

SCHEDULE 1

Regulation 4(1)

Employment and Support Allowance: amendments to secondary legislation consequential on removal of work-related activity component

**Amendment of the Income Support Regulations (Northern Ireland) 1987**

1.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(1) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) after the definition of “the Macfarlane (Special Payments) (No. 2) Trust” insert—

““member of the support group” means a claimant who has or is treated as having limited capability for work-related activity under either—

(a) Part 6 of the Employment and Support Allowance Regulations (Northern Ireland) 2008; or

(b) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2016; “member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

(a) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those regulations; or

(b) Part 4 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 other than by virtue of regulation 26 of those regulations;”.

(3) In Schedule 3 (housing costs)—

(a) in paragraph 1 (housing costs)—

(i) in sub-paragraph (3)(d)(i)—

(aa) omit “or (3)”, “or (5)” and “(components)”;

(bb) after “Welfare Reform Act” insert “(component) or is a member of the work-related activity group”;

(ii) in sub-paragraph (3)(d)(ii) omit “including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component)”;

(b) in paragraph 18(7)(i) (non-dependant deductions) for the words from “which does not include” to the end substitute “and is not a member of the work-related activity group or a member of the support group.”.

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

2.—(1) The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988(2) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of “mean daily temperature” insert—

““member of the support group” means a claimant who has or is treated as having limited capability for work-related activity under Part 6 of the Employment and Support Allowance Regulations (Northern Ireland) 2008;

(1) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1991 No. 204, S.R. 1995 No. 301, S.R. 2008 No. 286, S.R. 2013 No. 67 and S.R. 2016 No. 175

(2) S.R. 1988 No. 368; relevant amending Regulation is S.R. 2010 No. 344

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“member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those regulations;”.

- (3) In regulation 1A(3)(e) (prescribed description of persons)—
- (a) for “, P’s applicable amount includes” substitute “and”;
  - (b) in head (i) before “one or more” insert “P’s applicable amount includes”; and
  - (c) for head (ii) substitute—
    - “(ii) P is a member of the work-related activity group or is a member of the support group;”.

### **Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**

3.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(3) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1(2)(interpretation) after the definition of “maternity leave” insert—
- ““member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—
- (a) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those regulations; or
  - (b) Part 4 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 other than by virtue of regulation 26 of those regulations;”.
- (3) In Schedule 2 (housing costs)—
- (a) in paragraph 1(3)(e) (housing costs)—
    - (i) in sub-paragraph (i)—
      - (aa) omit “or (3)” and “or (5)”;
      - (bb) for “(components)” substitute “(component)”;
    - (ii) in sub-paragraph (ii) omit “including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component)”;
  - (b) in paragraph 17(7)(i)—
    - (i) omit “or (5)” and “(components)”;
    - (ii) after “Welfare Reform Act” insert “(component) and is not a member of the work-related activity group”.

### **Amendment of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001**

4. In regulation 7(2)(j)(iv)(bb) of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(4) (decisions superseding earlier decisions) omit “or the work-related activity component”.

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(3) S.R. 1996 No. 198; relevant amending Regulations are; S.R. 2008 Nos.286 and 413, S.R. 2013 No. 67 and S.R. 2016 No. 175

(4) S.R. 2001 No. 213; regulation 7(2)(j) was added by regulation 2(3)(b) of S.R. 2008 No. 378

### **Amendment of the State Pension Credit Regulations (Northern Ireland) 2003**

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003<sup>(5)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of “the Macfarlane (Special Payments) (No. 2) Trust” insert—

““member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

- (a) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those regulations; or
- (b) Part 4 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 other than by virtue of regulation 26 of those regulations;”.

(3) In Schedule 2 (housing costs)—

(a) in paragraph 1(2)(b)(iv) (housing costs) for “or (3) or 4(4) or (5) of the Welfare Reform Act (components) or would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component)” substitute “or 4(4) of the Welfare Reform Act (component) or is a member of the work-related activity group or they would have been a member of the work-related activity group”; and—

(b) in paragraph 14(7)(g) (persons residing with the claimant)—

(i) omit “or (5)”; and

(ii) for “(components)” substitute “(component) or is not a member of the work-related activity group”.

