Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Welfare Reform Act (Northern Ireland) 2007

2007 CHAPTER 2

An Act to make provision about social security and for connected purposes. [29th June 2007]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Modifications etc. (not altering text)

C1 Act: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 4 Pt. 1** (with art. 9(2))

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

Modifications etc. (not altering text)

C2 Pt. 1 (ss. 1-29) applied (with modifications) (1.10.2010) by Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010/312), regs. 1, **6**, Sch. 1

C3 Pt. 1 (ss. 1-29) applied (with modifications) (1.10.2010) by Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010/312), regs. 1, **16**, Sch. 2

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

C4 Pt. 1 (ss. 1-29) applied (with modifications) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), s. 123(6A)(6B) (as inserted (prosp.) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 5(1)(b)**, 36(2))

Entitlement

Employment and support allowance

1.—(1) An allowance, to be known as an employment and support allowance, shall be payable in accordance with the provisions of this Part.

(2) Subject to the provisions of this Part, a claimant is entitled to an employment and support allowance if he satisfies the basic conditions and **[**[F1]either**]**—

(a) the first and the second conditions set out in **[**[F2]Part 1 of**]** Schedule 1 (conditions relating to national insurance) or the third condition set out in **[**[F2]that Part of**]** that Schedule (condition relating to youth), **[**[F3]or**]**

[[F3](b) the conditions set out in Part 2 of that Schedule (conditions relating to financial position).

(3) The basic conditions are that the claimant—

(a) has limited capability for work,

[[F4](aa) has accepted a claimant commitment,**]**

(b) is at least 16 years old,

(c) has not reached pensionable age,

(d) is in Northern Ireland, **[**[F5]and**]**

(e) is not entitled to income support, and

(f) is not entitled to a jobseeker's allowance **[**[F6](and is not a member of a couple who are entitled to a joint-claim jobseeker's allowance)**]**.

[[F7](3A) After the coming into operation of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in **[**[F8]Part 1 of**]** Schedule 1 (youth).**]**

(4) For the purposes of this Part, a person has limited capability for work if—

(a) his capability for work is limited by his physical or mental condition, and

(b) the limitation is such that it is not reasonable to require him to work.

(5) An employment and support allowance is payable in respect of a week.

(6) In subsection (3)—

[[F9]"joint-claim jobseeker's allowance" means a jobseeker's allowance entitlement to which arises by virtue of Article 3(2B) of the Jobseekers Order;**]**

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"pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (NI 22).

[[F10](6A) **[**[F11]In subsection (3)(f), in relation to a contributory allowance, the reference to a couple entitled to a joint-claim jobseeker's allowance does not include a couple so entitled by virtue of regulations under paragraph 8A of Schedule 1 to the Jobseekers Order.**]]**

(7) **[**[F11]In this Part—

"contributory allowance" means an employment and support allowance entitlement to which is based on subsection (2)(a) **[**[F12](and see section 1B(2))**]** ;

"income-related allowance" means an employment and support allowance entitlement to which is based on subsection (2)(b).**]]**

Textual Amendments

F1 Word in s. 1(2) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F2 Words in s. 1(2)(a) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F3 S. 1(2)(b) and word repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F4 S. 1(3)(aa) inserted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **60(2)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

F5 Word in s. 1(3)(d) inserted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 18**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F6 Words in s. 1(3)(f) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F7 S. 1(3A) inserted (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **59**; S.R. 2016/46, art. 3(2)(b)(ii)

F8 Words in s. 1(3A) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F9 Words in s. 1(6) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F10 S. 1(6A) inserted (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **56**; S.R. 2016/46, art. 3(2)(b)(i)

F11 S. 1(6A)(7) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

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F12 Words in s. 1(7) inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **58(2)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

Commencement Information

I1 S. 1 wholly in operation at 27.10.2008; s. 1 not in operation at Royal Assent see s. 60(1); s. 1 in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 1 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

[F13Duration of [F14contributory] allowance

1A.—(1) The period for which a person is entitled to [F15an employment and support allowance] by virtue of the first and second conditions set out in [F16Part 1 of] Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by reference (under the second condition set out in [F16Part 1 of] Schedule 1) to the same two tax years.

(2) In subsection (1) the "relevant maximum number of days" is—

(a) 365 days; or

(b) if the Department by order specifies a greater number of days, that number of days.

(3) The fact that a person's entitlement to [F17an employment and support allowance] has ceased as a result of subsection (1) does not prevent his being entitled to a further such allowance if—

(a) he satisfies the first and second conditions set out in [F18Part 1 of] Schedule 1, and

(b) the two tax years by reference to which he satisfies the second condition include at least one year which is later than the second of the two years by reference to which (under the second condition) his previous entitlement was established.

(4) The period for which a person is entitled to [F17an employment and support allowance] by virtue of the third condition set out in [F19Part 1 of] Schedule 1 (youth) shall not exceed—

(a) 365 days; or

(b) if the Department by order specifies a greater number of days, that number of days.

(5) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to [F17an employment and support allowance] , the following are not to be counted—

(a) days in which the person is a member of the support group,

(b) days not falling within paragraph (a) in respect of which the person is entitled to the support component referred to in section 2(1)(b), and

(c) days in the assessment phase, where the days immediately following that phase fall within paragraph (a) or (b).

(6) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to **[**[F17]an employment and support allowance**]** , days occurring before the coming into operation of this section are to be counted (as well as those occurring afterwards).**]**

Textual Amendments

F13 S. 1A inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **57(1)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

F14 Word in s. 1A heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F15 Words in s. 1A(1) substituted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(a)**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F16 Words in s. 1A(1) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F17 Words in ss. 1A(3)-(6) substituted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(a)**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R.

2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F18 Words in s. 1A(3)(a) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F19 Words in s. 1A(4) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

[[F20]Further entitlement after time-limiting

1B.—(1) Where a person's entitlement to **[**[F21]an employment and support allowance**]** has ceased as a result of section 1A(1) or (4) but—

(a) the person has not at any subsequent time ceased to have (or to be treated as having) limited capability for work,

(b) the person satisfies the basic conditions, and

(c) the person has (or is treated as having) limited capability for work-related activity,

the claimant is entitled to an employment and support allowance by virtue of this section.

(2) **[**[F22]An employment and support allowance entitlement which is based on this section is to be regarded as a contributory allowance for the purposes of this Part.**]]**

Textual Amendments

F20 S. 1B inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **58(1)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

F21 Words in s. 1B(1) substituted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform

(Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(b)**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F22 S. 1B(2) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

[[F23]Claimant commitment

1C.—(1) For the purposes of this Part a "claimant commitment" is a record of the claimant's responsibilities in relation to an award of an employment and support allowance.

(2) A claimant commitment is to be prepared by the Department [F24]... and may be reviewed and updated as that department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

(a) any prescribed information, and

(b) any other information the Department [F25]... considers it appropriate to include.

(5) For the purposes of this Part a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

(6) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 1(3)(aa).]

Textual Amendments

F23 S. 1C inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **60(3)**; S.R. 2016/215, art. 2(3)(b)

F24 Words in s. 1C(2) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 52** (with art. 9(2))

F25 Words in s. 1C(4)(b) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 52** (with art. 9(2))

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Amount of [F26contributory] allowance

2.—(1) **[**F27The amount payable by way of an employment and support allowance**]** in respect of a claimant shall be calculated by—

(a) taking such amount as may be prescribed,

(b) if in his case the conditions of entitlement to the support component F28... are satisfied, adding the amount of that component, and

(c) making

[F29(i) deductions in respect of earnings calculated in the prescribed manner (which may include multiplying some or all earnings by a prescribed percentage), and

(ii)**]** prescribed deductions in respect of any payments to which section 3 applies.

(2) The conditions of entitlement to the support component are—

(a) that the assessment phase has ended,

(b) that the claimant has limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

F30(3) . . . . . .

