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## 2010 CHAPTER 13

### PART 1

#### SOCIAL SECURITY

*“Work for your benefit” schemes etc.*

#### **Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.**

1.—(1) The Jobseekers (Northern Ireland) Order 1995 (NI 15) (in this Act referred to as “the Jobseekers Order”) is amended as follows.

(2) After Article 19 insert—

*“ “Work for your benefit” schemes etc.*

#### **Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.**

19A.—(1) Regulations may make provision for or in connection with imposing on claimants in prescribed circumstances a requirement to participate in schemes of any prescribed description that are designed to assist them to obtain employment.

(2) Regulations under this Article may, in particular, require participants to undertake work, or work-related activity, during any prescribed period with a view to improving their prospects of obtaining employment.

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(3) In paragraph (2) “work-related activity”, in relation to any person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so

(4) Regulations under this Article may not require a person to participate in a scheme unless the person would (apart from the regulations) be required to meet the jobseeking conditions.

(5) Regulations under this Article may, in particular, make provision—

- (a) for notifying participants of the requirement to participate in a scheme within paragraph (1);
- (b) for securing that participants are not required to meet the jobseeking conditions or are not required to meet such of those conditions as are specified in the regulations;
- (c) for suspending any jobseeker's agreement to which a person is a party for any period during which the person is a participant;
- (d) for securing that the appropriate consequence follows if a participant has failed to comply with the regulations and it is not shown, within a prescribed period, that the participant had good cause for the failure;
- (e) prescribing matters which are, or are not, to be taken into account in determining whether a participant has good cause for any failure to comply with the regulations;
- (f) prescribing circumstances in which a participant is, or is not, to be regarded as having good cause for any failure to comply with the regulations.

(6) In the case of a jobseeker's allowance other than a joint-claim jobseeker's allowance, the appropriate consequence for the purposes of paragraph (5)(d) is that the allowance is not payable for such period (of at least one week but not more than 26 weeks) as may be prescribed.

(7) In the case of a joint-claim jobseeker's allowance, the appropriate consequence for the purposes of paragraph (5)(d) is that the participant is to be treated as subject to sanctions for the purposes of Article 22A for such period (of at least one week but not more than 26 weeks) as may be prescribed.

(8) Regulations under this Article may make provision for an income-based jobseeker's allowance to be payable in prescribed circumstances even though other provision made by the regulations would prevent payment of it. This paragraph does not apply in the case of a joint-claim jobseeker's allowance (corresponding provision for which is made by Article 22B(4)).

(9) The provision that may be made by the regulations by virtue of paragraph (8) includes, in particular, provision for the allowance to be—

- (a) payable only if prescribed requirements as to the provision of information are complied with;

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- (b) payable at a prescribed rate;
- (c) payable for a prescribed period (which may differ from any period mentioned in paragraph (6))

(10) In this Article—

“claimant”, in relation to a joint-claim couple claiming a joint-claim jobseeker's allowance, means either or both of the members of the couple;

“the jobseeking conditions” means the conditions set out in Article 3(2)

(a) to (c);

“participant”, in relation to any time, means any person who is required at that time to participate in a scheme within paragraph (1).

### **Article 19A: supplemental**

**19B.**—(1) For the purposes of, or in connection with, any scheme within Article 19A(1) the Department or the Department for Employment and Learning may—

- (a) make arrangements (whether or not with other persons) for the provision of facilities;
- (b) provide support (by whatever means) for arrangements made by other persons for the provision of facilities;
- (c) make payments (by way of fees, grants, loans or otherwise) to persons undertaking the provision of facilities under arrangements within sub-paragraph (a) or (b);
- (d) make payments (by way of grants, loans or otherwise) to persons participating in the scheme;
- (e) make payments in respect of incidental expenses.

(2) In paragraph (1) “facilities” includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(3) The power of the Department for Employment and Learning to make an order under Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (status of trainees) includes power to make, in relation to—

- (a) persons participating in any scheme within Article 19A(1), and
- (b) payments received by them by virtue of paragraph (1),

provision corresponding to any provision which (by virtue of Article 4(1) or (2) of that Order) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in Article 4(1) of that Order.”.

(3) In Article 36 (regulations and orders), after paragraph (3) add—

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“(4) Without prejudice to the generality of the provisions of this Article—

- (a) regulations under Article 19A may make different provision for different areas;
- (b) regulations under Article 19A may make provision which applies only in relation to an area or areas specified in the regulations.”

(4) In paragraph 3 of Schedule 3 to the Social Security (Northern Ireland) Order 1998 (NI 10) (in this Act referred to as “the 1998 Order”) (decisions against which an appeal lies: payability of benefit), after paragraph (c) insert—

“(ca) regulations made under Article 19A of the Jobseekers Order;”.

(5) In section 7(2)(b)(i) of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17) (in this Act referred to as “the 2001 Act”) (effect of offence on joint-claim jobseeker’s allowance) after “is” insert “ (or is treated as being) ”.

#### *Revised system of working-age benefits*

#### **Work-related activity: income support claimants and partners of claimants**

**2.—**(1) The Social Security Administration (Northern Ireland) Act 1992 (c. 8) (in this Act referred to as “the Administration Act”) is amended as follows.

(2) After section 2C insert—

##### **“2D Work-related activity**

(1) Regulations may make provision for or in connection with imposing on a person who—

- (a) is entitled to income support, and
- (b) is not a lone parent of a child under the age of 3,

a requirement to undertake work-related activity in accordance with regulations as a condition of continuing to be entitled to the full amount of income support payable apart from the regulations.

(2) Regulations may make provision for or in connection with imposing on a person (“P”) who—

- (a) is under pensionable age, and
- (b) is a member of a couple the other member of which (“C”) is entitled to a benefit to which subsection (3) applies at a higher rate referable to P,

a requirement to undertake work-related activity in accordance with regulations as a condition of the benefit continuing to be payable to C at that rate.

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- (3) The benefits to which this subsection applies are—
- (a) income support;
  - (b) an income-based jobseeker's allowance other than a joint-claim jobseeker's allowance; and
  - (c) an income-related employment and support allowance.
- (4) Regulations under this section may, in particular, make provision—
- (a) prescribing circumstances in which a person is to be subject to any requirement imposed by the regulations (a “relevant requirement”);
  - (b) for notifying a person of a relevant requirement;
  - (c) prescribing the time or times at which a person who is subject to a relevant requirement is required to undertake work-related activity and the amount of work-related activity the person is required at any time to undertake
  - (d) prescribing circumstances in which a person who is subject to a relevant requirement is, or is not, to be regarded as undertaking work-related activity;
  - (e) in a case where C is a member of more than one couple, for determining which of the members of the couples is to be subject to a relevant requirement or requiring each of them to be subject to a relevant requirement;
  - (f) for securing that the appropriate consequence follows if—
    - (i) a person who is subject to a relevant requirement has failed to comply with the requirement, and
    - (ii) it is not shown, within a prescribed period, that the person had good cause for that failure;
  - (g) prescribing the evidence which a person who is subject to a relevant requirement needs to provide in order to show compliance with the requirement;
  - (h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with a relevant requirement;
  - (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.
- (5) For the purposes of subsection (4)(f) the appropriate consequence is that the amount of the benefit payable is to be reduced by the prescribed amount until the prescribed time.
- (6) Regulations under subsection (5) may, in relation to any such reduction, provide—

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- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
- (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent.

