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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 220**

**SOCIAL SECURITY**

The Universal Credit, Personal Independence  
Payment, Jobseeker's Allowance and  
Employment and Support Allowance (Claims and  
Payments) Regulations (Northern Ireland) 2016

*Made - - - - 4th May 2016*  
*Laid before Parliament 10th May 2016*  
*Coming into operation in accordance with*  
*regulation 1(2) and (3)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Article 40(1)(1) (as substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(2)) and 40(2) (as it has effect apart from section 20 of that Act) of the Child Support (Northern Ireland) Order 1991(3) and sections 1(1) and (1C), 5(1) (a) to (d), (g), (i) to (n), (q) and (r), (1A) and (2B), 5A(2)(b), 13A(2) and (3), 105A(1A)(d), (1B)(d), (1D)(c) and (1E)(c), 106(1A)(d), (1B)(d), (1C)(c) and (1D)(c), 165(1) and (4) to (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(4) and Articles 38 and 97 of, and paragraph 3 of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015(5).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015.

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- (1) Article 40(1) was substituted by Article 129 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)).
- (2) 2000 c. 4 (N.I.); section 20 of that Act substituted Article 40 of the Child Support (Northern Ireland) Order 1991 in relation to certain cases only, see Article 3 of S.R. 2003 No. 53 (C. 4).
- (3) S.I. 1991/2628 (N.I. 23).
- (4) 1992 c. 8; section 1(1C) was inserted by Article 18 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)), in section 5 subsection (1)(d), (g) and (k) is amended by Article 103 of the Welfare Reform (Northern Ireland) Order 2015 and subsections (1A) and (2B) are inserted respectively by Articles 104(3) and 105 of that Order, section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (2)(b) was amended by paragraph 8(a) of Schedule 1 to the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)), section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9)) and subsection (2) was amended by paragraph 9(b) and (c) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and subsection (3) was amended by Article 18(2) of S.I. 2002/1555, section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 and subsections (1A) to (1E) were inserted by section 15(1)(b) of the Social Security Fraud Act (Northern Ireland) Act 2001 (c. 17 (N.I.)), in section 106 subsection (1A) was inserted by Article 13 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 and subsections (1A) to (1D) were substituted by section 15(2) of the Social Security Fraud Act (Northern Ireland) 2001 and section 165 was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7) and is amended by Article 108(1) of the Welfare Reform (Northern Ireland) Order 2015. Section 167(1) is cited for the meaning it gives to 'prescribe'.
- (5) S.I. 2015/2006 (N.I. 1).

## PART 1

### General

#### Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016.

(2) For the purpose of personal independence payment these Regulations come into operation on 20th June 2016.

(3) For the purposes of universal credit, jobseeker’s allowance and employment and support allowance these Regulations come into operation immediately after the coming into operation of the Universal Credit Regulations.

#### Interpretation

2.—(1) In these Regulations—

“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007<sup>(6)</sup>;

“the 2015 Order” means the Welfare Reform (Northern Ireland) Order 2015;

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“appropriate office” means—

(a) an office of the Department or any other place designated by the Department in relation to any case or class of case as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received for the purposes of these Regulations and includes a postal address specified by the Department for that purpose; or

(b) in the case of a person who is authorised or required by these Regulations to use an electronic communication for any purpose, an address to which such communications may be sent in accordance with Schedule 1;

“assessment period” has the meaning given by regulation 22 of the Universal Credit Regulations;

“attendance allowance” means an allowance payable by virtue of section 64 of the Contributions and Benefits Act<sup>(7)</sup>;

“benefit”, except in regulation 55 and Schedules 4 and 5, means universal credit, personal independence payment, a jobseeker’s allowance or employment and support allowance;

“child” has the meaning given by Article 46 of the 2015 Order;

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

“claimant” in relation to—

(a) universal credit, has the meaning given by Article 46 of the 2015 Order;

(b) personal independence payment, means any person who is a claimant for the purposes of regulations made under Part 5 of that Order;

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<sup>(6)</sup> 2007 c. 2 (N.I.).

<sup>(7)</sup> Section 64 was amended by Article 63(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(c) a jobseeker's allowance, has the meaning given by Article 2(2) of the Jobseekers Order(8); and

(d) an employment and support allowance, has the meaning given by section 24(1) of the 2007 Act;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(9);

"couple" has the meaning given by Article 45 of the 2015 Order;

"disability living allowance" means an allowance payable by virtue of section 71 of the Contributions and Benefits Act(10);

"earned income" has the meaning given by regulation 51 of the Universal Credit Regulations;

"electronic communication" has the meaning given by section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(11);

"employment and support allowance" means an allowance under Part 1 of the 2007 Act (as amended by Schedule 3 and Part 1 of Schedule 12 to the 2015 Order that remove references to an income-related allowance);

"jobseeker's allowance" means an allowance under the Jobseekers Order (as amended by Part 1 of Schedule 12 to the 2015 Order that removes references to an income-based allowance);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 2016(12);

"the Jobseekers Order" means the Jobseekers (Northern Ireland) Order 1995(13);

"limited capability for work" has the meaning given by section 1(4) of the 2007 Act;

"maternity allowance" means an allowance payable by virtue of section 35 of the Contributions and Benefits Act(14);

"office closure" means a period during which an appropriate office is closed in connection with a public holiday;

"official computer system" means a computer system maintained by or on behalf of the Department to—

(a) send or receive any claim or information; or

(b) process or store any claim or information;

"partner" means one of a couple;

"personal independence payment" means the allowance under Part 5 of the 2015 Order;

"the Personal Independence Payment Regulations" means the Personal Independence Payment Regulations (Northern Ireland) 2016(15);

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(8) The definition of "claimant" was amended by paragraph 2(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(9) 1992 c. 7.

(10) Section 71 was amended by Article 64(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(11) 2001 c. 9 (N.I.); the definition of "electronic communication" was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21).

(12) S.R. 2016 No. 218.

(13) S.I. 1995/2705 (N.I. 15).

(14) Section 35 was amended by Article 4(a) of the Still Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10)), Article 63 of the Social Security (Northern Ireland) Order 1998, Article 50(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 2 of Schedule 1 to the Social Security Act (Northern Ireland) 2002, paragraph 5 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), regulation 2(3) of S.R. 1994 No. 176, regulation 2(3) of S.R. 2014 No. 102 and section 6(2) and (3) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

(15) S.R. 2016 No. 217.

“qualifying young person” has the meaning given by regulation 6 of the Universal Credit Regulations;

“regular and substantial caring responsibilities for a severely disabled person” has the meaning given by regulation 31 of the Universal Credit Regulations;

“universal credit” means the benefit under Part 2 of the 2015 Order;

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016<sup>(16)</sup>;

“writing” includes writing produced by means of electronic communications used in accordance with Schedule 1.

(2) Subject to paragraph (3), the Interpretation Act (Northern Ireland) 1954<sup>(17)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(3) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

#### **Use of electronic communications**

3. Schedule 1 makes provision as to the use of electronic communications.

#### **Consequential amendments**

4. Schedule 2 makes amendments consequential upon these Regulations.

#### **Disapplication of section 1(1A) of the Administration Act**

5. Section 1(1A) of the Administration Act<sup>(18)</sup> (entitlement to benefit dependent on claim) is not to apply to a child or a qualifying young person in respect of whom universal credit is claimed.

## **PART 2**

### **Claims**

#### **Claims not required for entitlement to employment and support allowance in certain cases**

6.—(1) It is not to be a condition of entitlement to an employment and support allowance that a claim be made for it where—

- (a) the claimant has made and is pursuing an appeal against a relevant decision of the Department; and
- (b) the appeal relates to a decision to terminate or not to award an employment and support allowance for which a claim was made.

(2) In this regulation—

“appellate authority” means an appeal tribunal, a Commissioner, the Court of Appeal or the Supreme Court;

“relevant decision” means—

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<sup>(16)</sup> S.R. 2016 No. 216.

<sup>(17)</sup> 1954 c. 33 (N.I.).

<sup>(18)</sup> Subsection (1A) was inserted by Article 18 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997.

- (a) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work; or
- (b) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work since a previous determination by the Department or appellate authority that the claimant does have limited capability for work.

### **Making a claim for universal credit**

7.—(1) Except as provided in paragraph (2), a claim for universal credit must be made by means of an electronic communication in accordance with the provisions set out in Schedule 1 and completed in accordance with any instructions given by the Department for that purpose.

(2) A claim for universal credit may be made by telephone call to the telephone number specified by the Department if the claim falls within a class of case for which the Department accepts telephone claims or where, in any other case, the Department is willing to do so.

(3) A claim for universal credit made by means of an electronic communication in accordance with the provisions set out in Schedule 1 is defective if it is not completed in accordance with any instructions of the Department.

(4) A claim made by telephone in accordance with paragraph (2) is properly completed if the Department is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for universal credit is defective the Department must inform the claimant of the defect and of the relevant provisions of regulation 9 relating to the claim.

(6) The Department must treat the claim as properly made in the first instance if—

- (a) in the case of a claim made by telephone, the person corrects the defect; or
- (b) in the case of a claim made by means of an electronic communication, a claim completed in accordance with any instructions of the Department is received at an appropriate office,

within one month, or such longer period as the Department considers reasonable, from the date on which the claimant is first informed of the defect.

### **Claims for universal credit by members of a couple**

8.—(1) Where a person is a member of a couple and may make a claim as a single person by virtue of regulation 3(2) of the Universal Credit Regulations (couples), but instead makes a claim for universal credit jointly, that claim is to be treated as a claim made by that person as a single person.

(2) Where a claim for universal credit is made jointly by a member (“M1”) of a polygamous marriage with another member of the polygamous marriage (“M2”), that claim is to be treated as a claim made by M1 as a single person where—

- (a) M1 is not a party to an earlier marriage in the polygamous marriage; and
- (b) any party to an earlier marriage is living in the same household as M1 and M2.

(3) In paragraph (2) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

(4) The Department may treat a claim made by members of a couple as single persons as a claim made jointly by the couple where it is determined by the Department that they are a couple.

(5) Where the Department considers that one member of a couple is unable to make a joint claim with the other member of that couple, the other member of the couple may make a claim jointly for both of them.

(6) Where an award of universal credit to joint claimants is terminated because they cease to be a couple an award may be made, without a claim, to either or each one of them—

- (a) as a single person; or
- (b) if either of them has formed a new couple with a person who is already entitled to universal credit, jointly with that person.

(7) Where awards of universal credit to two single claimants are terminated because they form a couple who are joint claimants, it is not to be a condition of entitlement to universal credit that the couple make a claim for it and universal credit may be awarded to them jointly.

(8) A couple who are joint claimants are to be treated as making a claim for universal credit where—

- (a) one of them ceased to be entitled to an award of universal credit (whether as a single person or as a member of a different couple) on the formation of that couple; and
- (b) the other member of the couple did not have an award of universal credit as a single person before formation of the couple,

and the claim is to be treated as made on the day after the member of the couple mentioned in sub-paragraph (a) ceased to be entitled to universal credit.

(9) In relation to an award which may be made by virtue of paragraph (6) or (7) without a claim being required, a claimant and every person by whom or on whose behalf, sums by way of universal credit are receivable must supply in such manner and at such times as the Department may determine such information or evidence as it may require in connection with the formation or dissolution of a couple.

(10) Where an award of universal credit to joint claimants is terminated because one of them has died it is not to be a condition of entitlement to universal credit that the surviving partner makes a claim for it.

### **Date of claim for universal credit**

9.—(1) Where a claim for universal credit is made, the date on which the claim is made is—

- (a) subject to sub-paragraph (b), in the case of a claim made by means of an electronic communication, in accordance with regulation 7(1), the date on which the claim is received at an appropriate office;
- (b) in the case of a claim made by means of an electronic communication in accordance with regulation 7(1), where the claimant receives assistance at home or at an appropriate office from the Department or a person providing services to the Department which is provided for the purpose of enabling that person to make a claim, the date of first notification of a need for such assistance;
- (c) subject to sub-paragraph (d), in the case of a claim made by telephone in accordance with regulation 7(2), the date on which that claim is properly completed in accordance with regulation 7(4), or
- (d) where the Department is unable to accept a claim made by telephone in accordance with regulation 7(2) on the date of first notification of intention to make the claim, the date of the first notification, provided a claim properly completed in accordance with regulation 7(4) is made within one month of that date,

or the first day in respect of which the claim is made, if later than the above.

(2) In the case of a claim which is defective by virtue of regulation 7, the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 7(6).

### **Making a claim for personal independence payment**

**10.**—(1) A claim for personal independence payment must be made—

- (a) in writing on a form authorised by the Department for that purpose and completed in accordance with the instructions on the form;
- (b) by telephone call to the telephone number specified by the Department; or
- (c) by receipt by the claimant of a telephone call from the Department made for the purpose of enabling a claim for personal independence payment to be made,

unless, in any case or class of case, the Department decides only to accept a claim made in one of the ways specified in sub-paragraph (a), (b) or (c).