(4) Regulations may—

(a) prescribe circumstances in which paragraph (a) of subsection (2) F31... is not to apply;

(b) prescribe circumstances in which entitlement under subsection (2) F31... is to be backdated;

(c) make provision about the amount of the component under subsection (2) F31....

(5) For the purposes of this Part, a person has limited capability for work-related activity if—

(a) his capability for work-related activity is limited by his physical or mental condition, and

(b) the limitation is such that it is not reasonable to require him to undertake such activity.

[F32(6) In subsection (1)(c)(i) the reference to earnings is to be construed in accordance with sections 3, 4 and 112 of the Contributions and Benefits Act.**]**

Textual Amendments

F26 Word in s. 2 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified

dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F27 Words in s. 2(1) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 19**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F28 Words in s. 2(1)(b) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(2)(a)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

F29 Words in s. 2(1)(c) inserted (2.5.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 5 para. 6(2)**; S.R. 2016/215, art. 2(2)(c)(vii)

F30 S. 2(3) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(2)(b)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

F31 Words in s. 2(4)(a)-(c) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(2)(c)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

F32 S. 2(6) inserted (2.5.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 5 para. 6(3)**; S.R. 2016/215, art. 2(2)(c)(vii)

Modifications etc. (not altering text)

C5 S. 2(1)(c) modified (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **72(1)**

C6 S. 2(2)(a) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **7(1)** (subject to reg. 7(2))

C7 S. 2(2)(a) excluded (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations(Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **7(1)** (with s. 7(4))

Commencement Information

I2 S. 2 wholly in operation at 27.10.2008; s. 2 not in operation at Royal Assent see s. 60(1); s. 2(1)(a)(c)(4)(a)(c) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 2 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Deductions from [F33contributory] allowance: supplementary

3.—(1) This section applies to payments of the following kinds which are payable to the claimant—

(a) pension payments,

(b) PPF periodic payments, and

(c) payments of a prescribed description made to a person who is a member of, or has been appointed to, a prescribed body carrying out public or local functions.

(2) Regulations may—

(a) disapply section 2(1)(c), so far as relating to pension payments or PPF periodic payments, in relation to persons of a prescribed description;

(b) provide for pension payments or PPF periodic payments of a prescribed description to be treated for the purposes of that provision as not being payments to which this section applies;

(c) provide for sums of a prescribed description to be treated for the purposes of this section as payable to persons as pension payments or PPF periodic payments (including, in particular, sums in relation to which there is a deferred right of receipt);

(d) make provision for the method of determining how payments to which this section applies are, for the purposes of section 2, to be related to periods for which a person is entitled to **[**F34an employment and support allowance**]**.

(3) In this section—

"pension payment" means—

(a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme,

(b) a payment of a prescribed description made under an insurance policy providing benefits in connection with physical or mental illness or disability, and

(c) such other payments as may be prescribed;

"PPF periodic payment" means—

(a) any periodic compensation payment made in relation to a person, payable under the pension compensation provisions as specified in Article 146(2) of the Pensions (Northern Ireland) Order 2005 (NI 1) or section 162(2) of the Pensions Act 2004 (c. 35) (the pension compensation provisions), and

(b) any periodic payment made in relation to a person, payable under Article 150 of the Pensions (Northern Ireland) Order 2005 or section 166 of the

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Pensions Act 2004 (duty to pay scheme benefits unpaid at assessment date etc.).

(4) For the purposes of subsection (3), "occupational pension scheme", "personal pension scheme" and "public service pension scheme" each have the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49), except that "personal pension scheme" includes—

(a) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 (c. 1), and

(b) 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 (c. 12).

Textual Amendments

F33 Word in s. 3 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F34 Words in s. 3(2)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(c)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Modifications etc. (not altering text)

C8 S. 3 modified (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **72(1)**

C9 S. 3 restricted (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **75**

Commencement Information

I3 S. 3 wholly in operation at 27.10.2008; s. 3 not in operation at Royal Assent see s. 60(1); s. 3(1)(c)(2)(b)(d) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 3(3) in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 3 in

operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Amount of income-related allowance

4.—[F35(1) In the case of an income-related allowance, the amount payable in respect of a claimant shall be—

(a) if he has no income, the applicable amount;

(b) if he has an income, the amount by which the applicable amount exceeds his income.

(2) Subject to subsection (3), the applicable amount for the purposes of subsection (1) shall be calculated by—

(a) taking such amount, or the aggregate of such amounts, as may be prescribed, and

(b) if in the claimant's case the conditions of entitlement to the support component F36... are satisfied, adding the amount of that component.

(3) Regulations may provide that, in prescribed cases, the applicable amount for the purposes of subsection (1) shall be nil.

(4) The conditions of entitlement to the support component are—

(a) that the assessment phase has ended,

(b) that the claimant has limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

F37(5) . . . . . .

(6) Regulations may—

(a) prescribe circumstances in which paragraph (a) of subsection (4) F38... is not to apply;

(b) prescribe circumstances in which entitlement under subsection (4) F38... is to be backdated;

(c) make provision about the amount of the component under subsection (4) F38....]

Textual Amendments

F35 Ss. 4-6 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R.

2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F36 Words in s. 4(2)(b) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(3)(a)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

F37 S. 4(5) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(3)(b)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

F38 Words in s. 4(6)(a)-(c) omitted (3.4.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(3)(c)**; S.R. 2017/46, art. 3 (with art. 9(4)(5))

Modifications etc. (not altering text)

C10 S. 4(4)(a) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **7(1)** (subject to reg. 7(2))

C11 S. 4(4)(a) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **146(3)(b)**

Commencement Information

I4 S. 4 wholly in operation at 27.10.2008; s. 4 not in operation at Royal Assent see s. 60(1); s. 4(2)(a)(3)(6)(a)(c) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 4 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Advance award of income-related allowance

5.—[F35(1) This section applies to claims for an employment and support allowance by a person who—

(a) would be entitled to an income-related allowance, but for the fact that he does not satisfy the condition in paragraph 6(1)(a) of Schedule 1,

(b) would satisfy that condition if he were entitled to the component mentioned in section 4(4) or (5), and

(c) is not entitled to a contributory allowance.

(2) In relation to claims to which this section applies, section 5(1) of the Administration Act (regulations about claims for benefit) shall have effect as if—

(a) in paragraph (d) (power to permit an award on a claim for benefit for a future period to be made subject to the condition that the claimant satisfies the requirements for entitlement when the benefit becomes payable under the award), there were inserted at the end " and to such other conditions as may be prescribed ", and

(b) in paragraph (e) (power to provide for such an award to be revised or superseded under the 1998 Order if any of those requirements are found

not to have been satisfied), for "any of those requirements" there were substituted " any of the conditions to which the award is made subject ".

(3) Regulations may, in relation to claims to which this section applies, make provision enabling an award to be made on terms such that the time at which benefit becomes payable under the award is later than the start of the period for which the award is made.**]**

Textual Amendments

F35 Ss. 4-6 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I5 S. 5 wholly in operation at 27.10.2008; s. 5 not in operation at Royal Assent see s. 60(1); s. 5(2)(3) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 5 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Amount payable where claimant entitled to both forms of allowance

6.—[[F35](1) This section applies where a claimant is entitled to both a contributory allowance and an income-related allowance.

(2) If the claimant has no income, the amount payable by way of an employment and support allowance shall be the greater of—

(a) his personal rate, and

(b) the applicable amount.

(3) If the claimant has an income, the amount payable by way of an employment and support allowance shall be the greater of—

(a) his personal rate, and

(b) the amount by which the applicable amount exceeds his income.

(4) Where the amount payable to the claimant by way of an employment and support allowance does not exceed his personal rate, the allowance shall be treated as attributable to the claimant's entitlement to a contributory allowance.

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(5) Where the amount payable to the claimant by way of an employment and support allowance exceeds his personal rate, the allowance shall be taken to consist of two elements, namely—

(a) an amount equal to his personal rate, and

(b) an amount equal to the excess.