(7) Regulations under this section may include provision that in such circumstances as the regulations may provide a person's obligation under the regulations to undertake work-related activity at a particular time is not to apply, or is to be treated as not having applied.

(8) Regulations under this section must include provision for securing that lone parents are entitled (subject to meeting any prescribed conditions) to restrict the times at which they are required to undertake work-related activity.

(9) For the purposes of this section and sections 2E and 2F—

- (a) “couple” has the meaning given by section 133(1) of the Contributions and Benefits Act;
- (b) “lone parent” means a person who—
  - (i) is not a member of a couple, an
  - (ii) is responsible for, and a member of the same household as, a child;
- (c) “prescribed” means specified in, or determined in accordance with, regulations;
- (d) “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;
- (e) any reference to a person attaining pensionable age is, in the case of a man born before 6 April 1955, a reference to the time when a woman born on the same day as the man would attain pensionable age;
- (f) any reference to a benefit payable to C at a higher rate referable to P is a reference to any case where the amount payable is more than it would be if C and P were not members of the same couple.

(10) For the purposes of this section regulations may make provision—

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.

(11) Information supplied in pursuance of regulations under this section is to be taken for all purposes to be information relating to social security.

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## **2E Action plans in connection with work-focused interviews**

(1) The Department must in prescribed circumstances provide a document (referred to in this section as an “action plan”) prepared for such purposes as may be prescribed to a person who is subject to a requirement imposed under section 2A or 2AA in relation to any of the following benefits.

(2) The benefits are—

- (a) income support;
- (b) an income-based jobseeker's allowance other than a joint-claim jobseeker's allowance; and
- (c) an income-related employment and support allowance.

(3) Regulations may make provision about—

- (a) the form of action plans;
- (b) the content of action plans;
- (c) the review and updating of action plans.

(4) Regulations under this section may, in particular, make provision for action plans which are provided to a person who is subject under section 2D to a requirement to undertake work-related activity to contain particulars of activity which, if undertaken, would enable the requirement to be met.

(5) Regulations may make provision for reconsideration of an action plan at the request of the person to whom it is provided and may, in particular, make provision about

- (a) the circumstances in which reconsideration may be requested;
- (b) the period within which any reconsideration must take place;
- (c) the matters to which regard must be had when deciding on reconsideration whether the plan should be changed;
- (d) notification of the decision on reconsideration;
- (e) the giving of directions for the purpose of giving effect to the decision on reconsideration.

(6) In preparing any action plan, the Department must have regard (so far as practicable) to its impact on the well-being of any person under the age of 16 who may be affected by it.

## **2F Directions about work-related activity**

(1) In prescribed circumstances, the Department may by direction given to a person subject to a requirement imposed under section 2D provide that the activity specified in the direction is—

- (a) to be the only activity which, in the person's case, is to be regarded as being work-related activity; or

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(b) to be regarded, in the person's case, as not being work-related activity.

(2) But a direction under subsection (1) may not specify medical or surgical treatment as the only activity which, in any person's case, is to be regarded as being work-related activity.

(3) A direction under subsection (1) given to any person—

- (a) must be reasonable, having regard to the person's circumstances;
- (b) must be given to the person by being included in an action plan provided to the person under section 2E; and
- (c) may be varied or revoked by a subsequent direction under subsection (1).

(4) Where a direction under subsection (1) varies or revokes a previous direction, it may provide for the variation or revocation to have effect from a time before the giving of the direction.

## **2G Contracting-out**

(1) The following functions of the Department may be exercised by, or by employees of, such person (if any) as the Department may authorise for the purpose, namely—

- (a) conducting interviews under section 2A or 2AA;
- (b) providing documents under section 2E;
- (c) giving, varying or revoking directions under section 2F.

(2) Regulations may provide for any of the following functions of the Department to be exercisable by, or by employees of, such person (if any) as the Department may authorise for the purpose

- (a) any function under regulations under any of sections 2A to 2F, except the making of an excluded decision (see subsection (3));
- (b) the function under Article 10(1) of the 1998 Order (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under regulations under any of sections 2A to 2F;
- (c) the function under Article 11(1) of the 1998 Order (superseding of decisions) so far as relating to decisions (other than excluded decisions) of the Department that relate to any matter arising under regulations under any of sections 2A to 2F;
- (d) any function under Chapter 2 of Part 2 of the 1998 Order (social security decisions), except Article 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within paragraphs (a) to (c).



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(3) Each of the following is an “excluded decision” for the purposes of subsection (2)—

- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 2A, 2AA or 2D;
- (b) a decision about whether a person had good cause for failure to comply with such a requirement;
- (c) a decision about the reduction of a benefit in consequence of a failure to comply with such a requirement.

(4) Regulations under subsection (2) may provide that a function to which that subsection applies may be exercised—

- (a) either wholly or to such extent as the regulations may provide,
- (b) either generally or in such cases as the regulations may provide, and
- (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

(5) An authorisation given by virtue of any provision made by or under this section may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;

but, in the case of an authorisation given by virtue of regulations under subsection (2), this subsection is subject to the regulations.

(6) An authorisation given by virtue of any provision made by or under this section—

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

(7) 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.

(8) But subsection (7) 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 by the authorised person (or an employee of that person).

(9) Any decision which an authorised person makes in exercise of the function concerned has effect as a decision of the Department under Article 9 of the 1998 Order.

(10) Where—

- (a) the authorisation of an authorised person is revoked at any time, 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).

(11) In this section—

- (a) “the 1998 Order” means the Social Security (Northern Ireland) Order 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this section;
- (c) references to functions of the Department under any enactment (including one comprised in regulations) include functions which the Department has by virtue of the application of Article 9(1)(c) of the 1998 Order in relation to the enactment.

## **2H Good cause for failure to comply with regulations**

(1) This section applies to any regulations made under section 2A, 2AA or 2D that prescribe matters to be taken into account in determining whether a person has good cause for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition
- (b) the availability of child care.”.

(3) In the italic heading before section 2A, insert “ and work-related activity ”.

(4) In section 165(7A) (regulations which may make provision only in relation to specified areas), for “2C” substitute “ 2F ”.

(5) In section 167(1) (interpretation), in paragraph (b) of the definition of “the Department” after “sections” insert “ 2E, 2F, 2G (except in the second reference in subsection (11)(c)), ”.

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(6) In Article 69(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11) (in this Act referred to as “the 1999 Order”) (supply of information for certain purposes), for sub-paragraphs (a) and (aa) substitute—

“(a) any of sections 2A to 2F and 5A of the Administration Act.”.

### **Lone parents**

3.—(1) In section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (in this Act referred to as “the Contributions and Benefits Act”) (conditions for income support), after subsection (1) insert—

“(1A) Regulations under paragraph (e) of subsection (1) must secure that a person who—

- (a) is not a member of a couple, and
- (b) is responsible for, and a member of the same household as, a child under the age of 7,

falls within a category of person prescribed under that paragraph.

(1B) Subsection (1A) does not apply if regulations under paragraph (4) (c) of Article 3A of the Jobseekers (Northern Ireland) Order 1995 containing the provision mentioned in paragraph (5) of that Article are in operation.”.

(2) In section 2A of the Administration Act (work-focused interviews)—

(a) after subsection (2) insert—

“(2A) No requirement may be imposed by virtue of this section on a person who—

- (a) is not a member of a couple, and
- (b) is responsible for, and a member of the same household as, a child under the age of one.