(2) In the case of a claim made in writing the claim must be sent to or received at the appropriate office.

(3) A claim for personal independence payment made in writing is defective if it is not completed in accordance with any instructions of the Department.

(4) A claim made by telephone in accordance with paragraph (1) is properly completed if the Department is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for personal independence payment is defective the Department must inform the claimant of the defect and of the relevant provisions of regulation 11 relating to the date of claim.

(6) The Department must treat the claim as properly made in the first instance if a claim completed in accordance with any instructions of the Department is received within one month, or such longer period as it may consider reasonable, from the date on which the claimant is first informed of the defect.

(7) Paragraph (8) applies where—

- (a) a person (“P1”) makes a claim for personal independence payment on behalf of another person (“P2”) whom P1 asserts to be a person unable for the time being to act; and
- (b) the Department makes a decision not to appoint P1 under regulation 52.

(8) The Department must treat the claim made by P1 as properly made by P2 in the first instance if a further claim made by P2 is received within one month or such longer period as the Department may consider reasonable, from the date the Department notified the decision not to appoint P1 under regulation 52.

### **Date of claim for personal independence payment**

**11.**—(1) Subject to paragraph (4), where a claim for personal independence payment is made in accordance with regulation 10 the date on which the claim is made is—

- (a) in the case of a claim in writing made by means of an electronic communication in accordance with the provisions set out in Schedule 1, the date on which the claim is received at the appropriate office;
- (b) in the case of a claim made by telephone, the date on which that claim is properly completed in accordance with regulation 10(4); or
- (c) where a person first notifies an intention to make a claim and provided that a claim made in writing produced other than by means of an electronic communication is properly completed and received at the appropriate office designated by the Department within one month or such longer period as it considers reasonable of the date of first notification, the date of first notification,

or the first day in respect of which the claim is made, if later than the above.

- (2) In the case of a claim which is defective by virtue of regulation 10(3) or (4)—
- (a) subject to sub-paragraph (b) and paragraph (4), the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 10(6);
  - (b) the date of claim is to be the date of first notification of an intention to make a claim where a claim made by a person to whom paragraph (1)(c) applies is defective but is treated as properly made in the first instance in accordance with regulation 10(6).
- (3) In the case of a claim which is treated as properly made by the claimant in accordance with regulation 10(8), the date on which the claim is made is the date on which it was received in the first instance.
- (4) Where a further claim made by a person (“P2”) in the circumstances set out in regulation 10(8) is defective and that further claim is treated as properly made in the first instance in accordance with regulation 10(6), the date of claim is to be the date on which the claim made by the person (“P1”) whom the Department decided not to appoint under regulation 52 was received in the first instance.
- (5) In a case where the Department decides not to award personal independence payment following a claim for it being made on behalf of another expressly on the ground of terminal illness (which has the meaning given by Article 87(4) of the 2015 Order), the date of claim is to be—
- (a) the date that claim was made if a further claim, made in accordance with regulation 10, is received within one month, or such longer period as the Department may consider reasonable, from the date the Department notified the decision not to award personal independence payment on the ground of terminal illness; or
  - (b) the date that claim was made where the further claim is defective but is treated as properly made in the first instance in accordance with regulation 10(6).

### **Making a claim for an employment and support allowance by telephone**

- 12.**—(1) Except where the Department directs in any case or class of case that a claim must be made in writing, a claim for an employment and support allowance may be made by telephone call to the telephone number specified by the Department.
- (2) Where the Department, in any particular case, directs that the person making the claim approves a written statement of the person’s circumstances provided for the purpose by the Department, a telephone claim is not a valid claim unless the person complies with the direction.
- (3) A claim made by telephone in accordance with paragraph (1) is properly completed if the Department is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.
- (4) Where a telephone claim is defective, the Department must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 13.
- (5) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (3) and does so within one month, or such longer period as the Department considers reasonable, of the date the Department first drew attention to the defect, the Department must treat the claim as if it had been properly made in the first instance.

### **Date of claim for an employment and support allowance where claim made by telephone**

- 13.** In the case of a telephone claim, the date on which the claim is made is to be the first date on which—
- (a) a claim made by telephone is properly completed;



- (b) a person first notifies the Department of an intention to make a claim, provided that a claim made by telephone is properly completed within one month or such longer period as the Department considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 12(5),

or the first day in respect of which the claim is made, if later than the above.

### **Making a claim for an employment and support allowance in writing**

**14.**—(1) A claim for an employment and support allowance may be made to the Department in writing on a form authorised by the Department for that purpose and must be completed in accordance with the instructions on the form.

(2) A written claim for an employment and support allowance, which is made on the form approved for the time being, is properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(3) If a written claim is defective when first received, the Department must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 15.

(4) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Department considers reasonable, of the date it first drew attention to the defect, the Department must treat the claim as if it had been properly made in the first instance.

### **Date of claim for an employment and support allowance where claim made in writing**

**15.** In the case of a written claim for an employment and support allowance, the date on which the claim is made is to be the first date on which—

- (a) a properly completed claim is received in an appropriate office;
- (b) a person first notifies an intention to make a claim, provided that a properly completed claim form is received in an appropriate office within one month, or such longer period as the Department considers reasonable, of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 14(4),

or the first day in respect of which the claim is made, if later than the above.

### **Claims for an employment and support allowance where no entitlement to statutory sick pay**

**16.**—(1) Paragraph (2) applies to a claim for an employment and support allowance for a period of limited capability for work in relation to which the claimant gave the claimant's employer a notice of incapacity under regulation 7 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(19) (time and manner of notification of incapacity for work), and for which the claimant has been informed in writing by the employer that there is no entitlement to statutory sick pay.

(2) A claim to which this paragraph applies is to be treated as made on the date accepted by the claimant's employer as the first day of incapacity, provided that the claimant makes the claim within the period of 3 months beginning with the day on which the claimant is informed in writing by the employer that the claimant was not entitled to statutory sick pay.

### **Special provisions where it is certified that a woman is expected to be confined or where she has been confined**

17.—(1) Where in a certificate issued or having effect as issued under the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(20) it has been certified that it is to be expected that a woman will be confined and she makes a claim for maternity allowance in expectation of that confinement, any such claim may, unless the Department otherwise directs, be treated as a claim for an employment and support allowance, made in respect of any days in the period beginning with either—

- (a) the beginning of the 6th week before the expected week of confinement; or
- (b) the actual date of confinement,

whichever is the earlier, and ending in either case on the 14th day after the actual date of confinement.

(2) Where, in a certificate issued under the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976, it has been certified that a woman has been confined and she claims maternity allowance within 3 months of the date of her confinement, her claim may be treated in the alternative or in addition as a claim for an employment and support allowance for the period beginning with the date of her confinement and ending 14 days after that date.

### **Making a claim for a jobseeker's allowance: attendance at an appropriate office**

18. A person wishing to make a claim for a jobseeker's allowance, unless the Department otherwise directs, is required to attend for the purpose of making a claim for that allowance, in person at an appropriate office or such other place, and at such time, as the Department may specify in that person's case.

### **Date of claim where a person claiming a jobseeker's allowance is required to attend at an appropriate office**

19.—(1) Subject to regulation 28(6), where a person is required to attend in accordance with regulation 18, if the person subsequently attends for the purpose of making a claim for a jobseeker's allowance at the place and time specified by the Department and, if so requested, provides a properly completed claim form at or before the time when the person is required to attend, the claim is to be treated as made on whichever is the later of the date of first notification of intention to make that claim or the first day in respect of which the claim is made.

(2) Where a person who is required to attend in accordance with regulation 18 without good cause fails to attend at either the place or time specified in that person's case, or does not, if so requested, provide a properly completed claim form at or before the time when the person is required to attend, the claim is to be treated as made on the first day on which the person does attend at the specified place or time or does provide a properly completed claim form, or if later the first day in respect of which the claim is made.

(3) The Department may direct that the time for providing a properly completed claim form may be extended to a date no later than the date one month after the date of first notification of intention to make that claim.

### **Making a claim for a jobseeker's allowance in writing**

20.—(1) Except where a person is required to attend in accordance with regulation 18, a claim for a jobseeker's allowance may be made in writing on a form authorised by the Department for that purpose and may be delivered or sent to the Department at an appropriate office.

(2) A claim made in accordance with paragraph (1) must be completed in accordance with the instructions on the form.

(3) A written claim for a jobseeker's allowance made under this regulation or regulation 19, which is made on the form approved for the time being, is properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(4) If a written claim made under this regulation is defective when first received, the Department must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 21.

(5) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (3) and does so within one month, or such longer period as the Department considers reasonable, from the date it first drew attention to the defect, the claim must be treated as having been properly made in the first instance.

#### **Date of claim for a jobseeker's allowance where claim made in writing**

**21.** Subject to regulation 28(6), in the case of a written claim for jobseeker's allowance made under regulation 20, the date on which the claim is made or treated as made is to be the first date on which—

- (a) a properly completed claim form is received in an appropriate office;
- (b) a person first notifies an intention to make a claim, provided that a properly completed claim form is received in an appropriate office within one month or such longer period as the Department considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 20(5),

or the first day in respect of which the claim is made, if later than the above.

#### **Making a claim for a jobseeker's allowance by telephone**

**22.—**(1) Except where a person is required to attend in accordance with regulation 18, or where the Department in any case directs that the claim must be made in writing in accordance with regulation 20, a claim for a jobseeker's allowance may be made by telephone call to the telephone number specified by the Department where such a claim falls within a class of case for which the Department accepts telephone claims or in any other case where it is willing to do so.

(2) A claim made by telephone in accordance with paragraph (1) is properly completed if the Department is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(3) Where a telephone claim is defective, the Department must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 23.

(4) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Department considers reasonable, of the date it first drew attention to the defect, the Department must treat the claim as if it had been properly made in the first instance.

#### **Date of claim for a jobseeker's allowance where claim made by telephone**

**23.** Subject to regulation 28(6), in the case of a telephone claim made under regulation 22, the date on which the claim is made or treated as made is to be the first date on which—

- (a) a claim made by telephone is properly completed;

- (b) a person first notifies an intention to make a claim, provided that a claim made by telephone is properly completed within one month or such longer period as the Department considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 22(4),

or the first day in respect of which the claim is made, if later than the above.

### **Interchange with claims for other benefits**

**24.**—(1) The Department may treat a claim for an employment and support allowance by a woman in addition or in the alternative as a claim for a maternity allowance.

(2) The Department may treat a claim for a maternity allowance in addition or in the alternative as a claim for an employment and support allowance.

(3) Where it appears that a person who has made a claim for personal independence payment is not entitled to it but may be entitled to disability living allowance or attendance allowance, the Department may treat any such claim alternatively, or in addition, as a claim for either disability living allowance or attendance allowance, as the case may be.

(4) Where it appears that a person who has made a claim for disability living allowance or attendance allowance is not entitled to it but may be entitled to personal independence payment, the Department may treat any such claim alternatively, or in addition, as a claim for personal independence payment.

(5) In determining whether the Department should treat a claim as made alternatively or in addition to another claim (“the original claim”) under this regulation it must treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim.

### **Time within which a claim to universal credit is to be made**

**25.**—(1) Subject to the following provisions of this regulation, a claim for universal credit must be made on the first day of the period in respect of which the claim is made.

(2) Where the claim for universal credit is not made within the time specified in paragraph (1), the Department is to extend the time for claiming it, subject to a maximum extension of one month, to the date on which the claim is made, if—

- (a) any one or more of the circumstances specified in paragraph (3) applies or has applied to the claimant; and
  - (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.
- (3) The circumstances referred to in paragraph (2) are—
- (a) the claimant was previously in receipt of a jobseeker’s allowance or an employment and support allowance and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant’s entitlement expired;
  - (b) the claimant has a disability;
  - (c) the claimant has supplied the Department with medical evidence that satisfies the Department that the claimant had an illness that prevented the claimant from making a claim;
  - (d) the claimant was unable to make a claim in writing by means of an electronic communication used in accordance with Schedule 1 because the official computer system was inoperative;
  - (e) where—

- (i) the Department decides not to award universal credit to members of a couple jointly because one of the couple does not meet the basic condition in Article 9(1)(e) of the 2015 Order,
  - (ii) they cease to be a couple, and
  - (iii) the person who did meet the basic condition in Article 9(1)(e) of the 2015 Order makes a further claim as a single person;
- (f) where—
- (i) an award of universal credit to joint claimants has been terminated because one of the couple does not meet the basic condition in Article 9(1)(e) of the 2015 Order,
  - (ii) they cease to be a couple, and
  - (iii) the person who did meet the basic condition in Article 9(1)(e) of the 2015 Order makes a further claim as a single person.

(4) In the case of a claim for universal credit made by each of joint claimants, the prescribed time for claiming is not to be extended under paragraph (2) unless both claimants satisfy that paragraph.