(6) The element mentioned in subsection (5)(a) shall be treated as attributable to the claimant's entitlement to a contributory allowance.

(7) The element mentioned in subsection (5)(b) shall be treated as attributable to the claimant's entitlement to an income-related allowance.

(8) In this section—

"applicable amount" means the amount which, in the claimant's case, is the applicable amount for the purposes of section 4(1);

"personal rate" means the amount calculated in accordance with section 2(1).**]**

Textual Amendments

F35 Ss. 4-6 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Exclusion of payments below prescribed minimum

7 Except in such circumstances as regulations may provide, an employment and support allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

Assessments relating to entitlement

Limited capability for work

8.—(1) For the purposes of this Part, whether a person's capability for work is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to work shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

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(a) provide for determination on the basis of an assessment of the person concerned;

(b) define the assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;

(c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision—

(a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;

(b) as to the manner in which that information or evidence is to be provided;

(c) for a person in relation to whom it falls to be determined whether he has limited capability for work to be called to attend for such medical examination as the regulations may require.

(4) Regulations under subsection (1) may include provision—

(a) for a person to be treated as not having limited capability for work if he fails without good cause—

(i) to provide information or evidence which he is required under such regulations to provide,

(ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or

(iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;

(b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;

(c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

(5) Regulations may provide that, in prescribed circumstances, a person in relation to whom it falls to be determined whether he has limited capability for work, shall, if prescribed conditions are met, be treated as having limited capability for work until such time as—

(a) it has been determined whether he has limited capability for work, or

(b) he falls in accordance with regulations under this section to be treated as not having limited capability for work.

(6) The prescribed conditions referred to in subsection (5) may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question does not have, or is to be treated as not having, limited capability for work.

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Commencement Information

I6 S. 8 wholly in operation at 27.10.2008; s. 8 not in operation at Royal Assent see s. 60(1); s. 8 (except subsection (4)(c)) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 8 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Limited capability for work-related activity

9.—(1) For the purposes of this Part, whether a person's capability for work-related activity is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to undertake such activity shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

(a) provide for determination on the basis of an assessment of the person concerned;

(b) define the assessment by reference to such matters as the regulations may provide;

(c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision—

(a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;

(b) as to the manner in which that information or evidence is to be provided;

(c) for a person in relation to whom it falls to be determined whether he has limited capability for work-related activity to be called to attend for such medical examination as the regulations may require.

(4) Regulations under subsection (1) may include provision—

(a) for a person to be treated as not having limited capability for work-related activity if he fails without good cause—

(i) to provide information or evidence which he is required under such regulations to provide,

(ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or

(iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;

(b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;

(c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

Commencement Information

I7 S. 9 wholly in operation at 27.10.2008; s. 9 not in operation at Royal Assent see s. 60(1); s. 9 (except subsection (4)(c)) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 9 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Report

10 The Department shall lay before the Assembly an independent report on the operation of the assessments under sections 8 and 9 annually for the first five years after these sections come into effect.

[F39 Work-related requirements]

Textual Amendments

F39 S. 11 11L and crossheading substituted for (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(2)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

[F39 Work-related requirements

11.—(1) The following provisions of this Part provide for the Department to impose work-related requirements with which persons entitled to an employment and support allowance must comply for the purposes of this Part.

(2) In this Part "work-related requirement" means—

(a) a work-focused interview requirement (see section 11B);

(b) a work preparation requirement (see section 11C).

(3) The work-related requirements which may be imposed on a person depend on which of the following groups the person falls into—

(a) persons subject to no work-related requirements (see section 11D);

(b) persons subject to work-focused interview requirement only (see section 11E);

(c) persons subject to work-focused interview and work preparation requirements (see section 11F).]

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Commencement Information

I8 S. 11 wholly in operation at 27.10.2008; s. 11 not in operation at Royal Assent see s. 60(1); s. 11(1)(2)(a)-(g)(3)-(5)(6)(a)(7)(c) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 11 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

[F39Claimant commitment

11A.—(1) A claimant commitment is a record of the responsibilities of a person entitled to an employment and support allowance in relation to the award of the allowance.

(2) A claimant commitment is to be prepared by the Department and may be reviewed and updated as the Department thinks fit.

(3) A claimant commitment is to be in such form as the Department thinks fit.

(4) A claimant commitment is to include—

(a) a record of the requirements that the person must comply with under this Part (or such of them as the Department considers it appropriate to include),

(b) any prescribed information, and

(c) any other information the Department considers it appropriate to include.

(5) For the purposes of this Part a person accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

Work-focused interview requirement

11B.—(1) In this Part a "work-focused interview requirement" is a requirement that a person participate in one or more work-focused interviews as specified by the Department.

(2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.

(3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Department that the person will obtain paid work (or more paid work or better-paid work).

(4) The Department may specify how, when and where a work-focused interview is to take place.

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Work preparation requirement

11C.—(1) In this Part a "work preparation requirement" is a requirement that a person take particular action specified by the Department for the purpose of making it more likely in the opinion of the Department that the person will obtain paid work (or more paid work or better-paid work).

(2) The Department may under subsection (1) specify the time to be devoted to any particular action.

(3) Action which may be specified under subsection (1) includes in particular—

(a) attending a skills assessment;

(b) improving personal presentation;

(c) participating in training;

(d) participating in an employment programme;

(e) undertaking work experience or a work placement;

(f) developing a business plan;

(g) any action prescribed for the purpose in subsection (1).

(4) The action which may be specified under subsection (1) includes taking part in a work-focused health-related assessment.

(5) In subsection (4) "work-focused health-related assessment" means an assessment by a health care professional approved by the Department which is carried out for the purpose of assessing—

(a) the extent to which the person's capability for work may be improved by taking steps in relation to the person's physical or mental condition, and

(b) such other matters relating to the person's physical or mental condition and the likelihood of the person obtaining or remaining in work or being able to do so as may be prescribed.

(6) In subsection (5) "health care professional" means—

(a) a registered medical practitioner,

(b) a registered nurse,

(c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or

(d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

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Persons subject to no work-related requirements

11D.—(1) The Department may not impose any work-related requirement on a person falling within this section.

(2) A person falls within this section if—

(a) the person has limited capability for work and work-related activity,

(b) the person has regular and substantial caring responsibilities for a severely disabled person,

(c) the person is a single person responsible for a child under the age of one,

(d) the person is of a prescribed description.

(3) Where a person falls within this section, any work-related requirement previously applying to the person ceases to have effect.

(4) In this section—

"regular and substantial caring responsibilities" has such meaning as may be prescribed;

"severely disabled" has such meaning as may be prescribed.

Persons subject to work-focused interview requirement only

11E.—(1) A person falls within this section if—

(a) the person is a single person responsible for a child who is aged at least one and is under a prescribed age (which may not be less than 3), or

(b) the person is of a prescribed description.

(2) The Department may, subject to this Part, impose a work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

(3) The Department may not impose a work preparation requirement on a person falling within this section (and, where a person falls within this section, a work preparation requirement previously applying to the person ceases to have effect).

Persons subject to work preparation and work-focused interview requirement

11F.—(1) A person who does not fall within section 11D or 11E falls within this section.

(2) The Department may, subject to this Part, impose a work preparation requirement or work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

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Connected requirements

11G.—(1) The Department may require a person entitled to an employment and support allowance to participate in an interview for any purpose relating to—

(a) the imposition of a work-related requirement on the person;

(b) verifying the person's compliance with a work-related requirement;

(c) assisting the person to comply with a work-related requirement.

(2) The Department may specify how, when and where such an interview is to take place.

(3) The Department may, for the purpose of verifying a person's compliance with a work-related requirement, require the person to—

(a) provide to the Department information and evidence specified by the Department in a manner so specified;

(b) confirm compliance in a manner so specified.

(4) The Department may require a person to report to the Department any specified changes in that person's circumstances which are relevant to—

(a) the imposition of work-related requirements on the person;

(b) the person's compliance with a work-related requirement.