(2B) For the purposes of subsection (2A)(b) regulations may make provision—

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.”, and

(b) in subsection (8), after “In this section—” insert—

““couple” has the meaning given by section 133(1) of the Contributions and Benefits Act;”.

(3) In section 12 of the Welfare Reform Act (Northern Ireland) 2007 (c. 2) (in this Act referred to as “the Welfare Reform Act”) (employment and support allowance: work-focused interviews), in subsection (1)(b), at the end insert “ or a lone parent of a child under the age of one ”

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(4) In section 13 of that Act (employment and support allowance: work-related activity)—

(a) in subsection (1) after “section 12(1)” insert “, and who is not a lone parent of a child under the age of 3, ”, and

(b) after subsection (6) insert—

“(6A) Regulations under this section shall include provision for securing that lone parents are entitled (subject to meeting any prescribed conditions) to restrict the times at which they are required to undertake work-related activity.”.

(5) In section 24 of that Act (interpretation of Part 1), after subsection (3) insert—

“(3A) For the purposes of this Part, a person is a lone parent if the person—

(a) is not a member of a couple (within the meaning given by section 133(1) of the Contributions and Benefits Act), and

(b) is responsible for, and a member of the same household as, a person under the age of 16.

(3B) For the purposes of subsection (3A)(b) regulations may make provision—

(a) as to circumstances in which one person is to be treated as responsible or not responsible for another;

(b) as to circumstances in which persons are to be treated as being or not being members of the same household.”.

PROSPECTIVE

**Entitlement to jobseeker's allowance without seeking employment etc.**

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

(2) In Article 3 (the jobseeker's allowance)—

<sup>F1</sup>(a) .....

(b) in paragraph (4), for the definition of “a joint-claim couple” substitute—

““a joint-claim couple” means a couple other than a couple of a prescribed description;”.

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

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### Textual Amendments

- F1** S. 4(2)(a) repealed (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 2**; S.R. 2016/46, art. 3(6)(b)
- F2** S. 4(3)(4) repealed (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 2**; S.R. 2016/46, art. 3(6)(b)

## PROSPECTIVE

### Couples where at least one member capable of work

**5.—(1)** In section 123(1) of the Contributions and Benefits Act (conditions for income support)—

- (a) in subsection (1), after paragraph (g) (but before the “and” at the end of it) insert—

“(ga) except in such circumstances as may be prescribed, if he is a member of a couple, the other member of the couple has limited capability for work;”,

- (b) after subsection (6) insert—

“(6A) The question whether a person has, or does not have, limited capability for work shall be determined for the purposes of this section in accordance with the provisions of Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).

(6B) References in that Part to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this section, as references to the purposes of this section.”, an

- (c) in subsection (7), for “Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance)” substitute “that Part”.

**(2)** In paragraph 6 of Schedule 1 to the Welfare Reform Act (conditions for income-related employment and support allowance)—

- (a) in sub-paragraph (1), after paragraph (d) insert—

“(da) is not a member of a couple the other member of which does not have limited capability for work;”, and

- (b) after sub-paragraph (2) insert—

“(2A) Regulations may prescribe circumstances in which sub-paragraph (1)(da) does not apply.”.

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PROSPECTIVE

### **Statutory sick pay and employment and support allowance**

**6** In section 20 of the Welfare Reform Act (relationship of employment and support allowance with statutory sick pay and other statutory payments), for subsection (1) substitute—

“(1) A person—

- (a) is not entitled to a contributory allowance in respect of a day, and
- (b) except as regulations may provide, is not entitled to an income-related allowance in respect of a day,

if, for the purposes of statutory sick pay, that day is a day of incapacity for work in relation to a contract of service and falls within a period of entitlement (whether or not it is a qualifying day).”.

PROSPECTIVE

### **Transitional provision relating to sections 4 to 6**

**7.—(1)** The Department may by regulations make such provision as the Department considers necessary or expedient for the purposes of, or in connection with, the transition of persons to—

- (a) income-based jobseeker's allowance, or
- (b) income-related employment and support allowance,

by virtue of any provision of sections 4 to 6.

**(2)** Regulations under this section may, in particular, make provision—

- (a) for the termination or cancellation of awards of income support or income-related employment and support allowance;
- (b) for a person whose award of income support or income-related employment and support allowance has been terminated or cancelled under regulations made by virtue of paragraph (a) to be treated as having been awarded a transitional allowance;
- (c) for any such award of a transitional allowance to be—
  - (i) of such a kind,
  - (ii) for such period
  - (iii) of such an amount, and
  - (iv) subject to such conditions,

as may be determined in accordance with the regulations;

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- (d) for a person's continuing entitlement to a transitional allowance to be determined by reference to such provision as may be made by the regulations;
- (e) for the termination of an award of a transitional allowance;
- (f) for the review of an award of a transitional allowance;
- (g) that—
  - (i) days which were days of entitlement to income support or income-related employment and support allowance, and
  - (ii) such other days as may be specified in or determined in accordance with the regulations,
 are to be treated as having been days during which a person was, or would have been, entitled to an income-based jobseeker's allowance or income-related employment and support allowance.

(3) Paragraphs (3) to (6) of Article 74 of the 1998 Order (regulations and orders) apply in relation to the power to make regulations under this section as they apply to any power to make regulations under that Order.

(4) Regulations under this section are subject to negative resolution.

(5) In this section—

“income-based jobseeker's allowance” has the same meaning as in the Jobseekers Order;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);

“transitional allowance” means an income-based jobseeker's allowance or income-related employment and support allowance.

### **Assembly procedure: regulations imposing work-related activity requirements on lone parents of children under 7**

**8.—**(1) This section applies to regulations—

- (a) made within 5 years of the passing of this Act; and
- (b) made under any relevant provision which impose a requirement on any lone parent of a child under the age of 7 to undertake work-related activity (within the meaning of the regulations).

(2) In subsection (1) “relevant provision” means—

- (a) section 2D(1) of the Administration Act,
- (b) Article 20B of the Jobseekers Order, or
- (c) section 13 of the Welfare Reform Act.

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(3) Regulations (whether alone or with other provisions) to which this section applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (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 six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(4) If subsection (3) applies to any regulations, any statutory provision under which the regulations would be subject to negative resolution does not apply

PROSPECTIVE

### *Abolition of income support*

#### **Abolition of income support**

9.—(1) This section applies if, whether as a result of—

(a) provision made by any regulations under Article 3A(4)(c) or (8) of the Jobseekers Order (as inserted by section 4), or

(b) provision made by or under any other statutory provision, or otherwise, the Department considers that it is no longer appropriate for any category of person to be prescribed under section 123(1)(e) of the Contributions and Benefits Act (conditions for income support).

(2) The Department may by order provide for section 123 of the Contributions and Benefits Act (which establishes the entitlement to income support) to cease to have effect.

(3) If an order is made under subsection (2)—

(a) the amendments made by Schedule 2, and

(b) the repeals in Part 1 of Schedule 4,

have effect in accordance with provision made by the order.

(4) The Department may by order make such transitional or consequential provision or savings as the Department considers necessary or expedient for the purposes of or in connection with the abolition of income support (including provision of the kind mentioned in section 7(2)).