(5) In the case of a claim for universal credit referred to in regulation 22(7) of the Universal Credit Regulations (assessment periods) the claim for universal credit must be made before the end of the assessment period in respect of which it is made.

#### **Time within which a claim to a personal independence payment is to be made**

26. A claim for personal independence payment must be made on the first day of the period in respect of which the claim is made.

#### **Time within which a claim for an employment and support allowance is to be made**

27. A claim for an employment and support allowance must be made on the first day of the period in respect of which the claim is made or within the period of 3 months immediately following that day.

#### **Time within which a claim for a jobseeker's allowance is to be made**

28.—(1) Subject to paragraphs (2) and (4), a claim for a jobseeker's allowance must be made on the first day of the period in respect of which the claim is made.

(2) In a case where the claim is not made within the time specified in paragraph (1), the Department is to extend the time for claiming a jobseeker's allowance, subject to a maximum extension of 3 months, to the date on which the claim is made, where—

- (a) any one or more of the circumstances specified in paragraph (3) applies or has applied to the claimant; and
  - (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.
- (3) The circumstances referred to in paragraph (2) are—
- (a) the claimant has difficulty communicating because—
    - (i) the claimant has learning, language or literacy difficulties, or
    - (ii) the claimant is deaf or blind,
- and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim;

- (b) the claimant was caring for a person who is ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim;
  - (c) the claimant was given information by an officer of the Department which led the claimant to believe that a claim for a jobseeker's allowance would not succeed;
  - (d) the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a Health and Social Care trust or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for a jobseeker's allowance would not succeed;
  - (e) the claimant was required to deal with a domestic emergency affecting the claimant and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim; or
  - (f) the claimant was prevented by adverse weather conditions from attending an appropriate office.
- (4) In a case where the claim is not made within the time specified in paragraph (1), the prescribed time for claiming a jobseeker's allowance is to be extended, subject to a maximum extension of one month, to the date on which the claim is made, where—
- (a) any one or more of the circumstances specified in paragraph (5) applies or has applied to the claimant; and
  - (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.
- (5) The circumstances referred to in paragraph (4) are—
- (a) the appropriate office where the claimant would be expected to make a claim was closed and alternative arrangements were not available;
  - (b) the claimant was unable to attend the appropriate office due to difficulties with the claimant's normal mode of transport and there was no reasonable alternative available;
  - (c) there were adverse postal conditions;
  - (d) the claimant was previously in receipt of an employment and support allowance and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the entitlement expired;
  - (e) the claimant had ceased to be a member of a couple within the period of one month before the claim was made;
  - (f) during the period of one month before the claim was made a close relative of the claimant had died and for this purpose "close relative" means a partner, parent, son, daughter, brother or sister;
  - (g) the claimant was unable to make telephone contact with the appropriate office because the telephone lines to that office were busy or inoperative;
  - (h) the claimant was unable to make contact by means of an electronic communication used in accordance with Schedule 1 because the official computer system was inoperative.
- (6) In a case where the time for claiming a jobseeker's allowance is extended under paragraph (2) or (4), the claim is to be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of those paragraphs, timeously made.

### **Amendment of claim**

**29.**—(1) A person who has made a claim for benefit may amend it at any time before a determination has been made on the claim by notice in writing received at an appropriate office, by

telephone call to the telephone number specified by the Department or in such other manner as the Department may decide or accept.

(2) Any claim amended in accordance with paragraph (1) may be treated as if it had been so amended in the first instance.

#### **Withdrawal of claim**

**30.**—(1) A person who has made a claim for benefit may withdraw it any time before a determination has been made on it by notice in writing received at an appropriate office, by telephone call to the telephone number specified by the Department or in such other manner as the Department may decide or accept.

(2) Any notice of withdrawal given in accordance with paragraph (1) has effect when it is received.

#### **Advance claim for and award of universal credit**

**31.**—(1) This regulation applies where—

- (a) although a person does not satisfy the conditions of entitlement to universal credit on the date on which a claim is made, the Department is of the opinion that unless there is a change of circumstances that person will satisfy those conditions for a period beginning on a day not more than one month after the date on which the claim is made; and
- (b) the case falls within a class for which the Department accepts advance claims or is a case where it is otherwise willing to do so.

(2) The Department is to treat the claim as if made on the first day of that period.

(3) The Department may award universal credit accordingly, subject to the requirement that the person satisfies the conditions for entitlement on the first day of that period.

#### **Advance claim for and award of personal independence payment**

**32.**—(1) Where, although a person does not satisfy the requirements for entitlement to personal independence payment on the date on which the claim is made, the Department is of the opinion that unless there is a change of circumstances the person will satisfy those requirements for a period beginning on a day (“the relevant day”) not more than 3 months after the date on which the decision on the claim is made, it may award personal independence payment from the relevant day subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

(2) A person who has an award of personal independence payment may make a further claim for personal independence payment during the period of 6 months immediately before the existing award expires.

(3) Where a person makes a claim in accordance with paragraph (2) the Department may—

- (a) treat the claim as if made on the first day after the expiry of the existing award; and
- (b) award personal independence payment accordingly, subject to the condition that the person satisfies the requirements for entitlement on that first day after the expiry of the existing award.

#### **Advance claim for and award of an employment and support allowance or a jobseeker’s allowance**

**33.** Where, although a person does not satisfy the requirements of entitlement to an employment and support allowance or a jobseeker’s allowance on the date on which a claim is made, the Department is of the opinion that unless there is a change of circumstances that claimant will satisfy

those requirements for a period beginning on a day (“the relevant day”) not more than 3 months after the date on which the claim is made, then the Department may—

- (a) treat the claim as if made for a period beginning with the relevant day; and
- (b) award an employment and support allowance or a jobseeker’s allowance accordingly, subject to the condition that the person satisfies the requirements for entitlement when those benefits become payable under an award.

#### **Attendance in person**

**34.** Except in a case where regulation 9 of the Personal Independence Payment Regulations (claimant may be called for a consultation to determine whether the claimant has limited or severely limited ability to carry out activities) applies, every person who makes a claim for benefit, other than a jobseeker’s allowance, or any person entitled to benefit, other than a jobseeker’s allowance, and any other person by whom, or on whose behalf, payments by way of such a benefit are receivable, must attend at such place and on such days and at such times as the Department may direct, for the purpose of supplying any information or evidence under regulations 36 to 38, if reasonably so required by the Department.

#### **Duration of awards**

**35.—**(1) A claim for universal credit is to be treated as made for an indefinite period and any award of universal credit on that claim is to be made for an indefinite period.

(2) The provisions of Schedule 3 are to have effect in relation to claims for a jobseeker’s allowance made during periods connected with public holidays.

## **PART 3**

### **Evidence, information and notification of changes of circumstances**

#### **Evidence and information in connection with a claim**

**36.—**(1) Subject to regulation 8 of the Personal Independence Payment Regulations (information or evidence required for determining limited or severely limited ability to carry out activities), paragraphs (2) and (3) apply to a person who makes a claim for benefit, other than a jobseeker’s allowance, or on whose behalf a claim is made.

(2) The Department may require the person to supply information or evidence in connection with the claim, or any question arising out of it, as it considers appropriate.

(3) The person must supply the Department with the information or evidence in such manner as the Department determines within one month of first being required to do so or such longer period as it considers reasonable.

(4) Where joint claimants have made a claim for universal credit, information relating to that claim may be supplied by the Department to either or both members of the couple for any purpose connected with the claim.

(5) Where a person is a member of a couple and may make a claim as a single person by virtue of regulation 3(2) of the Universal Credit Regulations (couples) and entitlement to or the amount of any universal credit is or may be affected by the circumstances of their partner, the Department may require the partner to—

- (a) confirm the information given about the partner’s circumstances;



(b) supply information or evidence in connection with the claim, or any question arising out of it, as the Department may require, within one month of being required to do so or such longer period as it may consider reasonable.

(6) The Department may require a landlord to supply information or evidence in connection with a claim for universal credit that may include in the calculation of an award an amount in respect of housing costs, and any information or evidence so requested must be supplied within one month of the request or such longer period as the Department considers reasonable.

(7) Every person providing relevant childcare (as defined in regulation 37 of the Universal Credit Regulations), in a case where the claimant's award of universal credit may include an amount in respect of childcare costs under regulation 32 of those Regulations, must supply such information or evidence in connection with the claim made by the claimant, or any question arising out of it, as may be required by the Department, and must do so within one month of being required to do so or such longer period as it may consider reasonable.

(8) In this regulation any reference to a person or joint claimants making a claim for benefit, other than a jobseeker's allowance, is to be interpreted as including a person or joint claimants in a case where it is not a condition of entitlement to benefit that a claim be made for it.

(9) In this regulation any reference to a claim for a benefit, other than a jobseeker's allowance, is to be interpreted as including a potential award of benefit in a case where it is not a condition of entitlement to benefit that a claim be made for it.

#### **Evidence and information in connection with an award**

**37.**—(1) This regulation, apart from paragraph (7), applies to any person entitled to benefit, other than a jobseeker's allowance, and any other person by whom, or on whose behalf, payments by way of such a benefit are receivable.

(2) Subject to regulation 8 of the Personal Independence Payment Regulations, a person to whom this regulation applies must supply in such manner as the Department may determine and within the period applicable under regulation 44(4)(a) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016<sup>(21)</sup> such information or evidence as the Department may require for determining whether a decision on the award of benefit should be revised under Article 10 of the Social Security (Northern Ireland) Order 1998<sup>(22)</sup> or superseded under Article 11 of that Order.

(3) A person to whom this regulation applies must supply in such manner and at such times as the Department may determine such information or evidence as the Department may require in connection with payment of the benefit awarded.

(4) A person to whom this regulation applies must notify the Department of any change of circumstances which the person might reasonably be expected to know might affect—

- (a) the continuance of entitlement to benefit;
- (b) the amount of benefit awarded; or
- (c) the payment of benefit,

as soon as reasonably practicable after the change occurs.

(5) A notification of any change of circumstances under paragraph (4) must be given—

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<sup>(21)</sup> S.R. 2016 No. 221.

<sup>(22)</sup> S.I. 1998/1506 (N.I. 10); Article 11 was amended by paragraph 17 of Schedule 6 and Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

- (a) in writing or by telephone (unless the Department determines in any case that notice must be given in a particular way or to accept notice given otherwise than in writing or by telephone); or
- (b) in writing if in any class of case the Department requires written notice (unless it determines in any case to accept notice given otherwise than in writing),

and must be sent or delivered to, or received at, the appropriate office.

(6) Where universal credit has been awarded to joint claimants, information relating to that award may be supplied by the Department to either or both members of the couple for any purpose connected with that award.

(7) Every person providing relevant childcare (as defined in regulation 37 of the Universal Credit Regulations), in a case where the claimant's award of universal credit includes an amount in respect of childcare costs under regulation 32 of those Regulations, must supply such information or evidence in connection with the award, or any question arising out of it, as the Department may require, and must do so within one month of being required to do so or such longer period as it may consider reasonable.

(8) Where the calculation of an award of universal credit includes, by virtue of regulation 30 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for a severely disabled person, the Department may require a person to whom this regulation applies to furnish a declaration signed by such severely disabled person confirming the particulars respecting the severely disabled person which have been given by that person.

### **Evidence and information required from pension fund holders**

**38.**—(1) Where a claimant or the claimant's partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under a personal pension scheme, or an occupational pension scheme, such a person must, where the Department so requires, furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or occupational pension scheme to be identified.

(2) Where the pension fund holder receives from the Department a request for details concerning the personal pension scheme or occupational pension scheme relating to a person to whom paragraph (1) refers, the pension fund holder must provide the Department with any information to which paragraph (3) refers.

(3) The information to which this paragraph refers is—

- (a) where the purchase of an annuity under a personal pension scheme or occupational pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme or occupational pension scheme;
- (b) in the case of—
  - (i) a personal pension scheme or occupational pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme, or
  - (ii) a personal pension scheme or occupational pension scheme where income withdrawal is not available, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme or occupational pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(4) In this regulation any reference to a claimant is to be interpreted as including a person in a case where it is not a condition of entitlement to benefit that a claim be made for it.

(5) This regulation does not apply to a person claiming personal independence payment.

(6) In this regulation—

“pension fund holder” means, with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators of the scheme concerned;

“personal pension scheme” means—

(a) a personal pension scheme as defined by section 1 of the Pensions Schemes (Northern Ireland) Act 1993(23);

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(24) or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004(25);

(c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases.

### **Notification of changes of circumstances for purposes of sections 105A and 106 of the Administration Act**

**39.**—(1) This regulation prescribes the person to whom, and manner in which, a change of circumstances must be notified for the purpose of sections 105A(1A) to (1G) and 106(1A) to (1F) of the Administration Act(26) (offences relating to failure to notify a change of circumstances).