Imposition of requirements

11H.—(1) Regulations may make provision—

(a) where the Department may impose a requirement under this Part, as to when the requirement must or must not be imposed;

(b) where the Department may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;

(c) where the Department may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.

(2) Where the Department may impose a work-focused interview requirement, the Department must have regard to such matters as may be prescribed.

(3) Where the Department may specify a particular action under section 11C(1), the Department must have regard to such matters as may be prescribed.

(4) Where the Department may impose a requirement under this Part, the Department may revoke or change what has been imposed or specified.

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(5) Where the Department may specify any action to be taken in relation to a requirement imposed under this Part, the Department may revoke or change what has been specified.

(6) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Department may determine.

(7) Regulations must make provision to secure that, in prescribed circumstances, where a person has recently been a victim of domestic violence—

(a) a requirement imposed on that person under this Part ceases to have effect for a period of 13 weeks, and

(b) the Department may not impose any other requirement on that person during that period.

(8) For the purposes of subsection (7)—

(a) "domestic violence" has such meaning as may be prescribed;

(b) "victim of domestic violence" means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (7) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);

(c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

Compliance with requirements

11I. Regulations may make provision as to circumstances in which a person is to be treated as having—

(a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or

(b) taken or not taken any particular action specified by the Department in relation to such a requirement.

Sanctions

11J.—(1) The amount of an award of an employment and support allowance is to be reduced in accordance with this section in the event of a failure by a person which is sanctionable under this section.

(2) It is a failure sanctionable under this section if a person—

(a) fails for no good reason to comply with a work-related requirement;

(b) fails for no good reason to comply with a requirement under section 11G.

(3) Regulations are to specify—

(a) the amount of a reduction under this section, and

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(b) the period for which such a reduction has effect.

(4) Regulations under subsection (3)(b) may provide that a reduction under this section in relation to any failure is to have effect for—

(a) a period continuing until the person meets a compliance condition specified by the Department,

(b) a fixed period not exceeding 26 weeks which is—

(i) specified in the regulations, or

(ii) determined in any case by the Department, or

(c) a combination of both.

(5) In subsection (4)(a) "compliance condition" means—

(a) a condition that the failure ceases, or

(b) a condition relating to future compliance with a work-related requirement or a requirement under section 11G.

(6) A compliance condition specified under subsection (4)(a) may be—

(a) revoked or varied by the Department;

(b) notified to the person in such manner as the Department may determine.

(7) A period fixed under subsection (4)(b) may in particular depend on either or both the following—

(a) the number of failures by the person sanctionable under this section;

(b) the period between such failures.

(8) Regulations may provide—

(a) for cases in which no reduction is to be made under this section;

(b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;

(c) for the termination or suspension of a reduction under this section.

Concurrent exercise of certain functions by Department for Employment and Learning

[F40]11K. . . . . . .

Textual Amendments

F40 S. 11K omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 53** (with art. 9(2))

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Delegation and contracting out

11L.—(1) The functions of the Department under sections 11 to 11I may be exercised by, or by the employees of, such person as the Department may authorise for the purpose (an "authorised person").

(2) An authorisation given by virtue of this section may authorise the exercise of a function—

(a) wholly or to a limited extent;

(b) generally or in particular cases or areas;

(c) unconditionally or subject to conditions.

(3) An authorisation under this section—

(a) may specify its duration;

(b) may be varied or revoked at any time by the Department;

(c) does not prevent the Department or another person from exercising the function to which the authorisation relates.

(4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Department or (as the case may be) an officer of the Department.

(5) Subsection (4) does not apply—

(a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or

(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

(a) the authorisation of an authorised person is revoked, and

(b) at the time of the revocation so much of any contract made between the authorised person and the Department as relates to the exercise of the function is subsisting,

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

[F41](7)] . . . . . .

Textual Amendments

F41 S. 11L(7) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 54** (with art. 9(2))

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Work-focused interviews

12.—[[F42](1) Regulations may make provision for or in connection with imposing on a person who is—

(a) entitled to an employment and support allowance, and

(b) not a member of the support group **[**[F43]or a lone parent of a child under the age of one**]**,

a requirement to take part in one or more work-focused interviews as a condition of continuing to be entitled to the full amount payable to him in respect of the allowance apart from the regulations.

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

(a) prescribing circumstances in which such a person is subject to a requirement to take part in one or more work-focused interviews;

(b) for notifying such a person of any such requirement;

(c) prescribing the work-focused interviews in which a person who is subject to such a requirement is required to take part;

(d) for determining, in relation to work-focused interviews under the regulations, when and how the interview is to be conducted and, if it is to be conducted face to face, where it is to take place;

(e) for notifying persons who are required under the regulations to take part in a work-focused interview of what is determined in respect of the matters mentioned in paragraph (d);

(f) prescribing circumstances in which a person who is a party to a work-focused interview under the regulations is to be regarded as having, or not having, taken part in it;

(g) for securing that the appropriate consequence follows if a person who is required under the regulations to take part in a work-focused interview—

(i) fails to take part in the interview, and

(ii) does not, within a prescribed period, show that he had good cause for that failure;

(h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;

(i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(3) For the purposes of subsection (2)(g), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with regulations.

(4) Regulations under subsection (3) may, in particular, make provision for determining—

(a) the amount by which an allowance is to be reduced,

(b) when the reduction is to start, and

(c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

(5) Regulations under this section shall include provision for a requirement to take part in one or more work-focused interviews to cease to have effect if the person subject to the requirement becomes a member of the support group.

(6) Regulations under this section may include provision—

(a) that in such circumstances as the regulations may prescribe a requirement to take part in a work-focused interview that would otherwise apply to a person by virtue of such regulations is not to apply, or is to be treated as not having applied;

(b) that in such circumstances as the regulations may prescribe such a requirement is not to apply until a prescribed time;

(c) that in such circumstances as the regulations may prescribe matters mentioned in subsection (2)(d) may be redetermined.

(7) In this section, "work-focused interview" means an interview by **[**[F44]the Department**]** conducted for such purposes connected with getting the person interviewed into work, or keeping him in work, as may be prescribed.**]**

Textual Amendments

F42 Ss. 11-11L and cross-heading substituted for ss. 11-16 and cross-heading (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(2); S.R. 2016/215, art. 2(3)(b)

F43 Words in s. 12(1)(b) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 3(3)**, 36(1)(b)

F44 Words in s. 12(7) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 55** (with art. 9(2))

Modifications etc. (not altering text)

C12 S. 12(1) modified (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **66(b)**

Commencement Information

I9 S. 12 wholly in operation at 27.10.2008; s. 12 not in operation at Royal Assent see s. 60(1); s. 12 (except subsection (2)(i)) in operation for certain purposes at 1.7.2008 and wholly

in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 12 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Work-related activity

13.—[[F45](1) Regulations may make provision for or in connection with imposing on a person who is subject to a requirement imposed under section 12(1) **[**[F46], and who is not a lone parent of a child under the age of 3,**]** a requirement to undertake work-related activity in accordance with regulations as a condition of continuing to be entitled to the full amount payable to him in respect of an employment and support allowance apart from the regulations.

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

(a) prescribing circumstances in which such a person is subject to a requirement to undertake work-related activity in accordance with regulations;

(b) for notifying such a person of any such requirement;

(c) prescribing the time or times at which a person who is subject to such a requirement is required to undertake work-related activity and the amount of work-related activity he is required at any time to undertake;

(d) prescribing circumstances in which a person who is subject to such a requirement is, or is not, to be regarded as undertaking work-related activity;

(e) for securing that the appropriate consequence follows if a person who is subject to such a requirement—

(i) fails to comply with the regulations, and

(ii) does not, within a prescribed period, show that he had good cause for that failure;

(f) prescribing the evidence which a person who is subject to such a requirement needs to provide in order to show that he has complied with the regulations;

(g) prescribing matters which are, or are not, to be taken into account in determining whether a person has complied with the regulations;

(h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;

(i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(3) For the purposes of subsection (2)(e), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in

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question in respect of an employment and support allowance is to be reduced in accordance with regulations.