### **Amendment of the Housing Benefit Regulations (Northern Ireland) 2006**

6.—(1) The Housing Benefit Regulations (Northern Ireland) 2006<sup>(6)</sup> are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1)(interpretation) after the definition of “member of the armed forces away on operations” insert—

““member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

- (a) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those regulations; or
- (b) Part 4 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 other than by virtue of regulation 26 of those regulations;”.

(3) In regulation 20 (applicable amounts) for paragraph (e) substitute—

“(e) the amount of the support component which may be applicable to him in accordance with Part V of Schedule 4 (the component);”.

(4) In regulation 21 (polygamous marriages) for paragraph (f) substitute—

“(f) the amount of the support component which may be applicable to him in accordance with Part V of Schedule 4 (the component);”.

(5) In regulation 25(11) (treatment of childcare charges)—

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<sup>(5)</sup> S.R. 2003 No. 28; relevant amending Regulations are S.R. 2008 Nos. 286 and 413, S.R. 2013 No. 67 and S.R. 2016 No. 175  
<sup>(6)</sup> S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 Nos. 179 and 378 and S.R. 2013 No. 67 and S.R. 2016 No. 326.

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- (a) in sub-paragraph (a) for “the work-related activity component” substitute “the other member is a member of the work-related activity group”; and
  - (b) in sub-paragraph (ba) for “the work-related activity component” substitute “the other member would be a member of the work-related activity group”.
- (6) In regulation 72(8)(a) (non-dependant deductions)—
- (a) omit “and the work-related activity component”;
  - (b) at the end insert “or where the non-dependant is not a member of the work-related activity group”.
- (7) In Schedule 4 (applicable amounts)—
- (a) in Part V (the components)—
    - (i) in the heading, for “components” substitute “component”;
    - (ii) in paragraph 21(1)—
      - (aa) for “one, but not both, of the components in paragraph 23 or” substitute “the component in paragraph”;
      - (bb) for paragraph (b) substitute—
        - “(b) the Department has determined that that the claimant or the claimant’s partner has or is treated as having limited capability for work-related activity;”;
      - (cc) in paragraph (c)(ii) omit “the work-related activity component”;
    - (iii) in paragraph 22(1) and (2) omit “23 or”;
    - (iv) omit paragraph 23; and
  - (b) in Part VI (amount of components)—
    - (i) in the heading for “components” substitute “component”;
    - (ii) omit paragraph 25.
- (8) In Schedule 5 (sums to be disregarded in the calculation of earnings)—
- (a) in paragraph 3(2)—
    - (i) omit “, work-related activity component”;
    - (ii) after “Schedule 4” insert “or where the claimant or the claimant’s partner is a member of the work-related activity group”; and
  - (b) in paragraph 17(2)(b)(iv)—
    - (i) in paragraph (aa)—
      - (aa) omit “, the work-related activity component under paragraph 23;”;
      - (bb) after “of Schedule 4” insert “, or the claimant or the claimant’s partner is a member of the work-related activity group”;
    - (ii) in paragraph (bb)—
      - (aa) omit “, the work-related activity component”;
      - (bb) for the words from “and is engaged” to the end substitute “or at least one of the couple is a member of the work-related activity group; or”.

**Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006<sup>(7)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1)(interpretation) after the definition of “member of the armed forces away on operations” insert—

““member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

- (a) Part 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2008 other than by virtue of regulation 30 of those Regulations; or
- (b) Part 4 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 other than by virtue of regulation 26 of those Regulations;”.

(3) In regulation 29(11)(ba) (treatment of childcare charges)—

- (a) omit “or the work-related activity component”; and
- (b) after “limited capability for work” insert “or the other member of the couple would be a member of the work-related activity group”.

(4) In regulation 53(8) (non-dependant deductions)—

- (a) in sub-paragraph (a)—
  - (i) omit “and the work-related activity component”; and
  - (ii) at the end insert “or where the non-dependant is not a member of the work-related activity group”;
- (b) in sub-paragraph (b)—
  - (i) omit “and the work-related activity component”; and
  - (ii) at the end insert “or where the non-dependant is not a member of the work-related activity group”.

(5) In Schedule 5 (sums disregarded from claimant’s earnings) in paragraph 5(1)(d)(ii) omit “or the work-related activity component”.

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(7) [S.R. 2006 No. 406](#); relevant amending Regulations are [S.R. 2008 No. 378](#), [S.R. 2009 No. 92](#) and [S.R. 2016 No. 326](#).