(2) Subject to paragraph (3), notice of a change of circumstances must be given to the Department at the appropriate office—

(a) in writing or by telephone (unless the Department determines in any case that notice must be in writing or may be given otherwise than in writing or by telephone); or

(b) in writing if in any class of case the Department requires written notice (unless it determines in any case to accept notice given otherwise than in writing).

(3) Where the notice in writing referred to in paragraph (2) is given or sent by an electronic communication that notice must be given or sent in accordance with the provisions set out in Schedule 1.

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(23) 1993 c. 49; the definition of “personal pension scheme” was substituted by Article 216(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and amended by Part 3(2) of Schedule 27 to the Finance Act 2007 (c. 11).

(24) 1988 c. 1; sections 620 to 622 were repealed by Part 3 of Schedule 42 to the Finance Act 2004 (c. 12) subject to savings provisions in Schedule 36 to that Act.

(25) 2004 c. 12.

(26) Section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and subsections (1A) to (1G) were inserted by section 15(1)(b) of the Social Security Fraud Act (Northern Ireland) Act 2001 (c. 17 (N.I.)), in section 106 subsection (1A) was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 and subsections (1A) to (1F) were substituted for that subsection by section 15(2) of the Social Security Fraud Act (Northern Ireland) 2001.

## PART 4

### Payments

#### **Time of payment; general provision**

**40.** Subject to the other provisions of this Part, benefit is to be paid in accordance with an award as soon as is reasonably practicable after the award has been made.

#### **Direct credit transfer**

**41.—**(1) The Department may arrange for benefit to be paid by way of direct credit transfer into a bank or other account nominated by the person entitled to benefit, a person acting on that person's behalf under regulation 52(1) or a person referred to in regulation 52(2).

(2) A jobseeker's allowance or an employment and support allowance is to be paid in accordance with paragraph (1) within 7 days of the last day of each successive period of entitlement.

#### **Payment of universal credit**

**42.—**(1) Universal credit is payable in arrears by two instalments each month in respect of each assessment period unless, in any case or class of case, the Department arranges otherwise.

(2) Where universal credit is to be paid in accordance with regulation 41—

- (a) the first of those instalments is to be paid within 7 days of the last day of the assessment period but if it is not possible to pay that instalment within that period of 7 days, it is to be paid as soon as reasonably practicable thereafter; and
- (b) the second of those instalments is to be paid within 22 days of the last day of the assessment period but if it is not possible to pay that instalment within that period of 22 days, it is to be paid as soon as reasonably practicable thereafter.

(3) In respect of an award of universal credit which is the subject of an arrangement for payment under regulation 41, the Department may make a particular payment by credit transfer otherwise than is provided by paragraph (2), if it appears to it appropriate to do so for the purpose of—

- (a) paying any arrears of benefit; or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(4) Where the Department has arranged for universal credit to be paid in accordance with regulation 41, joint claimants may nominate a bank or other account into which that benefit is to be paid.

(5) Where joint claimants of universal credit have not nominated a bank or other account into which that benefit is to be paid, the Department may nominate a bank or other account.

(6) The Department may, in any case where the Department considers it is in the interests of—

- (a) the claimants;
- (b) a child or a qualifying young person for whom one or both of the claimants are responsible; or
- (c) a severely disabled person, where the calculation of an award of universal credit includes, by virtue of regulation 30 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for that severely disabled person,

arrange that universal credit payable in respect of joint claimants be paid wholly to only one member of the couple or be split between the couple in such proportion as the Department considers appropriate.

(7) Where a superseding decision takes effect in accordance with paragraph 26 of Schedule 1 to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016, the amount payable in respect of that last assessment period is to be calculated as follows—

$$N \times \left( \frac{A \times 12}{365} \right)$$

where N is the number of days in the period and A is the amount calculated in relation to that period as if it were an assessment period of one month.

### **Payment of personal independence payment**

**43.**—(1) Subject to the following provisions of this regulation and regulation 45, personal independence payment is to be paid at intervals of 4 weeks in arrears.

(2) In the case of any person to whom Article 87 of the 2015 Order (terminal illness) applies, the Department may arrange that personal independence payment is to be paid at intervals of one week in advance.

(3) Where the amount of personal independence payment payable is less than £5.00 a week the Department may arrange that it is to be paid in arrears at such intervals as may be specified not exceeding 12 months.

### **Days for payment of personal independence payment**

**44.**—(1) Subject to the following provisions of this regulation, a personal independence payment is payable on the day of the week on which the Department makes a decision to award that benefit, except that where that decision is made on a Saturday or Sunday the benefit is to be paid on such day of the week as the Department may direct in any case.

(2) The Department may, in any case or class of case, arrange that personal independence payment or any part of it be paid on any day of the week.

(3) Where personal independence payment is in payment to any person and the day on which it is payable is changed, it is to be paid at a daily rate of 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.

(4) Where there is a change in the amount of any personal independence payment payable, or where entitlement to personal independence payment ends, and these events do not occur on the day of the week referred to in paragraph (1) or (2), personal independence payment is to be paid at a daily rate of 1/7th of the weekly rate.

### **Payment of personal independence payment at a daily rate between periods in hospital or other accommodation**

**45.**—(1) Personal independence payment is to be paid in respect of any person, for any day falling within a period to which paragraph (2) applies, at the daily rate (which is to be equal to 1/7th of the weekly rate) and personal independence payment payable in pursuance of this regulation is to be paid weekly or as the Department may direct in any case.

(2) This paragraph applies to any period which is not a period of residence—

(a) but which commences immediately following such a period; and

(b) on the first day of which it is expected that, before the expiry of the term of 28 days beginning with that day, the person will commence another period of residence.

(3) Where paragraph (2) applies, the period referred to in that paragraph is to end—

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

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- (a) at the expiry of the term of 28 days beginning with the first day of the period referred to in that paragraph; or
  - (b) if earlier, on the day before the day which is the first day of a period of residence.
- (4) In this regulation a “period of residence” means a period of residence where—
- (a) the person is a resident of a care home (as defined in Article 90(3) of the 2015 Order) and no amount of personal independence payment which is attributable to the daily living component is payable in respect of the person by virtue of regulation 28(1) of the Personal Independence Payment Regulations; or
  - (b) the person is undergoing medical or other treatment as an in-patient at a hospital or similar institution and no amount of personal independence payment which is attributable to the daily living component or the mobility component is payable in respect of the person by virtue of regulation 29 of the Personal Independence Payment Regulations,

and such period is to be deemed to begin on the day after the day on which the person enters the care home, hospital or similar institution and to end on the day before the day on which the person leaves the care home, hospital or similar institution.

#### **Payment of an employment and support allowance**

46.—(1) Subject to paragraphs (3) to (8), an employment and support allowance paid in accordance with regulation 41 is to be paid fortnightly in arrears on the day of the week determined in accordance with paragraph (2).

(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the claimant’s national insurance number—

<i>Column (1)</i>	<i>Column (2)</i>
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(3) The Department may, in any case or class of case, arrange that the claimant be paid otherwise than fortnightly.

(4) In respect of an award of an employment and support allowance which is the subject of an arrangement for payment under regulation 41, the Department may make a particular payment by credit transfer otherwise than as provided by paragraph (1), if it appears to the Department appropriate to do so for the purpose of—

- (a) paying any arrears of benefit; or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(5) The Department may, in any case or class of case, arrange that an employment and support allowance be paid on any day of the week and where it is in payment to any person and the day on which it is payable is changed, it is to be paid at a daily rate of 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.

(6) Where the weekly amount of employment and support allowance is less than £1·00 it may be paid in arrears at intervals of not more than 13 weeks.

(7) Where the weekly amount of employment and support allowance is less than 10 pence that allowance is not payable.

(8) Where employment and support allowance is normally payable in arrears and the day on which that benefit is payable by reason of paragraph (2) is affected by office closure, it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such day as the Department may direct.

(9) Where, under paragraph (8), an employment and support allowance is paid either in advance or partly in advance and partly in arrears it is for any other purpose to be treated as if it was paid in arrears.

(10) For the purposes of paragraph (8) “benefit week” means a period of 7 days beginning or ending with such day as the Department may direct.

### **Payment of a jobseeker’s allowance**

**47.**—(1) Subject to paragraphs (2) to (4), a jobseeker’s allowance paid in accordance with regulation 41 is to be paid fortnightly in arrears unless in any case or class of case the Department arranges otherwise.

(2) In respect of an award of a jobseeker’s allowance which is the subject of an arrangement for payment under regulation 41, the Department may make a particular payment by credit transfer otherwise than as provided by paragraph (1), if it appears to the Department appropriate to do so for the purpose of—

- (a) paying any arrears of benefit; or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(3) Where the weekly amount of a jobseeker’s allowance is less than £1·00 the Department may direct that it is to be paid at such intervals, not exceeding 13 weeks, as may be specified in the direction.

(4) Where a jobseeker’s allowance is normally payable in arrears and the day on which that benefit is normally payable is affected by office closure, it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such day as the Department may direct.

(5) Where under paragraph (4) a jobseeker’s allowance is paid either in advance or partly in advance and partly in arrears it is for any other purposes to be treated as if it was paid in arrears.

(6) For the purposes of paragraph (4) “benefit week” means a period of 7 days ending with a day determined in accordance with the definition of that term in regulation 2(2) of the Jobseeker’s Allowance Regulations (general interpretation).

### **Fractional amounts of benefit**

**48.** Where the amount of any benefit payable would, but for this regulation, include a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and is otherwise to be treated as a penny.

### **Payments to persons under age 18**

**49.** Where a benefit is paid to a person under the age of 18, a direct credit transfer under regulation 41 into any such person’s account, or the receipt by the person of a payment made by some other means, is sufficient discharge for the Department.

### **Extinguishment of right to payment if payment is not obtained within the prescribed period**

**50.**—(1) The right to payment of any sum by way of benefit is to be extinguished where payment of that sum is not obtained within the period of 12 months from the date on which the right is to be treated as having arisen.

(2) For the purposes of this regulation, the right to payment of any sum by way of benefit is to be treated as having arisen—

- (a) where notice is given or sent that the sum contained in the notice is ready for collection, on the date of the notice or, if more than one such notice is given or sent, the date of the first such notice;
- (b) in relation to any such sum which the Department has arranged to be paid by means of direct credit transfer in accordance with regulation 41 into a bank or other account, on the due date for payment of the sum or in the case of universal credit on the date of payment of the sum; or
- (c) in relation to any such sum to which neither sub-paragraph (a) or (b) applies, on such date as the Department determines.

(3) The giving or sending of a notice under paragraph (2)(a) is effective for the purposes of that paragraph, even where the sum contained in that notice is more or less than the sum which the person concerned has the right to receive.

(4) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the Department is satisfied that—

- (a) the Department first received written notice requesting payment of that sum after the expiration of 12 months from the date on which the right is treated as having arisen;
- (b) from a day within that period of 12 months and continuing until the day the written notice was given, there was good cause for not giving the notice; and
- (c) no payment has been made under the provisions of regulation 41,

the period of 12 months is extended to the date on which the Department decides that question, and this regulation is to apply accordingly as though the right to payment had arisen on that date.

(5) This regulation applies to a person appointed under regulation 52(1) to act on behalf of a claimant or a person referred to in regulation 52(2) as it applies to a claimant.

### **Payments on death**

**51.**—(1) On the death of a person who has made a claim for benefit, the Department may appoint such person as it thinks fit to proceed with the claim and any related issue of revision, supersession or appeal under the Social Security (Northern Ireland) Order 1998(27).

(2) Subject to paragraphs (6) and (7), any sum payable by way of benefit which is payable under an award on a claim proceeded with under paragraph (1) may be paid or distributed by the Department to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin or creditors of the deceased and the provisions of regulation 50 are to apply to any such payment or distribution.

(3) Subject to paragraphs (2), (6) and (7), any sum payable by way of benefit to the deceased, payment of which the deceased had not obtained at the date of the deceased's death, may, unless the right to payment was already extinguished at that date, be paid or distributed to or amongst any persons mentioned in paragraph (2), and regulation 50 is to apply to any such payment or distribution, except that, for the purpose of that regulation, the period of 12 months is to be calculated from the



date on which the right to payment of any sum is treated as having arisen in relation to any such person and not from the date on which that right is treated as having arisen in relation to the deceased.

(4) A direct credit transfer under regulation 41 into an account in the name of any person mentioned in paragraph (2), or the receipt by such a person of a payment made by some other means, is sufficient discharge for the Department for any sum so paid.

(5) Where the Department is satisfied that any sum payable by way of benefit under paragraph (2) or (3), or part of it, is needed for the well-being of any person under the age of 16, the Department may obtain sufficient discharge for it by paying the sum, or part of it, to a person over that age who satisfies the Department that that person will apply the sum so paid for the well-being of the person under the age of 16.

(6) Paragraphs (2) and (3) are not to apply in any case unless written application for the payment of any such sum is made to the Department within 12 months from the date of the deceased's death or within such longer period as it may allow in any case.

(7) The Department may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

(8) In paragraph (2) "next of kin" means the persons who would take beneficially on an intestacy.