(5) The consequential provision that may be made by an order under subsection (4) includes, in particular, provision amending, repealing or revoking any statutory provision.

(6) Paragraphs (3) to (6) of Article 74 of the 1998 Order (regulations and orders) apply in relation to any power to make an order under this section as they apply to any power to make orders under that Order.



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(7) An order under subsection (2) shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the order, but shall (without prejudice to the validity of anything done thereunder or to the making of a new order) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order has been approved by a resolution of the Assembly.

(8) An order under subsection (4) is (unless it has been subject to the confirmatory procedure outlined in subsection (7)) subject to negative resolution.

#### *Work-related activity for claimants of employment and support allowance*

#### **Power to direct claimant to undertake specific work-related activity**

**10** In section 15 of the Welfare Reform Act (directions about work-related activity), for subsections (1) and (2) substitute—

“(1) In prescribed circumstances, the Department or the Department for Employment and Learning may by direction given to a person subject to a requirement imposed under section 13(1) provide that the activity specified in the direction is—

- (a) to be the only activity which, in the person's case, is to be regarded as being work-related activity; or
- (b) to be regarded, in the person's case, as not being work-related activity.

(1A) But a direction under subsection (1) may not specify medical or surgical treatment as the only activity which, in any person's case, is to be regarded as being work-related activity.

(2) A direction under subsection (1) given to any person—

- (a) must be reasonable, having regard to the person's circumstances;
- (b) must be given to the person by being included in an action plan provided to the person under section 14; and
- (c) may be varied or revoked by a subsequent direction under subsection (1).”.

#### *Contributory jobseeker's allowance and employment and support allowance*

#### **Conditions for contributory jobseeker's allowance**

**11.**—(1) Article 4 of the Jobseekers Order (jobseeker's allowance: the contribution-based conditions) is amended as follows.

(2) In paragraph (2), for sub-paragraph (b) substitute—

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“(b) the claimant's relevant earnings for the base year upon which primary Class 1 contributions have been paid or treated as paid are not less than the base year's lower earnings limit multiplied by 26.”.

(3) After that paragraph insert—

“(2A) Regulations may make provision for the purposes of paragraph (2) (b) for determining the claimant's relevant earnings for the base year.

(2B) Regulations under paragraph (2A) may, in particular, make provision—

(a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base year;

(b) for determining the amount of a person's earnings for any such period by—

(i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Benefits Act, and

(ii) then disregarding so much of the amount found in accordance with head (i) as exceeded the base year's lower earnings limit (or the prescribed equivalent).”

(4) In paragraph (3A), for “paragraphs (2)(b) and (3)” substitute “paragraph (3)”.

(5) After that paragraph insert—

“(3B) Regulations may—

(a) provide for the first set of conditions to be taken to be satisfied in the case of persons—

(i) who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time, or

(ii) who satisfy other prescribed conditions;

(b) with a view to securing any relaxation of the requirements of the first set of conditions in relation to persons who have been entitled as mentioned in sub-paragraph (a)(i), provide for that set of conditions to apply in relation to them subject to prescribed modifications.

(3C) In paragraph (3B)—

“the first set of conditions” means the condition set out in paragraph (1)

(a) and the additional conditions set out in paragraph (2);

“benefit” means—

(a) any benefit within the meaning of section 121(1) of the Benefits Act,

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- (b) any benefit under Parts 7 to 12 of the Benefits Act,
- (c) credits under regulations under section 22(5) of the Benefits Act,
- (d) a contribution-based jobseeker's allowance, and
- (e) working tax credit.”.

(6) In paragraph 46 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) (which amended Article 4(2)(b) of the Jobseekers Order), for “Article 4(2)(b) and (3)” substitute “ Article 4(3) ”.

#### Commencement Information

- II** S. 11 partly in operation; s. 11 not in operation at Royal Assent see s. 36(2); s. 11(1)(3) in operation at 1.10.2010 by S.R. 2010/341, art. 2(1)(a); s. 11(2)(4)(6) in operation at 1.11.2010 by S.R. 2010/341, art. 2(2)(a); s. 11(5) in operation for certain purposes at 16.12.2011 by S.R. 2011/430, art. 2(a)

#### Conditions for contributory employment and support allowance

**12.—**(1) Paragraph 1 of Schedule 1 to the Welfare Reform Act (employment and support allowance: conditions relating to national insurance) is amended as follows.

(2) In sub-paragraph (1)(a) (Class 1 or Class 2 contributions to have been paid in respect of one of the last three complete tax years), for “three” substitute “ two ”.

(3) In sub-paragraph (1), for paragraph (c) substitute—

“(c) the claimant's earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 26.”.

(4) For sub-paragraphs (2) and (3) substitute—

“(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of

(a) the claimant's relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or treated as paid, and

(b) the claimant's earnings factors derived from Class 2 contributions.

(3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant's relevant earnings for the base tax year.

(3A) Regulations under sub-paragraph (3) may, in particular, make provision—

(a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base tax year;

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- (b) for determining the amount of a person's earnings for any such period by—
  - (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and
  - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year's lower earnings limit (or the prescribed equivalent)."
- (5) In sub-paragraph (4)—
  - (a) in paragraph (a), for “persons who” substitute “persons—
    - (i) who”,
  - (b) in that paragraph, after “prescribed time” insert “, or
    - (ii) who satisfy other prescribed conditions”, and
  - (c) in paragraph (b), for “so entitled” substitute “ entitled as mentioned in paragraph (a)(i) ”.

#### Commencement Information

- I2** S. 12 partly in operation; s. 12 not in operation at Royal Assent see s. 36(2); s. 12(1) in operation at 1.10.2010 by S.R. 2010/341, art. 2(1)(b); s. 12(4) in operation for certain purposes at 1.10.2010 by S.R. 2010/341, art. 2(1)(c); s. 12(2)(3) in operation at 1.11.2010 by S.R. 2010/341, art. 2(2)(b); s. 12(4) in operation at 1.11.2010 insofar as not already in operation by S.R. 2010/341, art. 2(2)(c); s. 12(5)(a)(b) in operation at 16.12.2011 by S.R. 2011/430, art. 2(b)

### *Disability living allowance*

#### **Mobility component**

**13.—(1)** Section 73 of the Contributions and Benefits Act (mobility component of disability living allowance) is amended as follows.

- (2) In subsection (1), for paragraph (b) substitute—
  - “(ab) he falls within subsection (1A) below;
  - (b) he does not fall within that subsection but does fall within subsection (2) below;”.
- (3) In subsection (1A)(a), after “paragraph (a),” insert “ (ab), ”.
- (4) After subsection (1A) insert—
  - “(1A) A person falls within this subsection if—
    - (a) he has such severe visual impairment as may be prescribed; and

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(b) he satisfies such other conditions as may be prescribed.”.

(5) In subsection (11)(a), after “subsection (1)(a),” insert “ (ab), ”

#### Commencement Information

- I3** S. 13 wholly in operation at 11.4.2011; s. 13 not in operation at Royal Assent see s. 36(2); s. 13 in operation for certain purposes at 23.9.2010 and 15.10.2010 and in operation for all other purposes at 11.4.2011 by S.R. 2010/327, art. 2(1)

### *Abolition of adult dependency increases*

#### **Maternity allowance and carer's allowance**

**14.—**(1) The following provisions of the Contributions and Benefits Act are omitted on the day after Royal Assent (in this section referred to as “the relevant date”)—

- (a) section 82 (maternity allowance: increase for adult dependants); and
- (b) section 90 (carer's allowance: increase for adult dependants).

