

Status: Point in time view as at 18/03/2008. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2007, SCHEDULE 2 is up to date with all changes known to be in force on or before 22 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 22

EMPLOYMENT AND SUPPORT ALLOWANCE: SUPPLEMENTARY PROVISIONS

Limited capability for work

- 1 Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work;
 - (b) for the question of whether a person has limited capability for work to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work;
 - (c) for the question of whether a person has limited capability for work to be determined afresh in prescribed circumstances.

Commencement Information

I1 Sch. 2 para. 1 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

Waiting days

- 2 Except in prescribed circumstances, a person is not entitled to an employment and support allowance in respect of a prescribed number of days at the beginning of a period of limited capability for work.

Commencement Information

I2 Sch. 2 para. 2 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

Periods of less than a week

- 3 Regulations may make provision in relation to—
- (a) entitlement to an employment and support allowance, or
 - (b) the amount payable by way of such an allowance,
- in respect of any period of less than a week.

Commencement Information

I3 Sch. 2 para. 3 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

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Linking periods

- 4 (1) Regulations may provide for circumstances in which a period of limited capability for work which is separated from another period of limited capability for work by not more than a prescribed length of time is to be treated for the purposes of this Part as a continuation of the earlier period.
- (2) Regulations may provide, in relation to periods which are linked by virtue of regulations under sub-paragraph (1), that a condition which was satisfied in relation to the earlier period is to be treated for the purposes of this Part as satisfied in relation to the later period.

Commencement Information

I4 Sch. 2 para. 4 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

Presence in Great Britain

- 5 Regulations may make provision for the purposes of this Part as to the circumstances in which a person is to be treated as being, or not being, in Great Britain.

Commencement Information

I5 Sch. 2 para. 5 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

Contributory allowance: entitlement in case of absence from Great Britain

- 6 Regulations may provide that in prescribed circumstances a claimant who is not in Great Britain may nevertheless be entitled to a contributory allowance.

Commencement Information

I6 Sch. 2 para. 6 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

Contributory allowance: modification in relation to employment on ships etc.

- 7 (1) Regulations may modify any provision of this Part, so far as relating to a contributory allowance, in its application to any person who is, has been, or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft,
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances, or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under this paragraph may, in particular, provide—
- (a) for any provision of this Part to apply even though it would not otherwise apply;
 - (b) for any such provision not to apply even though it would otherwise apply;
 - (c) for the taking of evidence, in a country or territory outside Great Britain, by a consular official or other prescribed person;

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- (d) for enabling the whole, or any part, of a contributory allowance to be paid to such of the claimant's dependants as may be prescribed.
- (3) In this paragraph, “continental shelf operations” has the same meaning as in section 120 of the Contributions and Benefits Act.

Commencement Information

I7 Sch. 2 para. 7 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

Income-related allowance: entitlement in case of absence from Great Britain

- 8 (1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Great Britain continues to be entitled to such an allowance after ceasing to be in Great Britain.
- (2) Regulations may modify any provision of this Part, so far as relating to an income-related allowance, in its application to a person who is entitled to such an allowance by virtue of regulations under sub-paragraph (1).
- (3) Regulations under sub-paragraph (2) may, in particular, provide—
- (a) for any provision of this Part to apply even though it would not otherwise apply;
 - (b) for any such provision not to apply even though it would otherwise apply.

Commencement Information

I8 Sch. 2 para. 8(1) in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

Limited capability for work-related activity

- 9 Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work-related activity;
 - (b) for the question of whether a person has limited capability for work-related activity to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work-related activity;
 - (c) for the question of whether a person has limited capability for work-related activity to be determined afresh in prescribed circumstances.

Commencement Information

I9 Sch. 2 para. 9 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

Effect of work

- 10 Regulations may prescribe circumstances in which a person is to be treated as not entitled to an employment and support allowance because of his doing work.

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Commencement Information

I10 Sch. 2 para. 10 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

VALID FROM 27/10/2008

Treatment of allowance as “benefit”

- 11 Regulations may provide for—
- (a) an employment and support allowance,
 - (b) a contributory allowance, or
 - (c) an income-related allowance,
- to be treated, for prescribed purposes of the Contributions and Benefits Act, as a benefit, or a benefit of a prescribed description.

Attribution of reductions in cases where allowance taken to consist of two elements

- 12 Where an employment and support allowance is taken by virtue of section 6(5) to consist of two elements, any reduction in the amount payable in respect of the allowance which falls to be made by virtue of—
- (a) section 11,
 - (b) section 12,
 - (c) section 13, or
 - (d) section 2AA of the Administration Act (full entitlement to certain benefits conditional on work-focused interview for partner),
- shall be treated as reducing such of those elements by such amount as may be prescribed.

Commencement Information

I11 Sch. 2 para. 12 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

VALID FROM 27/10/2008

Treatment of information supplied as information relating to social security

- 13 Information supplied in pursuance of regulations under any of sections 8, 9 and 11 to 13 shall be taken for all purposes to be information relating to social security.

Advance claims

- 14 This Part shall have effect with prescribed modifications in relation to cases where a claim to an employment and support allowance is by virtue of regulations under section 5(1)(c) of the Administration Act (advance claims) made, or treated as if made, for a period wholly or partly after the date on which it is made.

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Commencement Information

I12 Sch. 2 para. 14 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

VALID FROM 27/10/2008

Members of the forces

- 15 (1) Regulations may modify—
- (a) any provision of this Part, or
 - (b) any corresponding provision made for Northern Ireland,
- in its application to persons who are or have been members of Her Majesty's forces.
- (2) For the purposes of this paragraph, Her Majesty's forces shall be taken to consist of prescribed establishments and organisations in which persons serve under the control of the Defence Council.

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