## PART 5

### Third Parties

#### Persons unable to act

**52.**—(1) Where a person ("P1") is, or may be, entitled to benefit (whether or not a claim for benefit has been made by P1 or on P1's behalf) but P1 is unable for the time being to act, the Department may, if all the conditions in paragraph (2) and the additional conditions in paragraph (3) are met, appoint a person ("P2") to carry out the functions set out in paragraph (4).

(2) The conditions are that—

- (a) no controller has been appointed by the High Court under Part VIII of the Mental Health (Northern Ireland) Order 1986<sup>(28)</sup> with power to claim or receive benefit on P1's behalf; and
- (b) no attorney with a general power, or a power to claim or receive benefit, has been appointed by P1 under the Powers of Attorney Act (Northern Ireland) 1971<sup>(29)</sup>, the Enduring Powers of Attorney (Northern Ireland) Order 1987<sup>(30)</sup> or otherwise.

(3) The additional conditions are that—

- (a) P2 has made a written application to the Department to be appointed; and
- (b) if P2 is an individual, P2 is over the age of 18.

(4) The functions are exercising on behalf of P1 any right to which P1 may be entitled and receiving and dealing on behalf of P1 with any sums payable to P1.

(5) Anything required by these Regulations to be done by or in relation to P1 may be done by or in relation to P2 or any person mentioned in paragraph (2).

(6) Where a person has been appointed under regulation 80(3) of the Housing Benefit Regulations (Northern Ireland) 2006<sup>(31)</sup> by a relevant authority within the meaning of those Regulations to

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<sup>(28)</sup> S.I. 1986/595 (N.I. 4).

<sup>(29)</sup> 1971 c. 33 (N.I.).

<sup>(30)</sup> S.I. 1987/1627 (N.I. 16).

<sup>(31)</sup> S.R. 2006 No. 405.

act on behalf of another in relation to a benefit claim or award, the Department may, if the person so appointed agrees, treat that person as if the Department had appointed that person under paragraph (1).

(7) A direct credit transfer under regulation 41 into the account of P2 or any person mentioned in paragraph (2), or the receipt by such a person of a payment made by some other means, is sufficient discharge for the Department for any sum paid.

(8) An appointment under paragraph (1) or (6) comes to an end if—

- (a) the Department at any time revokes it;
- (b) P2 resigns P2's office having given one month's notice in writing to the Department of an intention to do so; or
- (c) the Department is notified that any condition in paragraph (2) is no longer met.

### **Payment to another person on the claimant's behalf**

**53.**—(1) The Department may direct that universal credit be paid wholly or in part to another person on the claimant's behalf if this appears to the Department necessary to protect the interests of—

- (a) the claimant;
- (b) the claimant's partner;
- (c) a child or qualifying young person for whom the claimant or the claimant's partner or both are responsible; or
- (d) a severely disabled person, where the calculation of the award of universal credit includes, by virtue of regulation 30 of the Universal Credit Regulations, an amount in respect of the fact that the claimant has regular and substantial caring responsibilities for that severely disabled person.

(2) The Department may direct that personal independence payment be paid wholly to another person on the claimant's behalf if this appears to the Department necessary to protect the interests of the claimant.

### **Direct payment to lender of deductions in respect of interest secured on loans**

**54.** Schedule 4 has effect where section 13A(1) of the Administration Act<sup>(32)</sup> (payment out of benefit of sums in respect of mortgage interest, etc.) applies in relation to a case where a claimant is entitled to universal credit.

### **Deductions which may be made from benefit and paid to third parties**

**55.** Except as provided for in regulation 54 and Schedule 4, deductions may be made from benefit and direct payments may be made to third parties on behalf of a claimant in accordance with the provisions of Schedules 5 and 6.

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<sup>(32)</sup> Section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9)) and amended by paragraph 23 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), paragraph 9 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), paragraph 109 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), paragraph 4(5) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and Article 18 of S.I. 2002/1555.

## PART 6

### Mobility component of personal independence payment

#### Cases where mobility component of personal independence payment not payable

**56.**—(1) Subject to the following provisions of this regulation, personal independence payment by virtue of entitlement to the mobility component is not payable to any person who would otherwise be entitled to it during any period in respect of which that person has received, or is receiving, any payment—

- (a) by way of a grant under Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(33)</sup> towards the costs of running a private car;
- (b) of mobility supplement under—
  - (i) the Naval, Military and Air Forces etc., (Disablement and Death) Service Pensions Order 2006<sup>(34)</sup>,
  - (ii) the Personal Injuries (Civilians) Scheme 1983<sup>(35)</sup>, or
  - (iii) the Order referred to in head (i) by virtue of the War Pensions (Naval Auxiliary Personnel) Scheme 1964<sup>(36)</sup>, the Pensions (Polish Forces) Scheme 1964<sup>(37)</sup>, the War Pensions (Mercantile Marine) Scheme 1964<sup>(38)</sup> or an Order of Her Majesty in relation to the Home Guard dated 21st or 22nd December 1964<sup>(39)</sup> or in relation to the Ulster Defence Regiment dated 4th January 1971<sup>(40)</sup>; or
- (c) out of public funds which the Department is satisfied is analogous to a payment under sub-paragraph (a) or (b).

(2) Paragraph (3) applies where a person in respect of whom personal independence payment is claimed for any period has received any such payment as is referred to in paragraph (1) for a period which, in whole or in part, covers the period for which personal independence payment is claimed.

(3) Such payment referred to in paragraph (1) is to be treated as an aggregate of equal weekly amounts in respect of each week in the period for which it is made and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the weekly rate of the mobility component of personal independence payment to which, apart from paragraph (1) the person would be entitled, any personal independence payment to which that person may be entitled for that week is to be payable at a weekly rate reduced by the weekly amount so calculated.

#### Payment of personal independence payment on behalf of a claimant (Motability)

**57.**—(1) This regulation applies where—

- (a) personal independence payment is payable in respect of a claimant by virtue of entitlement to the mobility component at the enhanced rate; and
- (b) under arrangements made or negotiated by Motability, an agreement has been entered into by or on behalf of the claimant for the hire or hire-purchase of a vehicle.

(2) Where this regulation applies, the Department may arrange that any personal independence payment by virtue of entitlement to the mobility component at the enhanced rate be paid in whole

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<sup>(33)</sup> S.I. 1972/1265 (N.I. 14).

<sup>(34)</sup> S.I. 2006/606.

<sup>(35)</sup> S. I. 1983/686.

<sup>(36)</sup> S.I. 1964/1985.

<sup>(37)</sup> S.I. 1964/2007.

<sup>(38)</sup> S. I. 1964/2058.

<sup>(39)</sup> Cmnd. 2563 and 2564.

<sup>(40)</sup> Cmnd. 4567.

or in part on behalf of the claimant in settlement of liability for payments due under the agreement mentioned in paragraph (1).

(3) Subject to regulations 58 and 59, in the case of the hire of a vehicle, an arrangement made by the Department under paragraph (2) terminates—

- (a) where the vehicle is returned to the owner at or before the expiration of the term of hire or any agreed extension of the term of hire, on expiry of the period of the term or extended term;
- (b) where the vehicle is retained by or on behalf of the claimant with the owner's consent after the expiration of the term of hire or any agreed extension of the term of hire, on expiry of the period of the term or extended term; or
- (c) where the vehicle is retained by or on behalf of the claimant otherwise than with the owner's consent after the expiration of the term of hire or any agreed extension of the term of hire, or its earlier termination, on expiry of whichever is the longer of the following periods—
  - (i) the period ending with the return of the vehicle to the owner, or
  - (ii) the period of the term of hire or any agreed extension of the term of hire.

(4) Subject to regulations 58 and 59 in the case of a hire-purchase agreement, an arrangement made by the Department under paragraph (2) terminates—

- (a) on the purchase of the vehicle; or
- (b) where the vehicle is returned to, or is repossessed by, the owner under the terms of the agreement before the completion of the purchase, at the end of the original period of the agreement.

(5) In this regulation “Motability” means the company, set up under that name as a charity and originally incorporated under the Companies Act 1985(41) and subsequently incorporated by Royal Charter.

#### **Power of the Department to terminate an arrangement (Motability)**

**58.** The Department may terminate an arrangement under regulation 57(2) on such date as the Department decides—

- (a) if requested to do so by the owner of the vehicle to which the arrangement relates; or
- (b) if it appears to the Department that the arrangement is causing undue hardship to the claimant and that it should be terminated earlier than provided for by regulation 57(3) or (4).

#### **Restriction on duration of arrangements by the Department (Motability)**

**59.** The Department must terminate an arrangement under regulation 57(2) where the Department is satisfied that—

- (a) the vehicle to which the arrangement relates has been returned to the owner; and
- (b) the expenses of the owner arising out of the hire or hire-purchase agreement have been recovered following the return of the vehicle.

Signed by authority of the Secretary of State for Work and Pensions

4th May 2016

*Freud*  
Minister of State,  
Department for Work and Pensions

## SCHEDULE 1

Regulation 3

### Electronic communications

#### PART 1

##### Use of electronic communications

###### **Use of electronic communications by the Department**

1. The Department may use an electronic communication in connection with claims for, and awards of, any benefit.

###### **Conditions for the use of electronic communications by other persons**

2.—(1) A person other than the Department may use an electronic communication in connection with the matters referred to in paragraph 1 if the conditions specified in sub-paragraphs (2) to (5) are satisfied.

(2) The first condition is that the person is for the time being permitted to use an electronic communication for the purpose in question by an authorisation given by means of a direction of the Department.

(3) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication where required to do so;
- (b) electronic communication;
- (c) authenticating any claim or information delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (6), submitting any claim or information to the Department.

(4) The third condition is that any claim or information sent by means of an electronic communication is in an approved form.

(5) The fourth condition is that the person maintains such records as may be specified in a direction given by the Department.

(6) Where the person uses any method other than the method approved by the Department of submitting any claim or information, it is to be treated as not having been submitted.

(7) In this paragraph “approved” means approved by means of a direction given by the Department for the purposes of this Schedule.

###### **Use of intermediaries**

3. The Department may use intermediaries in connection with—

- (a) the delivery of any claim or information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

## PART 2

### Evidential provisions

#### **Effect of delivering information by electronic communications**

4.—(1) Any claim or information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of these Regulations on the day on which the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an applicable statutory provision (except to the extent that the condition thereby imposed is incompatible with this Schedule),

are satisfied.

(2) The Department may, by a direction, determine that any claim or information is to be treated as delivered on a different day (whether earlier or later) from the day specified in sub-paragraph (1).

(3) Any claim or information is not to be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

#### **Proof of delivery**

5.—(1) The use of an approved method of electronic communication is to be presumed, unless the contrary is proved, to have resulted in delivery—

- (a) in the case of any claim or information falling to be delivered to the Department, if the delivery of that claim or information is recorded on an official computer system; or
- (b) in the case of any information that falls to be delivered by the Department, if the despatch of that information is recorded on an official computer system.

(2) The use of an approved method of electronic communication is to be presumed, unless the contrary is proved, not to have resulted in delivery—

- (a) in the case of any claim or information falling to be delivered to the Department, if the delivery of that claim or information is not recorded on an official computer system; or
- (b) in the case of information that falls to be delivered by the Department, if the despatch of that information is not recorded on an official computer system.

(3) The time and date of receipt of any claim or information sent by an approved method of electronic communication is to be presumed, unless the contrary is proved, to be that recorded on an official computer system.

#### **Proof of identity**

6.—(1) The identity of—

- (a) the sender of any claim or information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any claim or information delivered by means of an electronic communication from an official computer system,

is to be presumed, unless the contrary is proved, to be the person whose name is recorded as such on that official computer system.

(2) Any claim or information delivered by an approved method of electronic communication on behalf of another person (“P”) is to be deemed to have been delivered by P unless P proves that it was delivered without P’s knowledge or connivance.

### **Proof of content**

7. The content of any claim or information sent by means of an electronic communication is to be presumed, unless the contrary is proved, to be that recorded on an official computer system.

## SCHEDULE 2

Regulation 4

### Consequential amendments

1.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(42)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1 (citation and commencement)—

(a) in the heading for “and commencement” substitute “, commencement and application”; and

(b) renumber the existing provision as paragraph (1) and after that paragraph insert—

“(2) In so far as these Regulations apply to—

(a) an employment and support allowance, they apply to that allowance under Part 1 of the Welfare Reform Act as it has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 12 to the 2015 Order that remove references to an income-related allowance;

(b) a jobseeker’s allowance, they apply to that allowance under the Jobseekers Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance.

(3) These Regulations do not apply to universal credit (within the meaning of Part 2 of the 2015 Order) or personal independence payment (within the meaning of Part 5 of that Order).”.

(3) In regulation 2(1) (interpretation) after the definition of “the 2002 Act”<sup>(43)</sup> insert—

““the 2015 Order” means the Welfare Reform (Northern Ireland) Order 2015;

“the 2016 Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016;”.