(2) Nothing in subsection (1) or Part 2 of Schedule 4 applies in relation to—

- (a) the amount of a maternity allowance payable for a maternity allowance period (within the meaning of section 35(2) of the Contributions and Benefits Act) which begins before the relevant date but ends on or after that date, or
- (b) the amount of a carer's allowance payable to a qualifying person at any time on or after the relevant date but before the appropriate date.

(3) In subsection (2)(b)—

“a qualifying person” means a person who—

- (a) has, before the relevant date, made a claim for an increase in a carer's allowance under section 90 of the Contributions and Benefits Act; and
- (b) immediately before that date is either entitled to the increase claimed or a beneficiary to whom section 92 of the Contributions and Benefits Act applies in respect of that increase (continuation of awards where fluctuating earnings);

“the appropriate date” means whichever is the earlier of—

- (a) 6 April 2020; and
- (b) the date when the qualifying person ceases to be either entitled to that increase or a beneficiary to whom section 92 of the Contributions and Benefits Act applies in respect of that increase.

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VALID FROM 17/02/2016

*Community care grants*

PROSPECTIVE

**Community care grants relating to specified goods or services**

**No commentary item could be found for this reference key-3c30eed53e99adbffd289072016e54e515** .....

PROSPECTIVE

**Community care grants: reviews and information**

**No commentary item could be found for this reference key-3c30eed53e99adbffd289072016e54e516** .....

PROSPECTIVE

**Regulations relating to information: Assembly control**

**No commentary item could be found for this reference key-3c30eed53e99adbffd289072016e54e517** .....

PROSPECTIVE

*Payments on account*

**Payments on account**

**F<sup>3</sup>18** .....

**Textual Amendments**

**F3** S. 18 repealed (2.5.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **106(2)**; S.R. 2016/215, art. 2(6)(a)

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### *Benefit sanctions for offenders*

#### **Loss of benefit provisions**

**19.—(1)** Before section 6 of the 2001 Act (but after the italic heading immediately before that section) insert—

#### **“Meaning of “disqualifying benefit” and “sanctionable benefit” for purposes of sections 5B and 6**

**5A** In this section and sections 5B and 6—

“disqualifying benefit” means (subject to any regulations under section 9(1))—

- (a) any benefit under the Jobseekers (Northern Ireland) Order 1995 (in this Act referred to as “the Jobseekers Order”) or the Jobseekers Act 1995;
- (b) any benefit under the State Pension Credit Act (Northern Ireland) 2002 or the State Pension Credit Act 2002;
- (c) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 or Part 1 of the Welfare Reform Act 2007 (employment and support allowance);
- (d) any benefit under the Contributions and Benefits Act or the Social Security Contributions and Benefits Act 1992 other than—
  - (i) maternity allowance
  - (ii) statutory sick pay and statutory maternity pay;
- (e) any war pension;

“sanctionable benefit” means (subject to any regulations under section 9(1))—

- (a) any benefit under the Jobseekers Order other than joint-claim jobseeker's allowance;
- (b) any benefit under the State Pension Credit Act (Northern Ireland) 2002;
- (c) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007; or
- (d) any benefit under the Contributions and Benefits Act which is a disqualifying benefit other than—
  - (i) any retirement pension;
  - (ii) graduated retirement benefit;
  - (iii) disability living allowance;
  - (iv) attendance allowance;

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- (v) child benefit;
- (vi) guardian's allowance;
- (vii) a payment out of the social fund in accordance with Part 8 of the Contributions and Benefits Act;
- (viii) a payment under Part 10 of that Act (Christmas bonuses).

### **Loss of benefit in case of conviction, penalty or caution for benefit offence**

**5B.**—(1) Subsection (4) applies where a person (“the offender”)—

- (a) is convicted of one or more benefit offences in any proceedings,
- (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority by reference to an overpayment, in a case where the offence mentioned in subsection (1)(b) of the appropriate penalty provision is a benefit offence, or
- (c) is cautioned in respect of one or more benefit offences.

(2) In subsection (1)(b)—

- (a) “the appropriate penalty provision” means section 109A of the Administration Act (penalty as alternative to prosecution) or section 115A of the Social Security Administration Act 1992 (the corresponding provision for Great Britain);
- (b) “appropriate authority” means—
  - (i) in relation to section 109A of the Administration Act, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive, an
  - (ii) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit.

(3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the later set of proceedings for the purposes of section 6, the restriction in subsection (2) of that section applies in the offender's case.

(4) If this subsection applies and 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, then, even though those conditions are satisfied, the following restrictions shall apply in relation to the payment of that benefit in the offender's case.



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(5) Subject to subsections (6) to (10), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.

(6) Where the sanctionable benefit is income support, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the applicable amount used for the determination under section 123(4) of the Contributions and Benefits Act of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.

(7) The Department may by regulations provide that, where the sanctionable benefit is jobseeker's allowance, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.

(8) The Department may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed.

(9) The Department may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.

(10) The Department may by regulations provide that, where the sanctionable benefit is housing benefit, the benefit shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the benefit were reduced in such manner as may be prescribed;

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(b) the benefit were payable only if the circumstances are such as may be prescribed.

(11) For the purposes of this section the disqualification period, in relation to any disqualifying event, means the period of four weeks beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations made by the Department.

(12) This section has effect subject to section 5C.

(13) In this section and section 5C—

“benefit offence” means—

- (a) any post-commencement offence in connection with a claim for a disqualifying benefit;
- (b) any post-commencement offence in connection with the receipt or payment of any amount by way of such a benefit;
- (c) any post-commencement offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) any post-commencement offence consisting in an attempt or conspiracy to commit a benefit offence;

“disqualifying event” means the conviction falling within subsection (1)(a), the agreement falling within subsection (1)(b) or the caution falling within subsection (1)(c);

“post-commencement offence” means any criminal offence committed after the coming into operation of this section.

### **Section 5B: supplementary provisions**

**5C.—**(1) Where—

- (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 5B in relation to that person, and
- (b) that conviction is subsequently quashed,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 5B that could not have been imposed if the conviction had not taken place

(2) 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 section 5B in relation to that person—

- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or

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- (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 the overpayment to which the agreement relates is not recoverable or due,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 5B that could not have been imposed if P had not agreed to pay the penalty.

(3) Where, after the agreement (“the old 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 section 5B in relation to P, the amount of the 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—

- (a) section 5B shall cease to apply by virtue of the old agreement, and
- (b) subsection (4) shall apply.

(4) Where this subsection applies—

- (a) if there is a new disqualifying event consisting of—
  - (i) P's agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment, or
  - (ii) P being cautioned in relation to the offence to which the old agreement relates,

the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when section 5B ceased to apply by virtue of the old agreement, and

- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 5B that could not have been imposed if P had not agreed to pay the penalty.

(5) For the purposes of section 5B—

- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced); and
- (b) references to a conviction include references to a conviction in relation to which the court makes an order for absolute or conditional discharge and to a conviction in Great Britain (including a conviction in relation to which a court in Scotland makes a probation order or an order for absolute discharge without proceeding to a conviction).

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(6) In this section “the appropriate penalty provision” has the meaning given by section 5B(2)(a).”

