

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment and Support Allowance Regulations (Northern Ireland) 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 219

The Employment and Support Allowance Regulations (Northern Ireland) 2016

PROSPECTIVE

PART 6

EFFECT OF WORK ON ENTITLEMENT TO AN EMPLOYMENT AND SUPPORT ALLOWANCE

A claimant who works to be treated as not entitled to an employment and support allowance

37.—(1) Subject to the following paragraphs, a claimant is to be treated as not entitled to an employment and support allowance in any week in which that claimant does work.

(2) Paragraph (1) does not apply to—

- (a) work as a councillor;
- (b) duties undertaken on either one full day or 2 half-days a week as a member of an appeal tribunal constituted under Chapter 1 of Part 2 of the 1998 Order;
- (c) domestic tasks carried out in the claimant's own home or the care of a relative;
- (d) duties undertaken in caring for another person who is accommodated with the claimant by virtue of arrangements made under any of the provisions referred to in paragraph (7) or where the claimant is in receipt of any payment specified in that paragraph;
- (e) any activity the claimant undertakes during an emergency to protect another person or to prevent serious damage to property or livestock; or
- (f) any of the categories of work set out in regulation 39(1) (exempt work).

(3) This regulation is subject to regulation 40 (effect of work on entitlement to an employment and support allowance where claimant is receiving certain treatment).

(4) A claimant who does work to which this regulation applies in a week which is—

- (a) the week in which the claimant first becomes entitled to a benefit, allowance or advantage on account of the claimant's limited capability for work in any period; or
- (b) the last week in any period in which the claimant has limited capability for work or is treated as having limited capability for work,

is to be treated as not entitled to an employment and support allowance by virtue of paragraph (1) only on the actual day or days in that week on which the claimant does that work.

(5) Regulation 86 (linking period) does not apply for the purposes of calculating the beginning or end of any period of limited capability for work under paragraph (4).

(6) The day or days in a week on which a night worker works, for the purposes of paragraph (4), are to be calculated by reference to regulation 24 (night workers).

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- (7) The payments and provisions mentioned in paragraph (2)(d) are—
- (a) any payment made by—
 - (i) an authority to a claimant who is caring for a child by virtue of arrangements made under Article 27(2)(a) of the Children Order (provision of accommodation and maintenance by an authority for children whom it is looking after) or by a voluntary organisation under Article 75(1)(a) of that Order (provision of accommodation by voluntary organisations), or
 - (ii) a juvenile justice centre, within the meaning of Article 51 of the Criminal Justice (Children) (Northern Ireland) Order 1998⁽¹⁾, to a claimant who is caring for a child and whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order;
 - (b) any payment made to the claimant or the claimant’s partner for a person (“the person concerned”), who is not normally a member of the claimant’s household but is temporarily in the claimant’s care, by—
 - (i) an authority,
 - (ii) a voluntary organisation,
 - (iii) the person concerned pursuant to Article 36(7) of the Health and Personal Social Services Order⁽²⁾, or
 - (iv) a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.
- (8) In this regulation—
- “week” means a week in respect of which a claimant is entitled to an employment and support allowance;
- “work” means any work which a claimant does, whether or not that claimant undertakes it in expectation of payment;
- “work as a councillor” includes any work which a claimant undertakes as a member of a district council or any body of which the claimant is a member by reason of being a councillor.

Commencement Information

- II** Reg. 37 in operation at 27.9.2017, see [reg. 1\(2\)](#)

⁽¹⁾ S.I. 1998/1504 (N.I. 9)

⁽²⁾ Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)) and section 1(1) and (2) of the Health and Personal Social Services Act (Northern Ireland) 2002 (c.9 (N.I.))

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Changes and effects yet to be applied to :

- reg. 37 coming into force by S.R. 2016/219 reg. 1(2)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Pt. 8(crossheading)Pt. 8(step)(1) coming into force by S.R. 2016/219 reg. 1(2)
- Pt. 8(crossheading)Pt. 8(step)(2) coming into force by S.R. 2016/219 reg. 1(2)
- reg. 45(2) inserted by S.R. 2022/14 reg. 3(b)
- reg. 62(1)(a)(i) sum substituted by S.R. 2021/82 art. 32(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2022/143 art. 32(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2022/231 art. 31(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2023/143 art. 31(3)(a) (This amendment not applied to legislation.gov.uk. S.R. 2023/143 revoked before coming into operation (26.9.2023) by The Social Security Benefits Up-rating (No. 3) Order (Northern Ireland) 2023 (S.R. 2023/150), arts. 1, 33)
- reg. 62(1)(a)(i) sum substituted by S.R. 2023/150 art. 31(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2023/27 art. 31(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2023/43 art. 32(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2024/69 art. 30(3)(a)
- reg. 62(1)(a)(i) sum substituted by S.R. 2024/73 art. 31(3)(a)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2021/82 art. 32(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2021/82 art. 32(3)(b)
- reg. 62(1)(a)(ii) sum substituted by S.R. 2022/143 art. 32(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2022/143 art. 32(3)(b)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2022/231 art. 31(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2022/231 art. 31(3)(b)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2023/143 art. 31(3)(a) (This amendment not applied to legislation.gov.uk. S.R. 2023/143 revoked before coming into operation (26.9.2023) by The Social Security Benefits Up-rating (No. 3) Order (Northern Ireland) 2023 (S.R. 2023/150), arts. 1, 33)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2023/143 art. 31(3)(b) (This amendment not applied to legislation.gov.uk. S.R. 2023/143 revoked before coming into operation (26.9.2023) by The Social Security Benefits Up-rating (No. 3) Order (Northern Ireland) 2023 (S.R. 2023/150), arts. 1, 33)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2023/150 art. 31(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2023/150 art. 31(3)(b)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2023/27 art. 31(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2023/27 art. 31(3)(b)
- reg. 62(1)(a)(ii) sum substituted by S.R. 2023/43 art. 32(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2023/43 art. 32(3)(b)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2024/69 art. 30(3)(a)
- reg. 62(1)(a)(ii)(bb) sum substituted by S.R. 2024/69 art. 30(3)(b)
- reg. 62(1)(a)(ii)(aa) sum substituted by S.R. 2024/73 art. 31(3)(a)

– reg. 62(1)(a)(ii)(bb) sum substituted by [S.R. 2024/73 art. 31\(3\)\(b\)](#)