



Welfare Reform Act 2007

2007 CHAPTER 5

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

General

24 Interpretation of Part 1

(1) In this Part—

“claimant” means a person who has claimed an employment and support allowance;

“contributory allowance” has the meaning given by section 1(7);

“employment” and “employed” have the meanings prescribed for the purposes of this Part;

“entitled”, in relation to an employment and support allowance, is to be construed in accordance with—

(a) the provisions of this Act,

(b) section 1 of the Administration Act (entitlement dependent on making of claim), and

(c) section 27 of the Social Security Act 1998 (c. 14) (restrictions on entitlement in certain cases of error);

“income-related allowance” has the meaning given by section 1(7);

“income support” means income support under section 124 of the Contributions and Benefits Act;

“limited capability for work” shall be construed in accordance with section 1(4);

“limited capability for work-related activity” shall be construed in accordance with section 2(5);

“period of limited capability for work” has the meaning prescribed for the purposes of this Part;

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

“regulations” means regulations made by the Secretary of State;

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

“work-related activity” has the meaning given by section 13(7).

- (2) For the purposes of this Part, the assessment phase, in relation to a claimant, is the period—
 - (a) beginning, subject to subsection (3), with the first day of the period for which he is entitled to an employment and support allowance, and
 - (b) ending with such day as may be prescribed.
- (3) Regulations may prescribe circumstances in which the assessment phase is to begin with such day as may be prescribed.
- (4) For the purposes of this Part, a person is a member of the support group if he is a person in respect of whom it is determined that he has, or is to be treated as having, limited capability for work-related activity.

25 Regulations

- (1) Any power under this Part to make regulations shall be exercisable by statutory instrument.
- (2) Any such power may be exercised—
 - (a) in relation to all cases to which it extends,
 - (b) in relation to those cases subject to specified exceptions, or
 - (c) in relation to any specified cases or classes of case.
- (3) Any such power may be exercised so as to make, as respects the cases in relation to which it is exercised—
 - (a) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (b) the same provision for all cases in relation to which it is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Part;
 - (c) any such provision either unconditionally or subject to any specified condition.
- (4) Where any such power 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.
- (5) Any such power includes power—
 - (a) to make such incidental, supplementary, consequential or transitional provision or savings as appear to the Secretary of State to be expedient;
 - (b) to provide for a person to exercise a discretion in dealing with any matter.
- (6) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 to 15 may make provision which applies only in relation to an area or areas specified in the regulations.

- (7) The fact that a power to make regulations is conferred by this Part is not to be taken to prejudice the extent of any other power to make regulations so conferred.

26 Parliamentary control

- (1) None of the following regulations shall be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament—
- (a) regulations under section 2(2)(c) or (3)(c) or 4(4)(c) or (5)(c);
 - (b) the first regulations under section 13;
 - (c) regulations which by virtue of section 19(1) are to have effect for a limited period.
- (2) A statutory instrument that—
- (a) contains regulations made under this Part, and
 - (b) is not subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

27 Financial provisions relating to Part 1

- (1) There shall be paid out of the National Insurance Fund so much of any sums payable by way of employment and support allowance as is attributable to entitlement to a contributory allowance.
- (2) There shall be paid out of money provided by Parliament—
- (a) so much of any sums payable by way of employment and support allowance as is attributable to entitlement to an income-related allowance, and
 - (b) any administrative expenses of the Secretary of State or the Commissioners for Her Majesty's Revenue and Customs in carrying this Part into effect.
- (3) The Secretary of State shall pay into the National Insurance Fund sums estimated by him to be equivalent in amount to sums recovered by him in connection with payments of contributory allowance.
- (4) The Secretary of State shall pay into the Consolidated Fund sums estimated by him to be equivalent in amount to sums recovered by him in connection with payments made by way of income-related allowance.

28 Consequential amendments relating to Part 1

- (1) Schedule 3 (which makes amendments consequential on this Part) has effect.
- (2) Regulations may make provision consequential on this Part amending, repealing or revoking any provision of—
- (a) an Act passed on or before the last day of the Session in which this Act is passed, or
 - (b) an instrument made under an Act before the passing of this Act.
- (3) In subsection (2), “Act” includes an Act of the Scottish Parliament.

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29 Transition relating to Part 1

Schedule 4 (which makes provision with respect to transition in relation to this Part) has effect.