(4) For regulation 21(1) (direct credit transfer) substitute—

“(1) The Department may arrange for benefit to be paid by way of direct credit transfer into a bank account or other account nominated by the person entitled to benefit or a person acting on their behalf.”.

(5) In paragraph 2 of Schedule 8C<sup>(44)</sup> (deductions from benefit in respect of child support maintenance and payment to persons with care) after sub-paragraph (2) insert—

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<sup>(42)</sup> S.R. 1987 No. 465; relevant amending Regulations are S.R. 2001 No. 22, S.R. 2003 No. 191, S.R. 2008 No. 286 and S.R. 2014 No. 182.

<sup>(43)</sup> The definition of “the 2002 Act” was inserted by regulation 3(a)(i) of S.R. 2003 No. 191.

<sup>(44)</sup> Schedule 8C was inserted by regulation 2(3) of S.R. 2001 No. 22 and paragraph 2 was amended by regulation 14(3)(a) of S.R. 2003 No. 191, regulation 13(20)(a) of S.R. 2008 No. 286 and regulation 10(3) of S.R. 2014 No. 182.



“(2A) Where paragraph 5 of Schedule 6 to the 2016 Regulations (deductions from benefit in respect of child maintenance and payment to persons with care – flat rate maintenance) applies, the Department shall not make deductions under paragraphs 5 and 6 of this Schedule, unless the amount of specified benefit (within the meaning of paragraph 1 of Schedule 6 to the 2016 Regulations) is insufficient to meet the deduction under paragraph 5 of that Schedule.”.

2. In regulation 80(5) of the Housing Benefit Regulations (Northern Ireland) 2006 (who may claim) after “of the Act” insert “or under regulation 52 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2016”.

3. In regulation 9 of the Integration Loans for Refugees and Others Regulations 2007(45)—
- (a) in paragraph (1) after “Act 2012” insert “or Part 2 of the Welfare Reform (Northern Ireland) Order 2015”; and
  - (b) in paragraph (3)(b) after “Regulations 2013” insert “or Schedule 5 to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016”.

### SCHEDULE 3

Regulation 35(2)

#### Special provisions relating to claims for a jobseeker’s allowance during periods connected with public holidays

1. In this Schedule—
- “Christmas and New Year holidays” means the period beginning at the start of Christmas Day and terminating at the end of New Year’s Day or, if New Year’s Day is a Sunday, at the end of 2nd January;
- “Easter holidays” means the period beginning at the start of Good Friday and terminating at the end of Easter Monday.
2. Where a claim for a jobseeker’s allowance is made during any period set out in paragraph 3, the Department may treat that claim as a claim for a period, to be specified in a decision of the Department, not exceeding—
- (a) 35 days after the date of the claim where the claim is made during the period specified in paragraph 3(a); or
  - (b) 21 days after the date of claim where the claim is made during the period specified in paragraph 3(b) or (c).
3. For the purposes of paragraph 2 the periods are—
- (a) in the case of Christmas and the New Year holidays, a period beginning with the start of the 35th day before the first day of office closure and terminating at the end of the last day of office closure;
  - (b) in the case of Easter holidays, a period beginning with the start of the 16th day before the first day of office closure and terminating at the end of the last day of office closure;
  - (c) in the case of any other public holiday, a period beginning with the start of the 14th day before the first day of office closure and terminating at the end of the last day of office closure.

(45) S.I. 2007/1598; regulation 9 was amended by paragraph 4 of Schedule 3 to S.I. 2013/380.

## SCHEDULE 4

Regulation 54

## Direct payment to lender of deductions in respect of interest on secured loans

## 1.—(1) In this Schedule—

“housing costs element” means an amount in respect of housing costs which is included in a claimant’s award of universal credit under Article 16(1) of the 2015 Order;

“loan interest payments” has the meaning given by paragraph 6 of Schedule 1 to the Universal Credit Regulations;

“qualifying lender” means (subject to paragraph 10)—

- (a) the bodies or persons listed in section 13A(3) of the Administration Act; and
- (b) any body incorporated under the Companies Act 2006<sup>(46)</sup>, the main objects of which include the making of loans secured by a mortgage of or charge over land;

“relevant claimant” has the meaning given in paragraph 2(1);

“specified benefits”, in relation to a relevant claimant, means the benefits specified in paragraph 2(2)—

- (a) to which the relevant claimant is entitled; or
- (b) where the relevant claimant is a member of a couple, to which the other member of the couple is entitled;

“standard rate” means a standard rate of interest determined under paragraph 12 of Schedule 5 to the Universal Credit Regulations.

(2) References in this Schedule to a relevant claimant who meets the payment condition or the liability condition are to a claimant who meets those conditions in accordance with regulation 26 of the Universal Credit Regulations (the housing costs element).

**Relevant claimants and benefits from which payments are to be made**

## 2.—(1) For the purposes of this Schedule “relevant claimant” means a claimant—

- (a) who is entitled to universal credit;
- (b) whose maximum amount for the purposes of universal credit includes the housing costs element; and
- (c) whose amount of housing costs element is calculated by reference to loan interest payments (whether or not that amount is calculated by reference to any other description of payment).

(2) Direct payments of loan interest may be made under paragraph 3 from any of the following benefits—

- (a) universal credit; and
- (b) if the maximum amount to which the relevant claimant is entitled for the purposes of universal credit is insufficient for the purposes of this Schedule—
  - (i) a jobseeker’s allowance, or
  - (ii) an employment and support allowance.

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<sup>(46)</sup> 2006 c. 46.

### **Circumstances in which direct payments of loan interest to be made**

3.—(1) If the circumstances set out in sub-paragraph (2) apply to a relevant claimant in respect of a loan, the Department is to pay part of the specified benefits directly to the qualifying lender to whom the loan interest payments in respect of the loan are payable.

(2) The circumstances are that—

- (a) a loan was made in respect of which loan interest payments are payable to a qualifying lender;
- (b) the relevant claimant (or either joint claimant) meets the payment condition and liability condition in respect of loan interest payments on the loan;
- (c) those payments are taken into account in calculating the amount of housing costs element to be included in the relevant claimant's award of universal credit; and
- (d) the amount included in respect of those payments is calculated by reference to the standard rate.

(3) The part of the specified benefits which is to be paid under sub-paragraph (1) is the amount calculated under paragraphs 4 and 5 in respect of the relevant claimant.

### **Determining the amount to be paid to a qualifying lender**

4.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of one loan only, the amount that is to be paid under paragraph 3 directly to the qualifying lender is to be calculated as follows—

Step 1

Find the amount in respect of the loan interest payments which is calculated under paragraph 10 of Schedule 5 to the Universal Credit Regulations (amount in respect of interest on loans).

Step 2

Deduct from the amount resulting from Step 1 a sum equivalent to so much of any amount payable in the circumstances described in sub-paragraph (2) as represents payments in respect of loan interest.

(2) This sub-paragraph applies where a payment is being made under a policy of insurance taken out by a relevant claimant to insure against the risk of not being able to maintain repayments of loan interest to a qualifying lender.

(3) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—

- (a) the amount resulting from sub-paragraph (1); or
- (b) where the aggregate amount of all of the specified benefits is less than the amount resulting from sub-paragraph (1), the aggregate amount of all those benefits less one penny.

### **Determining the amount to be paid to a qualifying lender: more than one loan**

5.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of more than one loan, the amount that is to be paid under paragraph 3 directly to each of the qualifying lenders to whom loan interest payments are payable is to be calculated as follows.

(2) Where loan interest payments on two or more loans are payable to the same qualifying lender, the amount to be paid directly to that lender is found by—

- (a) in respect of each of those loans, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1); and
- (b) adding those amounts together.

- (3) Where loan interest payments are payable to more than one qualifying lender, the amount to be paid directly to each lender is found by—
- (a) where loan interest payments are payable to a qualifying lender in respect of one loan only, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1) in respect of the loan;
  - (b) where loan interest payments are payable to a qualifying lender in respect of more than one loan, calculating an amount in accordance with sub-paragraph (2).
- (4) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—
- (a) the amount resulting from sub-paragraph (2) or (3) in respect of that lender; or
  - (b) where the aggregate amount of all the specified benefits is less than the sum of the amounts resulting from sub-paragraph (2) or (3), the amount determined under sub-paragraph (5).
- (5) For the purposes of sub-paragraph (4)(b)—
- (a) the overall total of the amounts to be paid directly to the qualifying lenders is the aggregate amount of all of the specified benefits less one penny; and
  - (b) that amount is to be paid directly to qualifying lenders as follows—
    - (i) the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is the largest is to be paid first,
    - (ii) if anything remains, the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is next largest is to be paid next, and so on until nothing remains.
- (6) In the application of sub-paragraph (5)(b) in any case where the amount resulting from sub-paragraph (2) or (3) is the same in respect of two or more qualifying lenders, the available amount is to be divided equally between them.

#### **Qualifying lenders to apply direct payments in discharge of borrower's liability**

6. Where a direct payment is made under paragraph 3 to a qualifying lender in respect of a relevant claimant, the lender must apply the amount of the payment towards discharging the liability to make loan interest payments in respect of which the direct payment was made.

#### **Application by qualifying lenders of any amount which exceeds liability**

- 7.—(1) This paragraph applies where, in respect of a relevant claimant—
- (a) any direct payment is made under paragraph 3 to a qualifying lender; and
  - (b) the amount paid exceeds the amount of the loan interest payments payable.
- (2) Unless sub-paragraph (3) applies, the qualifying lender must apply the amount of the excess as follows—
- (a) first, towards discharging the amount of any liability of the relevant claimant for arrears of loan interest payments in respect of the loan in question; and
  - (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
    - (i) the principal sum in respect of the loan, or
    - (ii) any other sum payable by the relevant claimant to that lender in respect of the loan.
- (3) Where loan interest payments on two or more loans are payable to the same qualifying lender, the lender must apply the amount of excess as follows—

- (a) first, towards discharging the amount of any liability of the relevant claimant for arrears of loan interest payments in respect of the loan in respect of which the excess amount was paid; and
- (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
  - (i) in respect of the loan referred to in head (a), the principal sum or any other sum payable by the relevant claimant to that lender, or
  - (ii) in respect of any other loan, any sum payable by the relevant claimant to that lender where the liability to pay that sum has not already discharged under this Schedule.

### **Time and manner of payments**

- 8. Direct payments under paragraph 3 are to be made in monthly instalments in arrears.

### **Fees payable by qualifying lenders**

9.—(1) A fee is payable by a qualifying lender to the Department for the purpose of meeting the expenses of the Department in administering the making of direct payments to qualifying lenders under paragraph 3.

(2) The fee is £0.44 in respect of each occasion on which a direct payment is made to the qualifying lender.

### **Election not to be regarded as a qualifying lender**

10.—(1) A body or person who would otherwise be within the definition of “qualifying lender” in paragraph 1(1)—

- (a) may elect not to be regarded as such by giving notice to the Department in writing; and
- (b) may revoke any such notice by giving a further notice in writing.

(2) In respect of any financial year, a notice under sub-paragraph (1) which is given not later than 1st February before the start of the financial year takes effect on 1st April following the giving of the notice.

(3) Where a body or person becomes a qualifying lender in the course of a financial year—

- (a) any notice of an election by the body or person under sub-paragraph (1)(a) must be given within 6 weeks (“the initial period”) of the date of the body or person becoming a qualifying lender; and
- (b) no direct payments may be made under paragraph 3 to the body or person before the expiry of the initial period.

(4) Sub-paragraph (3)(b) does not apply in any case where—

- (a) the body or person gives the Department notice in writing that that provision should not apply; and
- (b) that notice is given before the start of the initial period or before that period expires.

(5) In relation to a notice under sub-paragraph (1)—

- (a) where the notice is given by an electronic communication, it must be given in accordance with the provisions set out in Schedule 1 (electronic communications);
- (b) where the notice is sent by post, it is to be treated as having been given on the day the notice was received.

### **Provision of information**

11.—(1) A qualifying lender must, in respect of a relevant claimant, provide the Department with information as to—

- (a) the loan interest payments in respect of which the relevant claimant meets the payment condition and the liability condition;
- (b) the amount of the loan;
- (c) the purpose for which the loan was made;
- (d) the amount outstanding on the loan;
- (e) the amount of arrears of loan interest payments due in respect of the loan;
- (f) any change in the amount of the loan interest payable; and
- (g) the redemption of the loan.

(2) The information referred to in sub-paragraph (1)(a) to (e) must be provided at the request of the Department where—

- (a) a claim is made for universal credit; or
- (b) the housing costs element is to be included in an award of universal credit otherwise than on the making of a claim,

and loan interest payments payable to the qualifying lender are taken into account in determining the amount of the relevant claimant's housing costs element.

(3) The information referred to in sub-paragraph (1)(f) must be provided at such times, or in the case of information referred to in sub-paragraph (1)(d) at such other times, as the Department may determine.

