
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 378

The Housing Benefit (Employment and Support Allowance Consequential Provisions) Regulations (Northern Ireland) 2008

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

4.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(1) are amended in accordance paragraphs (2) to (13).

(2) In regulation 2 (interpretation)—

(a) In paragraph (1)—

(i) after the definition of “the Taxes Act” insert—

““the Welfare Reform Act” means the Welfare Reform Act (Northern Ireland) 2007;”;

(ii) in the definition of “appropriate office” after “state pension credit” insert “or employment and support allowance”;

(iii) in the definition of “the benefit Acts” for “and the State Pension Credit Act” substitute “, the State Pension Credit Act and the Welfare Reform Act”;

(iv) after the definition of “the Consequential Provisions Regulations” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”;

(v) after the definition of “employed earner” insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2008(2);”;

(vi) after the definition of “an income-based jobseeker’s allowance” insert—

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

(vii) after the definition of “the Macfarlane (Special Payments) (No. 2) Trust” insert—

““main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act;”;

(viii) in the definition of “qualifying contributory benefit”(3) after paragraph (b) add—

“(c) contributory employment and support allowance;”, and

(ix) in the definition of “qualifying income-related benefit”(4) after paragraph (b) add—

(1) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2006 No. 462 and S.R. 2008 No. 285

(2) S.R. 2008 No. 280

(3) The definition of “qualifying contributory benefit” was inserted by regulation 3(2)(b) of S.R. 2008 No. 285

(4) The definition of “qualifying income-related benefit” was inserted by regulation 3(2)(c) of S.R. 2008 No. 285

- “(vii) main phase employment and support allowance;” and
- (d) after paragraph (12) insert—
- “(12A) For the purposes of paragraph (11), once paragraph (11)(ca) applies to the claimant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.”.
- (7) In regulation 46 (diminishing notional capital rule)—
- (a) in paragraph (3) after sub-paragraph (c) add—
- “and
- (d) where the claimant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).”;
- (b) in paragraph (4) after sub-paragraph (c) add—
- “(d) if the claimant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.”; and
- (c) in paragraph (8) in the definition of “part week”—
- (i) for “and (c)” substitute “, (c) and (d)”, and
- (ii) in paragraph (a) after “state pension credit” insert “, an income-related employment and support allowance”.
- (8) In regulation 52 (continuing payments where state pension credit claimed)—
- (a) in paragraphs (1)(c)(i) and (2)(a)(ii) after “income-based jobseeker’s allowance” insert “or income-related employment and support allowance”; and
- (b) in paragraph (3) after “income support” insert “, income-related employment and support allowance”.
- (9) In regulation 53(8)(a) and (b) (non-dependant deductions) for “or an income-based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or an income-related employment and support allowance which does not include an amount under section 4(2)(b) of the Welfare Reform Act (the support component and the work-related activity component)”.
- (10) In regulation 62(5)(a)(5) (time and manner in which claims are to be made) for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or an employment and support allowance”.
- (11) In regulation 83(1) (recovery of overpayments from prescribed benefits) after sub-paragraph (e) add—
- “(f) an employment and support allowance.”.

(12) In Schedule 5 (sums disregarded from claimant's earnings) in paragraph 5(1)(a) after sub-head (vi) add—

“(vii) main phase employment and support allowance.”.

(13) In Schedule 7 (capital to be disregarded)—

(a) in paragraph 21(2)—

(i) in head (j) omit “or”, and

(ii) after head (k) add—

“or

(l) income-related employment and support allowance.”; and

(b) in paragraph 22(2) after head (d) add—

“(e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations.”.