(4) Regulations under subsection (3) may, in particular, make provision for determining—

(a) the amount by which an allowance is to be reduced,

(b) when the reduction is to start, and

(c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

(5) Regulations under this section shall include provision for a requirement to undertake work-related activity in accordance with regulations to cease to have effect if the person subject to the requirement becomes a member of the support group.

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

[[F47](6A) Regulations under this section shall include provision for securing that lone parents are entitled (subject to meeting any prescribed conditions) to restrict the times at which they are required to undertake work-related activity.**]**

(7) In this Part, "work-related activity", in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so.**]**

[[F48](8) The reference to activity in subsection (7) includes work experience or a work placement.**]**

Textual Amendments

F45 Ss. 11-11L and cross-heading substituted for ss. 11-16 and cross-heading (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), 63(2); S.R. 2016/215, art. 2(3)(b)

F46 Words in s. 13(1) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 3(4)(a)**, 36(1)(b)

F47 S. 13(6A) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 3(4)(b)**, 36(1)(b)

F48 S. 13(8) inserted (27.9.2017) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **61**; S.R. 2017/190, art. 3(1)(2)(d)

Commencement Information

I10 S. 13 wholly in operation at 11.7.2011; s. 13 not in operation at Royal Assent see s. 60(1); s. 13(7) in operation at 27.10.2008 by S.R. 2008/425, **art. 2**; s. 13(1)-(6) in operation at 11.7.2011 by S.R. 2011/260, **art. 2**

Action plans in connection with work-focused interviews

14.—[[F49](1) **[**[F50]The Department**]** shall in prescribed circumstances provide a person subject to a requirement imposed under section 12(1) with a document prepared for such purposes as may be prescribed (in this section referred to as an action plan).

(2) Regulations may make provision about—

(a) the form of action plans;

(b) the content of action plans;

(c) the review and updating of action plans.

(3) Regulations under this section may, in particular, make provision for action plans which are provided to a person who is subject under section 13 to a requirement to undertake work-related activity to contain particulars of activity which, if undertaken, would enable the requirement to be met.

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

(a) the circumstances in which reconsideration may be requested;

(b) the period within which any reconsideration must take place;

(c) the matters to which regard must be had when deciding on reconsideration whether the plan should be changed;

(d) notification of the decision on reconsideration;

(e) the giving of directions for the purpose of giving effect to the decision on reconsideration.**]**

Textual Amendments

F49 Ss. 11-11L and cross-heading substituted for ss. 11-16 and cross-heading (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(2); S.R. 2016/215, **art. 2(3)(b)**

F50 Words in s. 14(1) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 56(a)** (with art. 9(2))

Commencement Information

I11 S. 14 wholly in operation at 27.10.2008; s. 14 not in operation at Royal Assent see s. 60(1); s. 14(1)(2)(a)(b) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 14 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Directions about work-related activity

15.—[F51][F52](1) In prescribed circumstances, the Department [F53]... may by direction given to a person subject to a requirement imposed under section 13(1) provide that the activity specified in the direction is—

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

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

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

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

(a) must be reasonable, having regard to the person's circumstances;

(b) must be given to the person [[F54]in such manner as the Department [F53]... thinks fit] ; and

(c) may be varied or revoked by a subsequent direction under subsection (1).]

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

Textual Amendments

F51 S. 15(1)(1A)(2) substituted (23.9.2010) for s. 15(1)(2) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 10**, 36(2); S.R. 2010/327, **art. 2(2)(a)**

F52 Ss. 11-11L and cross-heading substituted for ss. 11-16 and cross-heading (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(2); S.R. 2016/215, **art. 2(3)(b)**

F53 Words in s. 15(1)(2)(b) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 57** (with art. 9(2))

F54 Words in s. 15(2)(b) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **60(4)**; S.R. 2016/215, art. 2(3)(b)

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Contracting out

16.—[[F55](1) The following functions of the Department may be exercised by, or by employees of, such person (if any) as it may authorise for the purpose, namely—

[[F56](za) any function under section 1C in relation to a claimant commitment;**]**

(a) conducting interviews under section 12;

(b) providing documents under section 14;

(c) giving, varying or revoking directions under section 15.

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

(a) any function under regulations under any of sections 11 to 15, except the making of a decision to which subsection (3) applies (an "excluded decision");

(b) the function under Article 10(1) of the 1998 Order (revision of decisions), so far as relating to decisions, except excluded decisions, that relate to any matter arising under such regulations;

(c) the function under Article 11(1) of that Order (superseding of decisions), so far as relating to decisions, except excluded decisions, of the Department that relate to any matter arising under such regulations;

(d) any function under Chapter 2 of Part 2 of that Order (social security decisions), except Article 25(2) and (3) (decisions involving issues that arise on appeal in other cases), which relates to the exercise of any of the functions falling within paragraphs (a) to (c).

(3) This subsection applies to the following decisions—

(a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 11, 12 or 13;

(b) a decision about whether a person had good cause for failure to comply with such a requirement;

(c) a decision about reduction of an employment and support allowance in consequence of failure to comply with such a requirement.

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

(a) either wholly or to such extent as the regulations may provide,

(b) either generally or in such cases or areas as the regulations may provide, and

(c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

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(5) An authorisation given by virtue of subsection (1), or by virtue of regulations under subsection (2), may authorise the exercise of the function concerned—

(a) either wholly or to such extent as may be specified in the authorisation,

(b) either generally or in such cases or areas as may be so specified, and

(c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

(6) In the case of an authorisation given by virtue of regulations under subsection (2), subsection (5) is subject to the provisions of the regulations.

(7) An authorisation given by virtue of subsection (1), or by virtue of regulations under subsection (2)—

(a) may specify its duration,

(b) may be revoked at any time by the Department, and

(c) shall not prevent the Department or any other person from exercising the function to which the authorisation relates.

(8) Where a person is authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by or in relation to the Department.

(9) Subsection (8) shall not apply—

(a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or

(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of his).

(10) Any decision which a person authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), makes in exercise of the function shall have effect as a decision of the Department under Article 9 of the 1998 Order.

(11) Where—

(a) a person is authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), and

(b) the authorisation is revoked at a time when a relevant contract is subsisting,

the authorised person shall be entitled to treat the relevant contract as repudiated by the Department (and not as frustrated by reason of the revocation).

(12) In subsection (11), the reference to a relevant contract is to so much of any contract made between the authorised person and the Department as relates to the exercise of the function.

(13) In this section, references to functions of the Department under—

(a) a statutory provision contained in, or in regulations under, this Part; or

(b) a statutory provision contained in Chapter 2 of Part 2 of the 1998 Order,

include a reference to any function which the Department has by virtue of the application in relation to that provision of Article 9(1)(c) of that Order (decisions under certain statutory provisions to be made by the Department).

[F57](14) . . . . . .]

Textual Amendments

F55 Ss. 11-11L and cross-heading substituted for ss. 11-16 and cross-heading (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(2); S.R. 2016/215, **art. 2(3)(b)**

F56 S. 16(1)(za) inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **60(5)**; S.R. 2016/215, art. 2(3)(b)

F57 S. 16(14) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 58** (with art. 9(2))

Commencement Information

I12 S. 16 wholly in operation at 27.10.2008; s. 16 not in operation at Royal Assent see s. 60(1); s. 16(2)(a)(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 16 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

[[F58]Hardship payments

16A.—(1) Regulations may make provision for the making of payments ("hardship payments") by way of an employment and support allowance to a person where—

(a) the amount otherwise payable to the person in respect of an employment and support allowance is reduced by virtue of regulations under section 11(3), 12(3) or 13(3), and

(b) the person is or will be in hardship.