(4) The information referred to in sub-paragraph (1)(g) must be provided to the Department immediately once the qualifying lender has received notice that the loan is to be redeemed.

### **Recovery of sums wrongly paid**

12.—(1) In the following circumstances, a qualifying lender must at the request of the Department repay any amount paid to the lender under paragraph 3 which ought not to have been paid.

(2) Those circumstances are that, in respect of a relevant claimant—

- (a) an amount calculated by reference to loan interest payments payable to the qualifying lender ceases to be included in the relevant claimant's housing costs element;
- (b) a specified benefit ceases to be paid to a relevant claimant;
- (c) the loan in respect of which loan interest payments are payable has been redeemed; or
- (d) both of the conditions set out in sub-paragraphs (3) and (4) are met.

(3) The first condition is that the amount of the relevant claimant's housing costs element is reduced as a result of—

- (a) the standard rate having been reduced; or
- (b) the amount outstanding on the loan having been reduced.

(4) The second condition is that no corresponding reduction was made to the amount calculated in respect of the qualifying lender under paragraph 4 or 5.

(5) A qualifying lender is not required to make a repayment in the circumstances described in sub-paragraph (2)(a) or (b) unless the Department's request is made before the end of the period of two months starting with the date on which the thing described in that provision ceased.

## SCHEDULE 5

Regulation 55

### Deductions from benefit and direct payment to third parties

#### Interpretation

1.—(1) In this Schedule—

“assessment period” has the meaning given by regulation 22 of the Universal Credit Regulations;

“child element” means, in relation to any claimant, any amount included in the claimant’s award of universal credit under regulation 25 of the Universal Credit Regulations;

“the Fraud Act” means the Social Security Fraud Act (Northern Ireland) 2001(47);

“the Housing Executive” means the Northern Ireland Housing Executive;

“standard allowance” means, in relation to any claimant, any amount included in the claimant’s award of universal credit under Article 14(1) of the 2015 Order;

“water charges” means charges for water or sewerage under Chapter I of Part VII of the Water and Sewerage Services (Northern Ireland) Order 2006(48);

“the work allowance” means, in relation to any claimant, the amount applicable to that claimant under regulation 23(2) of the Universal Credit Regulations.

(2) For the purposes of this Schedule where the relevant percentage of the standard allowance results in a fraction of a penny, that fraction is to be disregarded if it is less than half a penny otherwise it is to be treated as a penny.

#### General

2.—(1) The Department may deduct an amount from a claimant’s award of universal credit and pay that amount to a third party in accordance with the following provisions of this Schedule to discharge (in whole or in part) a liability of the claimant to that third party.

(2) A payment made to a third party in accordance with this Schedule may be made at such intervals as the Department may direct.

#### Limitations applicable to deductions made under this Schedule

3.—(1) The Department may not deduct an amount from a claimant’s award of universal credit under this Schedule and pay that amount to a third party if, in relation to any assessment period, that would—

- (a) reduce the amount payable to the claimant to less than one penny; or
- (b) result in more than three deductions being made, in relation to that assessment period, under one or more of the provisions mentioned in sub-paragraph (2).

(2) The provisions are—

- (a) paragraph 6 (housing costs);
- (b) paragraph 7 (rent and service charges included in rent);
- (c) paragraph 8 (fuel costs);
- (d) paragraph 9 (rates);
- (e) paragraph 10 (water charges);

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(47) 2001 c. 17 (N.I.).

(48) S.I. 2006/3336 (N.I. 21).

- (f) paragraph 11 (payments in place of payments of child support maintenance);
- (g) paragraph 12 (integration loans).

(3) The aggregate amount deducted from a claimant's award of universal credit in relation to any assessment period and paid to a third party under paragraphs 8 and 10 must not, without the claimant's consent, exceed the sum equal to 25 per cent. of the aggregate of the standard allowance and any child element.

### **Maximum amount**

4.—(1) Except as provided for in sub-paragraph (4), the Department may not deduct an amount from a claimant's award of universal credit under a provision mentioned in paragraph 5(2) if, in relation to any assessment period, that would result in the Department deducting an amount in excess of 40 per cent. of the standard allowance ("the maximum amount") from the claimant's award under one or more relevant provisions.

(2) The relevant provisions are—

- (a) those mentioned in paragraph 5(2);
- (b) Article 31 of the 2015 Order (higher-level sanctions);
- (c) Article 32 of the 2015 Order (other sanctions);
- (d) section 69ZG of the Administration Act(49) (recovery of payments on account);
- (e) section 5B of the Fraud Act(50) (loss of benefit in case of conviction, penalty or caution for benefit offence);
- (f) section 6 of the Fraud Act(51) (loss of benefit for second or subsequent conviction of benefit offence); and
- (g) section 8 of the Fraud Act(52) (effect of offence on benefits for members of offender's family).

(3) For the purposes of determining whether the maximum amount would be exceeded, no account is to be taken of any liability for continuing need mentioned in—

- (a) paragraph 8(4)(b) (fuel costs); or
- (b) paragraph 10(6)(b) or (7)(b) (water charges).

(4) Subject to paragraph 3, the Department may deduct an amount from the claimant's award under paragraph 6, 7 or 8 and pay that amount to a third party where the deduction appears to the Department to be in the claimant's best interests, even though the deduction would result in the maximum amount being exceeded.

### **Priority as between certain debts**

5.—(1) This paragraph applies to a claimant ("C") where, in relation to any assessment period—

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(49) Section 69ZG is inserted by Article 109(1) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)).

(50) Section 5B was inserted by section 19(1) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)) and amended by Articles 115(8)(a), 117(2) to (6) and 118(2) of, and paragraph 47 of Schedule 2, paragraph 14 of Schedule 3 and Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015.

(51) Section 6 was amended by paragraph 33 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), paragraph 14 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and paragraph 1 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2010 and Articles 117(7) and 118(3) to (11) of, and paragraph 48 of Schedule 2, paragraph 15 of Schedule 3 and Part 1 of Schedule 12 to, the Welfare Reform (Northern Ireland) Order 2015.

(52) Section 8 was amended by paragraph 34 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 14(4) and (5) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, paragraph 3 of Schedule 3 to the Welfare Reform Act 2010 and paragraph 50 of Schedule 2 and Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015.



- (a) a deduction could otherwise be made from C's award under more than one of the provisions mentioned in sub-paragraph (2); and
  - (b) the amount of universal credit payable to C in relation to that assessment period is insufficient to enable the Department to meet all of the liabilities for which in C's case deductions may be made under those provisions or the deduction, were it to be made, would mean that the maximum amount referred to in paragraph 4(1) would be exceeded.
- (2) The provisions are—
- (a) paragraph 6 (housing costs);
  - (b) paragraph 7 (rent and service charges included in rent);
  - (c) paragraph 8 (fuel costs);
  - (d) paragraph 9 (rates);
  - (e) paragraph 10 (water charges);
  - (f) paragraph 11 (payments in place of child support maintenance);
  - (g) Schedule 6 (deductions from benefit in respect of child support maintenance and payment to persons with care);
  - (h) section 74(2) of the Administration Act (recovery of social fund awards);
  - (i) section 69ZH(1)(a) or (b) of the Administration Act(**53**) (recovery of hardship payments etc.);
  - (j) section 109A of the Administration Act(**54**) (penalty as alternative to prosecution) where an overpayment is recoverable from a person by, or due from a person to, the Department or the Housing Executive under or by virtue of section 69, 69ZB or 73 of that Act(**55**);
  - (k) sections 69, 69ZC or 73(4) of the Administration Act(**56**) (overpayments and deduction from benefit) or an overpayment of working tax credit or child tax credit, where in each case, the overpayment (or part of it) is the result of fraud;
  - (l) section 69, 69ZC or 73(4) of the Administration Act or an overpayment of working tax credit or child tax credit, where in each case, the overpayment (or part of it) is not the result of fraud;
  - (m) paragraph 12 (integration loans).
- (3) Where this paragraph applies to a claimant, the Department must make a deduction under any of the provisions mentioned in sub-paragraph (2) in accordance with sub-paragraphs (4) and (5).
- (4) The Department must give priority to any such deductions in the order in which they are listed in sub-paragraph (2), with housing costs having the priority.

(53) Section 69ZH is inserted by Article 109(1) of the Welfare Reform (Northern Ireland) Order 2015.

(54) Section 109A was inserted by Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and amended by section 13 of the Social Security Fraud Act (Northern Ireland) 2001 and Articles 109(3), 115(1) to (7) and 116(1) of, and Part 1 of Schedule 12 to, the Welfare Reform (Northern Ireland) Order 2015.

(55) Section 69 was amended by Article 33(1) of, and paragraph 31 of Schedule 2 and Schedule 3 to, the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 2 of the Social Security (Overpayments) Act 1996 (c. 51), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 62 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), paragraph 10 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 110 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), section 135(4) of the Health and Social Care Act 2008 (c. 14), section 41(3) of, and paragraph 4(6) of Schedule 3 to, the Welfare Reform Act (Northern Ireland) 2007, section 107(2) of the Welfare Reform Act 2012 (c. 5) and is amended by Articles 109(2) and 110(1) of, and paragraph 9 of Schedule 9 to, the Welfare Reform (Northern Ireland) Order 2015, section 69ZB is inserted by Article 109(1) of the Welfare Reform (Northern Ireland) Order 2015 and section 73 was amended by Article 15 of, and paragraph 2 of Schedule 1 and Schedule 2 to, the Social Security Administration (Fraud) (Northern Ireland) Order 1997, section 62 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and is amended by Article 110(3) of the Welfare Reform (Northern Ireland) Order 2015.

(56) Section 69ZC is inserted by Article 109(1) of the Welfare Reform (Northern Ireland) Order 2015.

(5) Where two or more provisions mentioned in any single head of sub-paragraph (2) apply to the claimant, unless the Department directs otherwise, those deductions have equal priority with each other and the amount of such deductions are to be apportioned accordingly.

(6) For the purposes of sub-paragraph (2)(k) and (l), an overpayment is the result of fraud if, in relation to that overpayment or that part of it, the claimant—

- (a) has been found guilty of an offence whether under statute or otherwise;
- (b) made an admission after caution of deception or fraud for the purpose of obtaining benefit under the Administration Act, or in the case of a tax credit, under the Tax Credits Act 2002<sup>(57)</sup>; or
- (c) agreed to pay a penalty under section 109A of the Administration Act and the agreement has not been withdrawn.

### **Housing costs**

6.—(1) This paragraph applies where the following condition is met.

(2) The condition is that in any assessment period the claimant is in debt for any item of housing costs which is included in the claimant's award of universal credit under Schedule 4 to the Universal Credit Regulations (housing costs element for renters).

(3) Where this paragraph applies, but subject to sub-paragraph (4), the Department may, in such cases and circumstances as it may determine, in relation to that assessment period deduct an amount from the claimant's award equal to 5 per cent. of the standard allowance in respect of any debt mentioned in sub-paragraph (2) and pay that amount or those amounts to the person to whom any such debt is owed.

(4) Before the Department may commence (or re-commence) making deductions in respect of any such debt, the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period must not exceed the work allowance.

(5) No amount may be deducted under this paragraph in respect of owner-occupier payments within the meaning of paragraph 5 of Schedule 1 to the Universal Credit Regulations (owner-occupier payments) in any case where those payments—

- (a) are required to be paid directly to a qualifying lender under regulation 54; or
- (b) would have been required to be paid to a body which, or a person who, would otherwise have been qualifying lender but for an election given under paragraph 10 of Schedule 4.

(6) As between liability for items of housing costs to which this paragraph applies, liabilities in respect of owner-occupier payments (within the meaning of paragraph 5(1) of Schedule 1 to the Universal Credit Regulations (owner-occupier payments)) are to have priority over all other items.

### **Rent and service charges included in rent**

7.—(1) This paragraph applies where all of the following conditions are met.

(2) The first condition is that in any assessment period the claimant—

- (a) has an award of universal credit which includes an amount under Schedule 4 to the Universal Credit Regulations (housing costs element for renters); or
- (b) occupies exempt accommodation and has an award of housing benefit under section 129 of the Contributions and Benefits Act (housing benefit)<sup>(58)</sup>.

(3) The second condition is that the claimant is in debt for any—

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<sup>(57)</sup> 2002 c. 21.

<sup>(58)</sup> Section 129 was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)) and Schedule 8 to the Welfare Reform Act (Northern Ireland) 2007.