(2) In Schedule 3—

- (a) Part 1 contains further amendments of the 2001 Act, and
- (b) Part 2 contains related amendments of other statutory provisions.

**Jobseeker's allowance: sanctions for violent conduct etc. in connection with claim**

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

(2) After Article 22B insert—

*“Violent conduct etc. in connection with claim*

**Sanctions for violent conduct etc. in connection with claim**

**22C.**—(1) This Article applies if—

- (a) a person (“the offender”) is convicted of, or is cautioned in respect of, an offence involving violence or harassment,
- (b) the conduct constituting the offence was done to, or in relation to, a person who was in the course of exercising functions under this Order on any premises,
- (c) the conduct occurred while the offender was on those premises for the purposes of a claim to a jobseeker's allowance, and
- (d) the offender is a person, or a member of a joint-claim couple, with respect to whom the conditions for entitlement to a jobseeker's allowance are or become satisfied.

(2) In the case of a jobseeker's allowance other than a joint-claim jobseeker's allowance—

- (a) the allowance is not to be payable in respect of the offender for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and
- (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks.

(3) For the purposes of paragraph (2)(b)—

- (a) the reference to another sanctions provision is to any provision made by or under this Order (other than paragraph (2)) which provides for a jobseeker's allowance not to be payable for a period; and

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- (b) the reference to the sanctions period is to the period for which the allowance would (but for paragraph (2)(b)) not be payable by virtue of that provision
- (4) In the case of a joint-claim jobseeker's allowance—
  - (a) the offender is to be treated as subject to sanctions for the purposes of Article 22A for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and
  - (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks.
- (5) For the purposes of paragraph (4)(b)—
  - (a) the reference to another sanctions provision is to any provision made by or under this Order (other than paragraph (4)) which provides for a member of a joint-claim couple to be (or treated as being) subject to sanctions for the purposes of Article 22A for a period; and
  - (b) the reference to the sanctions period is to the period for which the member of the couple would (but for paragraph (4)(b)) be (or be treated as being) subject to sanctions for those purposes by virtue of that provision.
- (6) Regulations may make provision for paragraphs (2) and (4) not to apply at any time after the end of a prescribed period or otherwise in prescribed circumstances.
- (7) Regulations may make provision for an income-based jobseeker's allowance to be payable in prescribed circumstances even though the preceding provisions of this Article prevent payment of it. This paragraph does not apply in the case of a joint-claim jobseeker's allowance (corresponding provision for which is made by Article 22B(4)).
- (8) The provision that may be made by regulations by virtue of paragraph (7) includes, in particular, provision for the allowance to be—
  - (a) payable only if prescribed requirements as to the provision of information are complied with;
  - (b) payable at a prescribed rate;
  - (c) payable for only part of a week.
- (9) If—
  - (a) a jobseeker's allowance was not payable, or was payable at a reduced rate, as a result of the application of this Article in a case where a person was convicted of an offence involving violence or harassment, and
  - (b) the person's conviction is subsequently quashed,

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all such payments and other adjustments are to be made as would be necessary if the person had never been convicted of the offence

### **Article 22C: supplementary**

**22D.**—(1) For the purposes of Article 22C each of the following is an offence involving violence or harassment—

- (a) common assault, battery or affray;
- (b) an offence under section 16, 18, 20, 42 or 47 of the Offences against the Person Act 1861;
- (c) an offence under Article 9 or 10 of the Public Order (Northern Ireland) Order 1987;
- (d) an offence under Article 4 or 6 of the Protection from Harassment (Northern Ireland) Order 1997;
- (e) an ancillary offence in relation to an offence within any of subparagraphs (a) to (d).

(2) In paragraph (1)(e) “ancillary offence”, in relation to an offence, means any of the following—

- (a) aiding, abetting, counselling or procuring the commission of the offence;
- (b) attempting or conspiring to commit the offence.

(3) For the purposes of Article 22C references to a conviction include references to a conviction in relation to which the court makes an order for conditional discharge.

(4) For the purposes of Article 22C “cautioned” means cautioned after the person concerned has admitted the offence.

(5) Regulations may make provision for or in connection with requiring such persons as may be prescribed to notify the Department about prescribed matters for the purposes of Article 22C.

(6) Regulations may amend paragraph (1) or (2) by adding or removing an offence.”.

(3) In Article 37(1)(c) (regulations subject to the confirmatory procedure), after “9,” insert “ 22D(6), ”.

(4) In paragraph 3(d) of Schedule 3 to the 1998 Order (decisions against which an appeal lies: payability of benefit), before “of the Jobseekers Order” insert “ or 22C ”.

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### **Repeal of sections 53 to 57 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000**

**21** In the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), omit sections 53 to 57 (loss of benefit for breach of community order).

#### *Pilot scheme*

#### **Period for which pilot schemes have effect etc.**

**22.**—(1) In Article 31 of the Jobseekers Order (pilot schemes)—

- (a) in paragraph (1), for “12 months” substitute “ 36 months ”, and
- (b) in paragraph (8), for the words from “facilitate” to the end substitute “ make it more likely that persons will obtain or remain in work or be able to do so ”.

(2) In section 19(1) of the Welfare Reform Act (pilot schemes), for “24 months” substitute “ 36 months ”.

#### *Miscellaneous*

#### **Exemption from jobseeking conditions for victims of domestic violence**

**23.**—(1) In Schedule 1 to the Jobseekers Order (supplementary provisions), after paragraph 8A insert—

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

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

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

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

(4) In this paragraph—

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

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

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

(2) In Article 37(1)(c) of that Order (regulations subject to the confirmatory procedure), after “or paragraph” insert “ 8B or ”.

#### **Good cause for failure to comply with regulations etc.**

**24.—**(1) In Schedule 1 to the Jobseekers Order (supplementary provisions), after paragraph 14A insert—

##### **“Good or just cause for acts or omission**

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

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.”.

(2) In Schedule 2 to the Welfare Reform Act (employment and support allowance: supplementary provisions), after paragraph 10 insert—

##### **“Good cause for failure to comply with certain regulations**

**10A.—**(1) This paragraph applies to any regulations made under section 11, 12 or 13 that prescribe matters to be taken into account in determining whether a person has good cause for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.”.

PROSPECTIVE

#### **Jobseekers' agreements and action plans: well-being of children**

**25.—**(1) In Article 11 of the Jobseekers Order (the jobseeker's agreement), after paragraph (4) insert—



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“(4A) In preparing a jobseeker's agreement for a claimant, the officer must have regard (so far as practicable) to its impact on the well-being of any child who may be affected by it.”.

(2) In section 14 of the Welfare Reform Act (employment and support allowance: action plans in connection with work-focused interviews) at the end add—

“(5) In preparing any [<sup>F4</sup>claimant commitment or] action plan, [<sup>F4</sup>the Department or] the Department for Employment and Learning must have regard (so far as practicable) to its impact on the well-being of any person under the age of 16 who may be affected by it.”.

#### Textual Amendments

**F4** Words in s. 25(2) inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **60(7)**; S.R. 2016/215, art. 2(3)(b)

### Contracting out functions under Jobseekers (Northern Ireland) Order 1995

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

(2) Before Article 23 (but after the italic heading immediately before that Article) insert—

#### “Contracting out

**22E.**—(1) The following functions of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) conducting interviews under Article 13A
- (b) providing documents under Article 13C;
- (c) giving, varying or revoking directions under Article 20B(5).