(2) Regulations under this section may in particular make provision as to—

(a) circumstances in which a person is to be treated as being or not being in hardship;

(b) matters to be taken into account in determining whether a person is or will be in hardship;

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(c) requirements or conditions to be met by a person in order to receive hardship payments;

(d) the amount or rate of hardship payments;

(e) the period for which hardship payments may be made.**]**

Textual Amendments

F58 S. 16A inserted (1.6.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **62**; S.R. 2016/234, art. 2(2)(b)

Miscellaneous

Income and capital: general

17.—(1) In relation to a claim for an employment and support allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.

(2) A person's income in respect of a week shall be calculated in accordance with prescribed rules, which may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(3) Circumstances may be prescribed in which—

(a) a person is to be treated as possessing capital or income which he does not possess;

(b) capital or income which a person does possess is to be disregarded;

(c) income is to be treated as capital;

(d) capital is to be treated as income.

(4) Regulations may provide that a person's capital shall be deemed for the purposes of this Part to yield him an income at a prescribed rate.

Commencement Information

I13 S. 17 wholly in operation at 27.10.2008; s. 17 not in operation at Royal Assent see s. 60(1); s. 17 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

Disqualification

18.—(1) Regulations may provide for a person to be disqualified for receiving an employment and support allowance, or treated for such purposes as the regulations may provide as not having limited capability for work, if—

(a) he has become someone who has limited capability for work through his own misconduct,

(b) he remains someone who has limited capability for work through his failure without good cause to follow medical advice, or

(c) he fails without good cause to observe any prescribed rules of behaviour.

(2) Regulations under subsection (1) shall provide for any such disqualification, or treatment, to be for such period not exceeding six weeks as may be determined in accordance with Chapter 2 of Part 2 of the 1998 Order.

(3) Regulations may prescribe for the purposes of subsection (1)—

(a) matters which are, or are not, to be taken into account in determining whether a person has good cause for any act or omission;

(b) circumstances in which a person is, or is not, to be regarded as having good cause for any act or omission.

(4) Except where regulations otherwise provide, a person shall be disqualified for receiving **[**[F59]an employment and support allowance**]** for any period during which he is—

(a) absent from Northern Ireland; or

(b) undergoing imprisonment or detention in legal custody.

Textual Amendments

F59 Words in s. 18(4) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(d)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Modifications etc. (not altering text)

C13 S. 18(4)(b) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **160(1)(3)**

C14 S. 18(4)(b) excluded by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), reg. 160(3) (as substituted (25.3.2010) by Social Security (Persons Serving a Sentence of Imprisonment Detained in Hospital) Regulations (Northern Ireland) 2010 (S.R. 2010/58), **reg. 5(3)(a)**)

C15 S. 18(4)(b) excluded (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations(Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **96(1)**

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

C16 S. 18(4)(b) excluded (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations(Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **96(3)**

Commencement Information

I14 S. 18 wholly in operation at 27.10.2008; s. 18 not in operation at Royal Assent see s. 60(1); s. 18(1)(2)(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 18 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Pilot schemes

19.—(1) Any regulations to which this subsection applies may be made so as to have effect for a specified period not exceeding **[**[F60]36 months**]**.

(2) Subject to subsection (3), subsection (1) applies to—

(a) regulations which are made under any provision of this Part, other than sections 3, 8 and 9;

(b) regulations which are made under the Administration Act, so far as they relate to an employment and support allowance.

(3) Subsection (1) only applies to regulations if they are made with a view to **[**[F61]testing the extent to which the provision made by the regulations is likely to promote—

(a) people remaining in work, or

(b) people obtaining or being able to obtain work (or more work or better-paid work).**]**

(4) Regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as a "pilot scheme".

(5) A pilot scheme may provide that its provisions are to apply only in relation to—

(a) one or more specified areas;

(b) one or more specified classes of person;

(c) persons selected—

(i) by reference to prescribed criteria, or

(ii) on a sampling basis.

(6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(7) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Textual Amendments

F60 Words in s. 19(1) substituted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 22(2)**, 36(1)(g)

F61 Words in s. 19(3) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(3)**; S.R. 2016/215, art. 2(3)(b)

Relationship with statutory payments

20.—(1) A person is not entitled to an employment and support allowance in respect of a day if, for the purposes of statutory sick pay, that day—

(a) is a day of incapacity for work in relation to a contract of service, and

(b) falls within a period of entitlement (whether or not it is a qualifying day).

(2) Except as regulations may provide, a woman who is entitled to statutory maternity pay is not entitled to **[**[F62]an employment and support allowance**]** in respect of a day that falls within the maternity pay period.

(3) Regulations may provide that—

(a) an amount equal to a woman's statutory maternity pay for a period shall be deducted from **[**[F63]an employment and support allowance**]** in respect of the same period,

(b) a woman shall only be entitled to **[**[F63]an employment and support allowance**]** if there is a balance after the deduction, and

(c) if there is such a balance, a woman shall be entitled to **[**[F63]an employment and support allowance**]** at a weekly rate equal to it.

(4) Except as regulations may provide, a person who is entitled to statutory adoption pay is not entitled to **[**[F64]an employment and support allowance**]** in respect of a day that falls within the adoption pay period.

(5) Regulations may provide that—

(a) an amount equal to a person's statutory adoption pay for a period shall be deducted from **[**[F65]an employment and support allowance**]** in respect of the same period,

(b) a person shall only be entitled to **[**[F65]an employment and support allowance**]** if there is a balance after the deduction, and

(c) if there is such a balance, a person shall be entitled to **[**[F65]an employment and support allowance**]** at a weekly rate equal to it.

(6) Except as regulations may provide, a person who is entitled to **[**[F66]statutory shared parental pay**]** is not entitled to **[**[F67]an employment and support allowance**]** in respect of **[**[F68]a day that falls within a period in respect of which statutory shared parental pay is payable**]**.

(7) Regulations may provide that—

(a) an amount equal to a person's **[**[F69]statutory shared parental pay for a period**]** shall be deducted from **[**[F70]an employment and support allowance**]** in respect of the same period,

(b) a person shall only be entitled to **[**[F70]an employment and support allowance**]** if there is a balance after the deduction, and

(c) if there is such a balance, a person shall be entitled to **[**[F70]an employment and support allowance**]** at a weekly rate equal to it.

(8) In this section—

[F71]…

"adoption pay period" has the meaning given in section 167ZN(2) of that Act;

"maternity pay period" has the meaning given in section 161(1) of that Act.

Textual Amendments

F62 Words in s. 20(2) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F63 Words in s. 20(3)(a)-(c) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F64 Words in s. 20(4) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F65 Words in s. 20(5)(a)-(c) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes,

5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F66 Words in s. 20(6) substituted (15.3.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), s. 23(1), **Sch. 1 para. 7(a)(i)**; S.R. 2015/86, art. 3(2)(g) (with art. 6(1))

F67 Words in s. 20(6) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F68 Words in s. 20(6) substituted (15.3.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), s. 23(1), **Sch. 1 para. 7(a)(ii)**; S.R. 2015/86, art. 3(2)(g) (with art. 6(1))

F69 Words in s. 20(7)(a) substituted (15.3.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), s. 23(1), **Sch. 1 para. 7(b)**; S.R. 2015/86, art. 3(2)(g) (with art. 6(1))

F70 Words in s. 20(7)(a)-(c) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(e)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F71 Words in s. 20(8) repealed (5.4.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), s. 23(1), Sch. 1 para. 7(c), **Sch. 2**; S.R. 2015/86, art. 4(2)(f)(3) (with art. 7(2))

Modifications etc. (not altering text)

C17 S. 20(2) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **80(2)**

C18 S. 20(4) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **81(2)**

C19 S. 20(6) excluded (day on which regulations made under or by virtue of ss. 167ZEA to 167ZEE of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 come into operation for certain purposes, otherwise 27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1)(3), **82(2)**

Commencement Information

I15 S. 20 wholly in operation at 27.10.2008; s. 20 not in operation at Royal Assent see s. 60(1); s. 20(2)-(7) in operation for certain purposes at 1.7.2008 and wholly in operation at

27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 20 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Deemed entitlement for other purposes

21 Regulations may provide for a person who would be entitled to an employment and support allowance but for the operation of any provision of, or made under, this Part, the Administration Act or Chapter 2 of Part 2 of the 1998 Order (social security decisions and appeals) to be treated as if entitled to the allowance for the purposes of any rights or obligations (whether his own or another's) which depend on his entitlement, other than the right to payment of it.