- (a) rent payments;
  - (b) service charges which are paid with or as part of the claimant's rent.
- (4) The third condition is that the claimant occupies the accommodation to which the debt relates.
- (5) Where this paragraph applies, but subject to sub-paragraphs (6) and (7), the Department may, in such cases and circumstances as the Department may determine, deduct in relation to that assessment period an amount from the claimant's award equal to 5 per cent. of the standard allowance and pay that amount to the person to whom the debt is owed.
- (6) Before the Department may commence (or re-commence) making deductions in respect of such a debt, the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period must not exceed the work allowance.
- (7) The Department must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant's earned income (or in the case of joint claimants their combined earned income) equals or exceeds the work allowance.
- (8) In this paragraph—
- “exempt accommodation” has the meaning given by paragraph 1 of Schedule 1 to the Universal Credit Regulations (meaning of payments in respect of accommodation);
  - “rent payments” includes any elements included in the claimant's rent which would not fall to be treated as rent under the Housing Benefit Regulations (Northern Ireland) 2006<sup>(59)</sup> or as rent payments under the Universal Credit Regulations;
  - “service charges” includes any items in a charge for services in respect of the accommodation occupied by the claimant which would not fall to be treated as service charges under the Universal Credit Regulations.

## **Fuel costs**

- 8.—(1) This paragraph applies where the following condition is met.
- (2) The condition is that in any assessment period the claimant is in debt for any fuel item.
- (3) Where this paragraph applies, but subject to sub-paragraphs (5) and (6), the Department may, in such cases and circumstances as the Department may determine, deduct in relation to that assessment period the following amounts from the claimant's award and pay them to the person to whom the payment is due.
- (4) The amount which may be deducted in respect of any fuel item is—
- (a) an amount equal to 5 per cent. of the standard allowance; and
  - (b) an additional amount which the Department estimates is equal to the average monthly cost necessary to meet the claimant's continuing need for the fuel in respect of which the debt arose, except where current consumption is paid for by other means such as a pre-payment meter.
- (5) Before the Department may commence (or re-commence) making deductions in respect of such a debt, the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period must not exceed the work allowance.
- (6) The Department must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant's earned income (or in the case of joint claimants their combined earned income) equals or exceeds the work allowance.

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<sup>(59)</sup> S.R. 2006 No. 405.

(7) As between liabilities for items of gas or electricity, the Department must give priority to whichever liability the Department considers it would, having regard to the circumstances and to any requests of the claimant, be appropriate to discharge.

(8) In this paragraph “fuel item” means—

- (a) any charge for mains gas, including any charge for the reconnection of mains gas;
- (b) any charge for mains electricity, including any charge for the disconnection or reconnection of mains electricity.

### **Rates**

9.—(1) This paragraph applies where the following condition is met.

(2) The condition is that in any assessment period the claimant has a current liability for rates (within the meaning of the Rates (Northern Ireland) Order 1977(**60**)) and is in rates arrears.

(3) Where this paragraph applies, but subject to sub-paragraphs (4) and (5), the Department may, where the Department of Finance has requested it to make payment in accordance with this paragraph, deduct in relation to that assessment period an amount from the claimant’s award equal to 5 per cent. of the standard allowance and pay that amount to the Department of Finance.

(4) Before the Department may commence (or re-commence) making deductions in respect of any such debt, the claimant’s earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period must not exceed the work allowance.

(5) The Department must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant’s earned income (or in the case of joint claimants their combined earned income) equals or exceeds the work allowance.

### **Water charges**

10.—(1) This paragraph applies where the following condition is met.

(2) The condition is that in any assessment period the claimant is in debt for water charges, including any charges for reconnection (“the original debt”).

(3) Where this paragraph applies, but subject to sub-paragraphs (4) and (5), the Department may, in such cases and circumstances as the Department may determine, deduct an amount from the claimant’s award in accordance with sub-paragraphs (6) to (8) and pay it to a water undertaker to whom the payment is due or to the person or body authorised to collect water charges for that undertaker.

(4) Before the Department may commence (or re-commence) making deductions in respect of such a debt, the claimant’s earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period must not exceed the work allowance.

(5) The Department must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant’s earned income (or in the case of joint claimants their combined earned income) equals or exceeds the work allowance.

(6) Where water charges are determined by means of a water meter, the amount to be deducted under this paragraph in relation to any assessment period is to be—

- (a) an amount equal to 5 per cent. of the standard allowance towards discharging the original debt; and

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(60) S.I. 1977/2157 (N.I. 28).

- (b) an additional amount which the Department estimates to be the average monthly cost necessary to meet the claimant's continuing need for water consumption.
- (7) Where water charges are determined otherwise than by means of a water meter, the amount to be deducted in relation to any assessment period under this paragraph is to be—
  - (a) the amount referred to in sub-paragraph (6)(a); and
  - (b) an additional amount equal to the cost necessary to meet the continuing need for water consumption in that assessment period.
- (8) Where the claimant is in debt to two water undertakers—
  - (a) only one amount under sub-paragraph (6)(a) or (7)(a) may be deducted;
  - (b) a deduction in respect of an original debt for sewerage may only be made after the whole debt in respect of an original debt for water has been paid; and
  - (c) deductions in respect of continuing charges for both water and sewerage may be made at the same time.
- (9) In this paragraph “water undertaker” means a company appointed as a water undertaker or a sewerage undertaker under Article 13(1) of the Water and Sewerage Services (Northern Ireland) Order 2006.

### **Payments in place of payments of child support maintenance**

11.—(1) This paragraph applies where the Department has determined that Article 40 of the Child Support Order(61) (contribution to maintenance by deduction from benefit), as it has effect apart from section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(62), and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(63) (amount payable where absent parent is in receipt of income support or other prescribed benefit) apply in relation the claimant.

(2) Where this paragraph applies, the Department must, if satisfied that there is sufficient universal credit in payment (but subject to paragraphs 1, 4 and 5), determine that an amount is to be deducted from the claimant's award for transmission to the person or persons entitled to receive that amount under or by virtue of the Child Support Order.

(3) Not more than one deduction may be made under this paragraph in relation to any assessment period.

(4) The amount of universal credit which may be deducted in relation to any assessment period and paid to a third party under this paragraph is to be an amount equal to 5 per cent. of the standard allowance.

### **Integration loans**

12.—(1) This paragraph applies where the claimant has an integration loan which is recoverable by deductions.

(2) Where this paragraph applies, the amount payable by deductions in any assessment period is to be equal to 5 per cent. of the standard allowance.

(61) Article 40 was amended by paragraph 25 of Schedule 6 to the Social Security (Northern Ireland) Order 1998.

(62) 2000 c. 4 (N.I.); section 20 amended Article 40 of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) in relation to certain cases only, see Article 3 of S.R. 2003 No. 53 (C. 4).

(63) S.R. 1992 No. 341; regulation 28 was amended by regulation 5(10) of S.R. 1993 No. 164, regulation 2(2) of S.R. 1993 No. 191, regulation 21(3) of S.R. 1996 No. 289, regulation 4(13) of S.R. 1998 No. 8 and regulation 18(4) of S.R. 2008 No. 286.

(3) In this paragraph “integration loan which is recoverable by deductions” means an integration loan which is made under the Integration Loans for Refugees and Others Regulations 2007<sup>(64)</sup> and which is recoverable from the claimant by deductions from the claimant’s award of universal credit under regulation 9 of those Regulations (repayment of an integration loan).

## SCHEDULE 6

Regulation 55

Deductions from benefit in respect of child support maintenance and payment to persons with care

### Interpretation

1. In this Schedule—

“beneficiary” means a person who has been awarded a specified benefit;

“fee” means any collection fee under Part 2 of the Child Support Fees Regulations (Northern Ireland) 2014<sup>(65)</sup> which is payable by the non-resident parent;

“maintenance”, except in paragraph 3, means child support maintenance which a non-resident parent is liable to pay under the Child Support Order at a flat rate (or would be so liable but for a variation having been agreed to) where that rate applies (or would have applied) because the non-resident parent falls within paragraph 4(1)(b), (c) or (2) of Schedule 1 to that Order<sup>(66)</sup> (flat rate) and includes such maintenance payable at a transitional rate in accordance with regulations made under section 28(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (transitional provisions, savings, etc.);

“person with care” has the same meaning as in Article 4 of the Child Support Order (meaning of certain other terms used in this Order);

“specified benefit” means—

- (a) an employment and support allowance;
- (b) a jobseeker’s allowance;
- (c) universal credit.

### Deductions

2.—(1) Subject to the following provisions of this paragraph and to paragraph 5, the Department may deduct from any specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance and any fee which is payable by the beneficiary and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance, and retain any amount deducted in discharge of any liability to pay a fee.

(2) A deduction for maintenance and fees may only be made from one specified benefit in respect of the same period.

(3) No amount may be deducted under this Schedule from any employment and support allowance or any jobseeker’s allowance awarded to the claimant if that would reduce the amount of the benefit payable to the claimant to less than 10 pence.

(4) No amount may be deducted under this Schedule from any universal credit awarded to the claimant if that would reduce the amount payable to the claimant to less than one penny.

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<sup>(64)</sup> [S.I. 2007/1598](#); regulation 9 was amended by paragraph 4 of Schedule 3 to [S.I. 2013/380](#) and is amended by paragraph 3 of Schedule 2 to these Regulations.

<sup>(65)</sup> [S.R. 2014 No. 182](#).

<sup>(66)</sup> Paragraph 4 of Schedule 1 was substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and is amended by Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)).



## Arrears

3.—(1) Except where universal credit is awarded to the beneficiary, the Department may deduct the sum of £1·20 per week from any employment and support allowance or jobseeker's allowance which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary's liability to pay arrears of maintenance, and retain any amount deducted in discharge of any liability to pay a fee.

(2) Deductions made under sub-paragraph (1) may be retained by the Department in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992<sup>(67)</sup> (retention of recovered arrears of child support maintenance by the Department).

(3) In sub-paragraph (1) "maintenance" means child support maintenance as defined by Article 4(6) of the Child Support Order<sup>(68)</sup> whether before or after the amendment of that paragraph by section 1(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, and includes maintenance payable at a transitional rate in accordance with regulations made under section 28(2)(a) of that Act.

## Apportionment

4. Where maintenance is payable to more than one person with care, the amount deducted in respect of maintenance must be apportioned between the persons with care in accordance with paragraphs 6, 7 and 8 of Schedule 1 to the Child Support Order<sup>(69)</sup> (maintenance assessments).

## Flat rate maintenance

5.—(1) This paragraph applies where the beneficiary and that person's partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Child Support Order and either of them has been awarded universal credit (whether as a single claimant or as joint claimants).

(2) Where this paragraph applies, an amount not exceeding an amount equal to the flat rate of maintenance and any fee may be deducted from such an award in respect of the total liability of both partners to pay maintenance and any fee, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001<sup>(70)</sup> (flat rate) or regulation 43(3) of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012<sup>(71)</sup> (flat rate) and must be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance or retained in discharge of any liability to pay a fee.

## Notice

6. Where the Department commences making deductions under this Schedule, the Department must notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made and must give further such notice when there is a change to any of the particulars specified in the notice.

<sup>(67)</sup> S.R. 1992 No. 342; regulation 8 was substituted by regulation 5(2) of S.R. 1995 No. 475 and amended by regulation 22(1) of S.R. 1996 No. 289 and regulation 2(7) of S.R. 2001 No. 15.

<sup>(68)</sup> Article 4(6) is amended by section 1(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000.

<sup>(69)</sup> Paragraphs 6, 7 and 8 of Schedule 1 were substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and amended by paragraphs 4(c), 6 and 7 of Schedule 1 and paragraph 1(25) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008 (c. 10).

<sup>(70)</sup> S.R. 2001 No. 18.

<sup>(71)</sup> S.R. 2012 No. 427.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations apply only to—

universal credit;

personal independence payment;

a jobseeker's allowance and an employment support allowance as provided for by Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 ("the Order").

They contain provisions about the making of claims for, and the payment of, those benefits and the circumstances in which payments may be made directly to a third party.

Part 1 contains general provisions including definitions, the use of electronic communications, consequential amendments, and removes, from children and qualifying young persons, the requirement to supply a national insurance number when a claim to universal credit is made.

Part 2 contains provisions about claims for, and awards of, benefit. In particular the cases in which claims are not required or are treated as made, the method of making a claim and the time limits for doing so, the date on which a claim is made, interchange with other claims, advance claims for and awards of benefit, defective claims, the amendment and withdrawal of claims and the duration of awards.

Part 3 contains provisions about the information required in connection with a claim for, or an award of, benefit and provisions relating to the manner in which a change of circumstances affecting benefit must be notified for the purposes of the offences in sections 105A and 106 of the Social Security Administration (Northern Ireland) Act 1992.

Part 4 specifies the time when, and the method by which, benefits are to be paid. In particular it includes provisions which relate to payments of benefits to persons aged under 18, payments on death and the extinguishment of the right to payment.

Part 5 sets out the circumstances in which part or all of a benefit may be paid directly to a person other than the claimant and the circumstances in which a person may be appointed to act on behalf of a claimant who is unable for the time being to act.

Part 6 sets out the circumstances in which the motability component of personal independence payment is not payable and the circumstances in which the mobility component at the enhanced rate is payable on behalf of a claimant in respect of the hire or hire purchase of a vehicle under the Motability scheme.

An impact assessment has not been produced for this Rule as no impact on the private or voluntary sector is foreseen.