

SCHEDULE 1

Regulation 5(1)

Amendments to secondary legislation consequential on removal of limited capability for work element

Amendment to the Income Support (General) Regulations (Northern Ireland) 1987

1. In paragraph 1(3)(e) of Schedule 3 (housing costs) to the Income Support (General) Regulations (Northern Ireland) 1987(1), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988

2. For regulation 1A(3)(f)(ii) (prescribed descriptions of persons) of the Social Fund (Cold Weather Payments) (General) Regulations 1987(2), substitute—

“(ii) P has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016.”.

Amendment to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

3. In paragraph 1(3)(f) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(3), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Education (Student Loans) Regulations (Northern Ireland) 1998

4. In paragraph 1 of Schedule 2 (terms of loans) to the Education (Student Loans) Regulations (Northern Ireland) 1998(4), in sub-paragraph (e) of the definition of “disability related benefits” omit “limited capability for work or”.

Amendment to the State Pension Credit Regulations (Northern Ireland) 2003

5. In paragraph 1(2)(b)(v) of Schedule 2 (housing costs) to the State Pension Credit Regulations (Northern Ireland) 2003(5), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

(1) S.R.1987 No. 459; paragraph 1(3)(e) of Sch. 3 was inserted by regulation 26(8)(a)(iii) of S.R. 2016 No. 236
(2) S.R. 1988 No.368; regulation 1A was substituted by regulation 2(3) of S.R. 2010 No. 344 and amended by regulation 3 of S.R. 2017 No. 116
(3) S.R. 1996 No. 198; paragraph 1(3)(f) of Sch. 2 was inserted by regulation 28(8)(a)(iii) of S.R. 2016 No. 236
(4) S.R. 1998 No. 58; The definition of disability related benefits was substituted by regulation 44 of S.R. 2016 No. 236
(5) S.R. 2003 No. 28; paragraph 1(2)(b)(v) of Sch. 2 was inserted by regulation 31(8)(a) of S.R. 2016 No. 236

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment to the Employment and Support Allowance Regulations (Northern Ireland) 2008

6. For paragraph 1(3)(e) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations (Northern Ireland) 2008(6), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009

7. In regulation 43(2)(h)(i) (interpretation) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(7), for “LCW and LCWRA elements” substitute “LCWRA element” and omit “limited capability for work or”.

SCHEDULE 2

Regulation 5(2)

Transitional and savings provisions

Transitional and savings provisions: General

1.—(1) The amendments made by regulations 2 and 3 and paragraphs 4 and 7 of Schedule 1 do not apply—

- (a) where a claimant has an award of universal credit in any of the circumstances in the following paragraphs; and
- (b) for so long as the claimant continues without any break to be entitled to universal credit and to have limited capability for work.

(2) For the purposes of sub-paragraph (1)(b), the reference to continuous entitlement to universal credit includes where an award has terminated and a further award is made and—

- (a) immediately before the further award commences, the previous award has terminated because the claimant ceased to be a member of a couple or became a member of a couple; or
- (b) within the six months beginning with the date that the further award commences, the previous award has terminated because the financial condition in Article 10(1)(b) or, if it was a joint claim, Article 10(2)(b), of the Welfare Reform (Northern Ireland) Order 2015 was not met.

(3) In this Schedule—

“employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007(8);

“LCW element” and “LCWRA element” have the meanings in regulation 28 of the Universal Credit Regulations (Northern Ireland) 2016 as it has effect apart from the amendments made by regulation 4(4) (which removes references to the LCW element);

“limited capability for work” has the meaning given in Article 43(1) of the Welfare Reform (Northern Ireland) Order 2015(9).

(6) S.R. 2008 No. 280; paragraph 1(3)(e) of Sch. 6 was inserted by regulation 36(8)(a)(iii) of S.R. 2016 No. 236

(7) S.R. 2009 No. 373; regulation 43(2)(h)(i) was inserted by regulation 45(3)(c) of S.R. 2016 No. 236

(8) 2007 c. 2 (N.I.)

(9) 2015/2006 (N.I. 1)

(4) The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016⁽¹⁰⁾ apply for the purpose of deciding the date on which a claim is made or is to be treated as made.

Claimants who appeal or seek revision of a decision relating to employment and support allowance

2. The first circumstance is where—
 - (a) the claimant appeals or seeks revision under Article 10 of the Social Security (Northern Ireland) Order 1998⁽¹¹⁾ of a decision relating to the entitlement of the claimant to an employment and support allowance, where the claim for employment and support allowance was made or treated as made before 3rd April 2017; and
 - (b) on or after 3rd April 2017 the Department under Article 10 of the Social Security (Northern Ireland) Order 1998 revises an award of universal credit so as to include the LCW element.

Claimants entitled to employment and support allowance before 3rd April 2017

3. The second circumstance is where immediately before 3rd April 2017 the claimant was entitled to employment and support allowance and remains so entitled throughout the period beginning with 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

Claimants entitled to be credited with earnings under the Social Security (Credits) Regulations (Northern Ireland) 1975 before 3rd April 2017

4. The third circumstance is where—
 - (a) immediately before 3rd April 2017—
 - (i) the claimant entitled to the award was entitled to be credited with earnings equal to the lower earnings limit then in force in respect of a week to which regulation 8B(2)(a)(iv), (iva) or (v) of the Social Security (Credits) Regulations (Northern Ireland) 1975⁽¹²⁾ applies; and
 - (ii) paragraph 3 does not apply to that claimant; and
 - (b) the claimant is so entitled in respect of each week that falls in the period beginning with 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

Claimants entitled to income support or other incapacity benefits before 3rd April 2017

5. The fourth circumstance is where regulation 23, 24, 25, 27 or 28 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016⁽¹³⁾ applies to the claimant throughout the period beginning immediately before 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

⁽¹⁰⁾ S.R. 2016 No. 220

⁽¹¹⁾ S.I. 1998/1506 (N.I. 10)

⁽¹²⁾ S.R. 1975 No. 113; relevant amending instruments are S.R. 2010 No. 109 and S.R. 2016 No. 175.

⁽¹³⁾ S.R. 2016 No. 226