Supplementary provisions

22 Schedule 2 (which contains further provisions in relation to an employment and support allowance) has effect.

Commencement Information

I16 S. 22 wholly in operation at 27.10.2008; s. 22 not in operation at Royal Assent see s. 60(1); s. 22 in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 22 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Recovery of sums in respect of maintenance

23.—[[F72](1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-related allowance has been made to that person's spouse or civil partner.

(2) The reference in subsection (1) to a recovery order is to an order requiring the person against whom it is made to make payments to the Department or to such other person or persons as the court may determine.

(3) Regulations under subsection (1) may include—

(a) provision as to the matters to which the court is, or is not, to have regard in determining any application under the regulations;

(b) provision as to the enforcement of orders under the regulations;

(c) provision for the transfer by the Department of the right to receive payments under, and to exercise rights in relation to, orders under the regulations.

(4) In this section, “the court” means a court of summary jurisdiction.**]**

Textual Amendments

F72 S. 23 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I17 S. 23 wholly in operation at 27.10.2008; s. 23 not in operation at Royal Assent see s. 60(1); s. 23(1)(3) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 23 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

General

Interpretation, etc. of Part 1

24.—(1) In this Part—

[[F73]"child" means a person under the age of 16;**]**

"claimant" means a person who has claimed an employment and support allowance;

[[F74]"contributory allowance" has the meaning given by section 1(7);**]**

"employment" and "employed" have the meanings prescribed for the purposes of this Part;

"entitled", in relation to an employment and support allowance, is to be construed in accordance with—

(a) the provisions of this Act,

(b) section 1 of the Administration Act (entitlement dependent on making of claim), and

(c) Article 27 of the 1998 Order (restrictions on entitlement in certain cases of error);

[[F74]"income-related allowance" has the meaning given by section 1(7);

"income support" means income support under section 123 of the Contributions and Benefits Act;**]**

"limited capability for work" shall be construed in accordance with section 1(4);

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

"limited capability for work-related activity" shall be construed in accordance with section 2(5);

"period of limited capability for work" has the meaning prescribed for the purposes of this Part;

"prescribed" means specified in, or determined in accordance with, regulations;

"regulations" means regulations made by the Department;

[[F73]"single person" means an individual who is not a member of a couple (within the meaning of Part 2 of the Welfare Reform (Northern Ireland) Order 2015);**]**

"week" means a period of seven days beginning with a Sunday or such other period of seven days as may be prescribed;

[[F73]"work" has such meaning as may be prescribed;**]**

[[F73]"work-focused interview requirement" has the meaning given by section 11B;**]**

[[F73]"work preparation requirement" has the meaning given by section 11C;**]**

[[F75]"work-related activity", in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;**]**

[[F73]"work-related requirement" has the meaning given by section 11;**]**

(2) For the purposes of this Part, the assessment phase, in relation to a claimant, is the period—

(a) beginning, subject to subsection (3), with the first day of the period for which he is entitled to an employment and support allowance, and

(b) ending with such day as may be prescribed.

(3) Regulations may prescribe circumstances in which the assessment phase is to begin with such day as may be prescribed.

[[F76](3A) For the purposes of this Part, a person is a lone parent if the person—

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

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

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

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

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

(4) For the purposes of this Part, a person is a member of the support group if he is a person in respect of whom it is determined that he has, or is to be treated as having, limited capability for work-related activity.

[F77](5) . . . . . .

[F77](6) . . . . . .

Textual Amendments

F73 Words in s. 24(1) inserted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(4)(a)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

F74 Words in s. 24(1) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F75 Words in s. 24(1) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(4)(b)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

F76 S. 24(3A)(3B) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 3(5)**, 36(1)(b)

F77 S. 24(5)(6) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 59** (with art. 9(2))

Commencement Information

I18 S. 24 wholly in operation at 27.10.2008; s. 24 not in operation at Royal Assent see s. 60(1); s. 24(1) in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 24(2)(b)(3) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 24 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Regulations [[F78]and orders]

25.—(1) Where any power under this Part to make regulations **[**[F79]or an order**]** is expressed to be exercisable for alternative purposes, it may be exercised in relation to the same case for all or any of those purposes.

(2) Any power under this Part to make regulations **[**[F79]or an order**]** includes power—

(a) to make such incidental, supplementary, consequential or transitional provision or savings as appear to the Department to be expedient;

(b) to provide for a person to exercise a discretion in dealing with any matter.

(3) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 **[**[F80]to 11J**]** may make provision which applies only in relation to an area or areas specified in the regulations.

(4) The fact that a power to make regulations is conferred by this Part is not to be taken to prejudice the extent of any other power to make regulations so conferred.

Textual Amendments

F78 Words in s. 25 heading heading inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **57(2)(a)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

F79 Words in s. 25(1)(2) inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **57(2)(b)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

F80 Words in s. 25(3) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(5)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)

Commencement Information

I19 S. 25 wholly in operation at 27.10.2008; s. 25 not in operation at Royal Assent see s. 60(1); s. 25(1)(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 25 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Assembly control

26.—(1) Subject to the following provisions of this section, any regulations made under this Part **[**[F81]or any order made under section 1A**]** are subject to negative resolution.

(2) Regulations to which this subsection applies—

(a) must be laid before the Assembly after being made; and

(b) take effect on such date as may be specified in the regulations, but (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of

six months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.

(3) Subsection (2) applies to—

(a) regulations under section 2(2)(c) or (3)(c) **[**[F82]or 4(4)(c) or (5)(c)**]**;

(b) the first regulations under section 13;

(c) regulations which by virtue of section 19(1) are to have effect for a limited period.

(4) This subsection applies to any regulations made under this Part which—

(a) but for subsection (5), would be subject to negative resolution, and

(b) are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.

(5) Any regulations to which subsection (4) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.

(6) In this section "the confirmatory procedure" means the procedure described in subsection (2).

Textual Amendments

F81 Words in s. 26(1) inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **57(3)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

F82 Words in s. 26(3)(a) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I20 S. 26 wholly in operation at 27.10.2008; s. 26 not in operation at Royal Assent see s. 60(1); s. 26(1) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 26 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Financial provisions relating to Part 1

27.—(1) There shall be paid out of the Northern Ireland National Insurance Fund **[**[F83]any sums payable by way of employment and support allowance**]**.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(2) The Department shall pay into the Northern Ireland National Insurance Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments of **[**[F84]employment and support**]** allowance.

(3) **[**[F85]The Department shall pay into the Consolidated Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments made by way of income-related allowance.**]**

Textual Amendments

F83 Words in s. 27(1) substituted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 20(a)**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F84 Words in s. 27(2) substituted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 20(b)**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

F85 S. 27(3) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Consequential amendments relating to Part 1

28.—(1) Schedule 3 (which makes amendments consequential on this Part) has effect.

(2) Regulations may make provision consequential on this Part amending, repealing or revoking any statutory provision.