(2) The following functions of officers of the Department or of the Department for Employment and Learning may be exercised by, or by employees of, such person (if any) as that Department may authorise for the purpose, namely—

- (a) specifying places and times, and being contacted, under Article 10;
- (b) entering into or varying any jobseeker's agreement under Article 11 or 12 and referring any proposed agreement or variation to the Department under Article 11 or 12;
- (c) giving notifications under Article 18 or 20A;
- (d) giving, varying or revoking directions under Article 20A.

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(3) Regulations may provide for any of the following functions of the Department or of the Department for Employment and Learning to be exercisable by, or by employees of, such person (if any) as that Department may authorise for the purpose—

- (a) any function under regulations under Article 10, 13A, 13C, 19A or 20B, except the making of an excluded decision (see paragraph (4));
- (b) the function under Article 10(1) of the 1998 Order (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
- (c) the function under Article 11(1) of the 1998 Order (superseding of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;
- (d) any function under Chapter 2 of Part 2 of the 1998 Order (social security decisions), except Article 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within sub-paragraphs (a) to (c).

(4) Each of the following is an “excluded decision” for the purposes of paragraph (3)—

- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under Article 10, 13A or 19A;
- (b) a decision about whether a person had good cause for failure to comply with such a requirement;
- (c) a decision about not paying or reducing a jobseeker's allowance in consequence of a failure to comply with such a requirement.

(5) Regulations under paragraph (3) may provide that a function to which that paragraph applies may be exercised

- (a) either wholly or to such extent as the regulations may provide,
- (b) either generally or in such cases as the regulations may provide, and
- (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

(6) An authorisation given by virtue of any provision made by or under this Article may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;

but, in the case of an authorisation given by virtue of regulations under paragraph (3), this paragraph is subject to the regulations.

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(7) An authorisation given by virtue of any provision made by or under this Article—

- (a) may specify its duration,
- (b) may be revoked at any time by the Department or the Department for Employment and Learning, and
- (c) does not prevent the Department or the Department for Employment and Learning or any other person from exercising the function to which the authorisation relates.

(8) 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 the Department for Employment and Learning or (as the case may be) an officer of that Department.

(9) But paragraph (8) does not apply—

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

(10) Any decision which an authorised person makes in exercise of a function of the Department or of the Department for Employment and Learning has effect as a decision of the Department under Article 9 of the 1998 Order.

(11) Where—

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

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

(12) In this Article—

- (a) “the 1998 Order” means the Social Security (Northern Ireland) Order 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this Article;

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(c) references to functions of the Department or of the Department for Employment and Learning under any statutory provision include functions which the Department has by virtue of the application of Article 9(1)(c) of the 1998 Order in relation to the statutory provision.”.

(3) In each of the following provisions for “employment officer” substitute “officer of the Department or of the Department for Employment and Learning”

- (a) Article 10(1)(a),
- (b) Article 11(1), (5), (6) and (7)(b),
- (c) Article 12(1), (4), (5) and (6)(b)(ii),
- (d) Article 21(5)(b)(ii), (6)(c) and (10)(b) (as the Article has effect before its substitution by paragraph 6 of Schedule 1), and
- (e) Article 22A(2)(b)(ii) and (f) (as the Article has effect before its substitution by paragraph 7 of that Schedule).

(4) In Article 10(1A)(a), for “the Department” substitute “an officer of the Department or of the Department for Employment and Learning”.

(5) In relation to any time before paragraph 4 of Schedule 1 is fully in operation, Article 22E(2)(c) and (d) of the Jobseekers Order have effect as if they included references to the giving of notifications or directions under Article 21 or 22A of that Order.

#### Commencement Information

- I4** S. 26 partly in operation; s. 26 not in operation at Royal Assent see s. 36(2); s. 26(1) in operation for certain purposes at 20.6.2011 by [S.R. 2011/213](#), [art. 2\(a\)](#); s. 26(2) in operation for certain purposes at 20.6.2011 by [S.R. 2011/213](#), [art. 2\(b\)\(c\)](#);

#### Attendance in connection with jobseeker's allowance: sanctions

**27.—**(1) Article 10 of the Jobseekers Order (attendance, information and evidence) is amended as follows.

(2) In paragraph (2), for sub-paragraphs (a) to (c) (together with the “and” at the end of sub-paragraph (c)) substitute—

- “(a) prescribe circumstances in which a jobseeker's allowance is not to be payable for a prescribed period (of at least one week but not more than two weeks) in the case of—
  - (i) a claimant (other than a joint-claim couple claiming a joint-claim jobseeker's allowance) who fails to comply with any regulations made under that paragraph, o

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- (ii) a joint-claim couple claiming a joint-claim jobseeker's allowance a member of which fails to comply with any such regulations;
  - (b) provide for the consequence set out in sub-paragraph (a) not to follow if, within a prescribed period of a person's ("P") failure to comply with any such regulations ("the relevant period"), P or, if P is a member of a joint-claim couple, either member of the couple—
    - (i) makes prescribed contact with an officer of the Department or of the Department for Employment and Learning, and
    - (ii) shows that P had good cause for the failure;
  - (c) provide for entitlement to a jobseeker's allowance to cease at such time as may be determined in accordance with any such regulations if P or, as the case may be, a member of the couple does not make prescribed contact with an officer of the Department or of the Department for Employment and Learning in the relevant period;
  - (ca) prescribe circumstances in which a jobseeker's allowance is to be payable in respect of a claimant even though provision made by any such regulations by virtue of sub-paragraph (a) prevents payment of a jobseeker's allowance in respect of the claimant; and”.
- (3) After that paragraph insert—
- “(2A) The provision that may be made by any such regulations by virtue of paragraph (2)(ca) includes, in particular, provision for a jobseeker's allowance payable by virtue of that sub-paragraph to be—
- (a) payable only if prescribed requirements as to the provision of information are complied with;
  - (b) payable at a prescribed rate;
  - (c) payable for a prescribed period (which may differ from the period mentioned in paragraph (2)(a)).”.

(4) In paragraph 3(ca) of Schedule 3 to the 1998 Order (decisions against which an appeal lies: payability of benefit), which is inserted by section 1, after “Article” insert “ 10 or ”.

### **Social security information and employment or training information**

**28.—**(1) In section 2A of the Administration Act (claim or full entitlement to certain benefits conditional on work-focused interview), after subsection (7) insert—

“(7A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.”.

(2) In section 2AA of that Act (full entitlement to certain benefits conditional on work-focused interview for partner), after subsection (6) insert—

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“(6A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.”

(3) In Schedule 1 to the Jobseekers Order (supplementary provisions relating to jobseeker's allowance), at the end add—

**“Treatment of information supplied as information relating to social security**

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

(4) In Article 69 of the 1999 Order (supply of information for certain purposes)—

- (a) in paragraph (1)(a) and (b), after “social security information” insert “, or information relating to employment or training, ”, and
- (b) in paragraph (7), for “purposes connected with employment or training includes purposes connected with” substitute “ information relating to, or purposes connected with, employment or training includes information relating to, or purposes connected with, ”.

