
- (e) for claims for discretionary support to be made in the prescribed form and manner and for the procedure to be followed in dealing with and disposing of such claims;
- (f) imposing conditions on persons claiming or receiving discretionary support requiring them to provide to the Department such information as may be prescribed;
- (g) for the disclosure of information relating to discretionary support in prescribed circumstances or to prescribed persons;
- (h) authorising the Department in prescribed circumstances to recover by prescribed means discretionary payments made under this Article;

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- (i) requiring or authorising reviews (whether by the Department or a prescribed person) of decisions made by the Department with respect to the provision of discretionary support or the recovery of payments made under this Article;
  - (j) for such other matters as appear to the Department to be necessary or expedient in connection with the provision of discretionary support, including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.
- (4) In this Article “prescribed” means prescribed by, or determined in accordance with, regulations under this Article.
- (5) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (6) The Department shall, in respect of each financial year, prepare and lay before the Assembly a report on the operation of regulations made under this Article.

#### Commencement Information

**I25** Art. 135 in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(e)

#### Discretionary support Commissioner **N.I.**

- 136.**—(1) There shall be an officer known as “the discretionary support Commissioner”.
- (2) The discretionary support Commissioner shall be appointed by the Department on such terms and conditions as the Department may determine.
- (3) The discretionary support Commissioner—
- (a) shall appoint such discretionary support inspectors, and
  - (b) may appoint such staff for the Commissioner and for discretionary support inspectors,
- as the Commissioner thinks fit but with the consent of the Department.
- (4) Appointments under paragraph (3) shall be made from persons made available to the Commissioner by the Department.
- (5) Discretionary support inspectors have such functions as are conferred or imposed on them—
- (a) by regulations under Article 135, or
  - (b) by any other statutory provision,
- in relation to the review of decisions of the Department.
- (6) It shall be the duty of the discretionary support Commissioner—
- (a) to monitor the quality of decisions of discretionary support inspectors and give them such advice and assistance as the Commissioner thinks fit to improve the standard of their decisions;
  - (b) to arrange such training of discretionary support inspectors as the Commissioner considers necessary;
  - (c) to carry out such other functions in connection with the work of discretionary support inspectors as the Department may require;
  - (d) to report annually in writing to the Department on the standards of reviews by discretionary support inspectors.
- (7) The Department shall publish any report made under paragraph (6)(d).

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(8) In Part 1 of Schedule 4 to the Administration Act after the entries under the heading “The social fund” insert—

*“Discretionary support officers*

The discretionary support Commissioner.

A discretionary support inspector.

A member of any staff appointed under Article 136(3)(b) of the Welfare Reform (Northern Ireland) Order 2015.”

(9) In the Freedom of Information Act 2000, in Part 7 of Schedule 1 after the entry relating to the social fund Commissioner insert—

“The discretionary support Commissioner appointed under Article 136 of the Welfare Reform (Northern Ireland) Order 2015.”

**Commencement Information**

**I26** Art. 136 in operation at 17.2.2016 by S.R. 2016/46, art. 3(5)(f)

*Payments to persons suffering financial disadvantage*

**Payments to persons suffering financial disadvantage** **N.I.**

**137.**—(1) The purpose of this Article is to enable the Department to make payments to persons who suffer financial disadvantage as a result of the changes to social security benefits and tax credits contained in this Order and the Welfare Reform Act 2012.

(2) The Department may by regulations make provision for the purpose mentioned in paragraph (1).

(3) Regulations under this Article may in particular make provision—

- (a) for determining whether a person has suffered financial disadvantage as a result of the changes mentioned in paragraph (1) and, if so, the amount of that disadvantage;
- (b) for determining eligibility for payments, including provision for payments to be made only in prescribed circumstances or only to persons who meet prescribed conditions;
- (c) for determining—
  - (i) the amount of payments;
  - (ii) the period or periods for or in respect of which payments are to be made;
- (d) for claims for payments to be made in prescribed cases and in the prescribed form and manner and for the procedures to be followed in dealing with and disposing of such claims;
- (e) for payments to be made in prescribed cases without any claim being made;
- (f) imposing conditions on persons claiming or receiving payments, including conditions requiring them to provide to the Department such information as may be prescribed;
- (g) for payments to cease to be made in prescribed circumstances;
- (h) for the disclosure of information relating to payments in prescribed circumstances or to prescribed persons;
- (i) for the recovery of payments by the Department in prescribed circumstances;
- (j) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of payments;

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- (k) imposing functions on a statutory body other than the Department in connection with the administration of the regulations;
  - (l) for such other matters as appear to the Department to be necessary or appropriate in connection with the making of payments including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.
- (4) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.
- (5) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.
- (6) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.
- (7) A power conferred by this Article to make regulations includes power—
- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
  - (b) to provide for the Department to exercise a discretion in dealing with any matter.
- (8) In this Article—
- “prescribed” means prescribed by regulations under this Article;
  - “payment” means a payment under this Article;
  - “statutory body” means a body established by or under a statutory provision.

#### Commencement Information

I27 [Art. 137](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(5\)\(g\)](#)

### *Duties of the Department*

#### **Duty to ensure availability of advice and assistance** **N.I.**

**138.** The Department must ensure that advice and assistance are made available free of charge to persons making a claim under this Order in connection with that claim.

#### Commencement Information

I28 [Art. 138](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(5\)\(h\)](#)

#### **Duty to report on operation of this Order** **N.I.**

**139.**—(1) The Department must, not later than 3 years after this Order is made, publish a report on the operation of this Order.

(2) The Department must lay the report before the Assembly.

#### Commencement Information

I29 [Art. 139](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(5\)\(h\)](#)

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## PART 8 **N.I.**

### Repeals

#### Repeals **N.I.**

**140.** Schedule 12 contains consequential repeals.

#### Commencement Information

**I30** [Art. 140](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(6\)\(a\)](#)

*Ceri King*  
Deputy Clerk of the Privy Council

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