**Persons under pensionable age to take part in work-focused interviews etc.**

**29.—**(1) The Administration Act is amended as follows.

(2) In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview)—

- (a) in subsection (1)(a), for sub-paragraph (ii) substitute—
  - “(ii) has not attained pensionable age at the time of making the claim (but see subsection (1A)),”
- (b) in subsection (1)(b)(i), for “is under that age and” substitute “ has not attained pensionable age and is ”, and
- (c) after subsection (1) insert—

“(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.”.

(3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner)—

- (a) in subsection (1)(a), for sub-paragraphs (i) and (ii) substitute—
  - “(i) has not attained pensionable age (but see subsection (1A)), and
  - (ii) has a partner who has also not attained pensionable age,”
- (b) after subsection (1) insert—

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“(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.”.

(4) In sections 2A(1)(a) and 2AA(1), for “a work-focused interview” substitute “one or more work-focused interviews”, and in section 2A(1)(b), for “such an interview” substitute “one or more work-focused interviews”

### **Minor amendments**

**30.**—(1) Sections 80 and 81 of the Contributions and Benefits Act (which continue to have effect in certain cases despite their repeal by the Tax Credits Act 2002 (c. 21)) are to have effect as if the references in those sections to a child or children included references to a qualifying young person or persons.

(2) “Qualifying young person” has the same meaning as in Part 9 of the Contributions and Benefits Act.

(3) In section 146(2) of the Contributions and Benefits Act (interpretation of Part 10: Christmas bonus), in the definition of “qualifying employment and support allowance”, for “an employment and support allowance” substitute “a contributory allowance”.

(4) Despite the provision made by the Welfare Reform (2007 Act) (Commencement No. 5) Order (Northern Ireland) 2008 (S.R. 2008 No. 276), paragraph 3(7) and (8) of Schedule 3 to the Welfare Reform Act (which amend sections 88 and 89 of the Contributions and Benefits Act) are deemed not to be in operation by virtue of the provision made by that order at any time after the passing of this Act.

## **PART 2**

### **CHILD MAINTENANCE**

#### **Payments of child support maintenance**

**31.**—(1) Article 29 of the Child Support Order (collection of child support maintenance) is amended as follows.

(2) In paragraph (3) (provision which may be made by regulations for payment of child support maintenance), for sub-paragraph (c) substitute—

“(c) for determining, on the basis of prescribed assumptions, the total amount of the payments of child support maintenance payable in a reference period (including provision for adjustments to such an amount);

(ca) requiring payments of child support maintenance to be made—

(i) by reference to such an amount and a reference period; and

(ii) at prescribed intervals falling in a reference period;”.

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(3) After that paragraph insert—

“(3A) In paragraph (3)(c) and (ca) “a reference period” means—

- (a) a period of 52 weeks beginning with a prescribed date; or
- (b) in prescribed circumstances, a prescribed period.”.

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**Commencement Information**

**I5** S. 31 in operation at 3.12.2012 by S.R. 2012/424, art. 2(a)

**Child support maintenance: offences relating to information**

**32.—**(1) Article 16A of the Child Support Order (information – offences) is amended as follows.

(2) For paragraph (3A) substitute

“(3A) In the case of regulations under Article 16 which require a person liable to make payments of child support maintenance to notify—

- (a) a change of address, or
- (b) any other change of circumstances,

a person who fails to comply with the requirement is guilty of an offence.”.

(3) After paragraph (5) add—

“(6) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time for taking proceedings), summary proceedings for an offence under paragraph (2) may be instituted at any time within the period of 12 months beginning with the commission of the offence.”.

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**Commencement Information**

**I6** S. 32 partly in operation; s. 32(3) in operation at 13.8.2010 see s. 36(1)(n)

**I7** S. 32(1)(2) in operation at 3.12.2012 by S.R. 2012/424, art. 2(b)

## PART 3

### MISCELLANEOUS AND SUPPLEMENTARY

**Consequential amendments of orders and regulations**

**33.—**(1) The Department may by regulations make such provision amending or revoking any orders or regulations made before the passing of this Act as appears to the Department to be appropriate in consequence of any provision of this Act.



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- (2) Regulations under this section may include—
  - (a) transitional provisions or savings, and
  - (b) provision conferring a discretion on any person.
- (3) Regulations under this section are subject to negative resolution.

## Repeals

**34.—**(1) Schedule 4 contains repeals and revocations.

(2) The following repeals and revocation in Part 2 of that Schedule (which are made in consequence of section 14(1)) have effect on the day after Royal Assent—

- (a) the repeals in the Contributions and Benefits Act other than those of sections 88, 89, 91 and 92;
- (b) the repeal of paragraph 7 of Schedule 2 to the Jobseekers Order;
- (c) the repeals in the 1999 Order, the Tax Credits Act 2002 (c. 21), the Civil Partnership Act 2004 (c. 33) and the Child Benefit Act 2005 (c. 6); and
- (d) the revocation in the Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 (S.R. 2002 No. 321).

(3) The repeal in that Part of paragraph 9 of Part 4 of Schedule 4 to the Contributions and Benefits Act is not to be taken as affecting the operation of Article 2 of the Tax Credits Act 2002 (Transitional Provisions and Savings) Order (Northern Ireland) 2003 (S.R. 2003 No. 212).

### Commencement Information

**I8** S. 34 partly in operation; s. 34(2)(3) in operation at 13.8.2010 see s. 36(1)(p)(2); s. 34(1) in operation for certain purposes at 23.9.2010 by S.R. 2010/327, art. 2(2)(d)

## Interpretation

**35** In this Act—

- “the 1998 Order” means the Social Security (Northern Ireland) Order 1998 (NI 10);
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11);
- “the 2001 Act” means the Social Security Fraud Act (Northern Ireland) 2001 (c. 17);
- “the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992 (c. 8);

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“the Child Support Order” means the Child Support (Northern Ireland) Order 1991 (NI 23);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“the Department” means the Department for Social Development;

“the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995 (NI 15);

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“the Welfare Reform Act” means the Welfare Reform Act (Northern Ireland) 2007 (c. 2).

### **Commencement**

**36.—**(1) The following provisions come into operation on Royal Assent—

- (a) sections 1 and 2;
- (b) section 3;
- (c) section 8;
- (d) section 14;
- (e) section 19 and Schedule 3;
- (f) section 20;
- (g) section 22;
- (h) section 23;
- (i) section 24;
- (j) section 27;
- (k) section 28;
- (l) section 29;
- (m) section 30;
- (n) section 32(3);
- (o) section 33;
- (p) section 34(2) and (3) and Part 2 of Schedule 4 so far as relating to the repeals and revocation mentioned in section 34(2); and
- (q) section 35, this section and section 37.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint

(3) An order under subsection (2) may make such provision as the Department considers necessary or expedient for transitory, transitional or saving purposes

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in connection with the coming into operation of any provision falling within that subsection.

#### Subordinate Legislation Made

- P1** [S. 36\(2\)](#) power partly exercised: different dates appointed for specified provisions by [S.R. 2010/327, art. 2](#);  
different dates appointed for specified provisions by [S.R. 2010/341, art. 2](#);  
20.6.2011 appointed for specified provisions by [S.R. 2011/213, art. 2](#);  
16.12.2011 appointed for specified provisions by [S.R. 2011/430, art. 2](#)

#### Short title

- 37** This Act may be cited as the Welfare Reform Act (Northern Ireland) 2010.

**Status:**

Point in time view as at 03/12/2012. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

Welfare Reform Act (Northern Ireland) 2010 is up to date with all changes known to be in force on or before 20 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.