Commencement Information

I21 S. 28 partly in operation; s. 28 not in operation at Royal Assent see s. 60(1); s. 28(1) in operation for certain purposes at 1.7.2008 and 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 28(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 28(1) in operation for certain purposes at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**; s. 28(1) in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; s. 28 (except s. 28(1) for certain purposes) in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Transition relating to Part 1

29 Schedule 4 (which makes provision with respect to transition in relation to this Part) has effect.

Commencement Information

I22 S. 29 partly in operation; s. 29 not in operation at Royal Assent see s. 60(1); s. 29 in operation for certain purposes at 1.7.2008 and 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 29 in operation for certain purposes at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**; s. 29 in operation for certain purposes at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2; s. 29 in operation for certain purposes at 9.9.2010 by S.R. 2010/308, **art. 2**

PART 2

HOUSING BENEFIT

Local housing allowance

30.—(1) In section 129 of the Contributions and Benefits Act (housing benefit) subsection (4) ceases to have effect.

(2) After that section insert—

"**129A Appropriate maximum housing benefit**

(1) For the purposes of section 129 above, the appropriate maximum housing benefit (in this section referred to as "the AMHB") is determined in accordance with this section.

(2) Regulations must prescribe the manner in which the AMHB is to be determined.

(3) The regulations may provide for the AMHB to be ascertained in the prescribed manner by reference to Executive determinations.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(4) The regulations may make provision as to the circumstances in which, for the purpose of determining the AMHB, the amount of the liability mentioned in section 129(1)(a) above must be taken to be the amount of an Executive determination instead of the actual amount of that liability.

(5) Regulations under subsection (4) above may also make provision for the liability of a person who, by virtue of regulations under section 133(2)(j) below, is treated as having a liability mentioned in section 129(1)(a) above to be the amount of an Executive determination.

(6) An Executive determination is a determination made by the Executive in the exercise of functions under this section or regulations under this section.".

(3) In Schedule 7 to the 2000 Act (housing benefit: revisions and appeals), in paragraph 4—

(a) in sub-paragraph (1) for "sub-paragraph (4)" substitute " sub-paragraphs (3) and (3A) ";

(b) after sub-paragraph (3) insert—

"(3A) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision relating to housing benefit must be made by the appropriate relevant authority.".

Commencement Information

I23 S. 30 wholly in operation at 7.4.2008; s. 30 not in operation at Royal Assent see s. 60(1); s. 30(2)(3) in operation for certain purposes at 10.3.2008 by S.R. 2008/93, **art. 2(a)**; s. 30 in operation at 7.4.2008 in so far as not already in operation by S.R. 2008/93, **art. 2(b)**

PROSPECTIVE

Loss of housing benefit following eviction for anti-social behaviour, etc.

31.—(1) After section 129A of the Contributions and Benefits Act (inserted by section 30) insert—

"**129B Loss of housing benefit following eviction on certain grounds**

(1) If the following conditions are satisfied, then housing benefit is payable in the case of a person ("the former occupier") subject to subsection (3) below—

(a) a court makes a relevant order for possession of a dwelling occupied by him as his home;

(b) in consequence of the order he ceases to occupy the dwelling;

(c) the condition in subsection (2) below is satisfied; and

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(d) the conditions for entitlement to housing benefit are or become satisfied with respect to him.

(2) The condition in this subsection is that the former occupier fails, without good cause, to comply with a warning notice served on him by the Executive after he has ceased to occupy the dwelling.

(3) During the restriction period or such part of it as may be prescribed, one or both of the following applies—

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

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

(4) The restriction period begins with the earliest date on which the conditions set out in subsections (1) and (2) above are satisfied.

(5) That period stops running if the Executive considers that the restriction set out in subsection (3) above should no longer apply (whether because the former occupier is taking action to improve his behaviour or for any other reason), but starts running again if the former occupier fails to comply with a further warning notice served on him.

(6) The restriction period shall not include any period which falls more than five years after the date on which the order for possession was made.

(7) A former occupier may not be subject to more than one restriction period in respect of one order for possession.

(8) A warning notice is a notice in the prescribed form—

(a) requiring the former occupier to take specified action with the aim of ending, or preventing repetition of, the conduct which may lead or has led to the making of a relevant order for possession,

(b) specifying the time when, or within which, that action must be taken, and

(c) warning the former occupier that if he fails to take the action the amount of housing benefit payable to him would be affected.

129C Relevant orders for possession

(1) In section 129B above a relevant order for possession is—

(a) an order made under Article 29 of the Housing (Northern Ireland) Order 1983 (secure tenancies) on ground 2 set out in Schedule 3 to that Order;

(b) an order made under Article 13 of the Rent (Northern Ireland) Order 1978 (protected or statutory tenancies) in the circumstances specified in Case 2 in Schedule 4 to that Order.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(2) For the purposes of subsection (1) above it does not matter whether the order is made on the grounds or in the circumstances there mentioned alone or together with other grounds or circumstances.

(3) Subsections (4) and (5) below apply if the court—

(a) stays or suspends the execution of a relevant order for possession, or postpones the date of possession under it, and

(b) imposes a condition (or conditions) on that stay, suspension or postponement.

(4) If a condition relates to the behaviour of a person or persons occupying the dwelling, section 129B(3) above applies only if the order takes effect as a result of a breach of that condition.

(5) Section 129B(3) above does not apply if the condition (or, if there is more than one, each of them) relates only to matters other than the behaviour of a person or persons occupying the dwelling.

129D Loss of housing benefit: supplementary

(1) Regulations may provide that, where housing benefit has been paid subject to the restriction set out in section 129B(3) above, in prescribed circumstances—

(a) the former occupier must be paid some or all of the amount of the benefit which, by virtue of that subsection, has not been payable to him, and

(b) such other adjustments must be made as are prescribed.

(2) The Department may by order vary the definition of relevant order for possession by—

(a) adding to or removing from it orders of a specified description;

(b) specifying circumstances in which it includes orders of a specified description.

(3) Regulations may prescribe—

(a) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to take action specified in a warning notice;

(b) circumstances in which a person is, or is not, to be regarded as having, or not having, such good cause.

(4) Expressions used in this section and in section 129B above have the meaning given in that section.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

129E Couples

(1) This section applies where at any time the conditions for entitlement to housing benefit are satisfied with respect to a person who is a member of a couple.

(2) Where paragraphs (a) and (b) of section 129B(1) above are satisfied in relation to both members of the couple (whether or not in respect of the same dwelling), then for the purposes of subsection (2) of that section, the failure by one member of the couple to comply with a warning notice must be treated also as a failure by his partner to comply with it.

(3) Where paragraph (a) of section 129B(1) above is not satisfied in relation to one member of the couple, then subsection (3) of that section does not apply to his partner (even if paragraphs (a), (b) and (c) of section 129B(1) above are satisfied in relation to the partner).

(4) References to a person's partner are to the other member of the couple concerned.

129F Information provision

(1) The Department may by regulations require—

(a) a court which makes a relevant order for possession, or

(b) any other person or description of person who the Department thinks is or may be aware of the making of such an order,

to notify the Department of the making of the order and to provide it with such details of matters in connection with the order as may be prescribed.

(2) The Department may provide—

(a) information obtained under subsection (1) above, or

(b) information which is relevant to the exercise by the Department of any function relating to housing benefit,

to the Executive, or a person authorised to exercise any function of the Executive relating to services to a former occupier with the aim mentioned in section 129B(8)(a) above, for use in the provision of such services.

(3) The Department may by regulations require—

(a) the Executive, or

(b) a person authorised to exercise any function of the Executive relating to services mentioned in subsection (2) above,

to supply relevant information held by the Executive or other person to, or to a person providing services to, the Department for use for any purpose relating to the administration of housing benefit.

(4) The Department may by regulations require—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(a) the Executive,

(b) a person authorised to exercise any function of the Executive relating to housing benefit, or

(c) a person authorised to exercise any function of the Executive relating to services mentioned in subsection (2) above,

to provide relevant information, held by the Executive or person, to the Executive or person mentioned in paragraph (b) above for use for any purpose relating to the administration of housing benefit.

(5) The Department may by regulations require—

(a) the Executive,

(b) a person authorised to exercise any function of the Executive relating to housing benefit, or

(c) a person authorised to exercise any function of the Executive relating to services mentioned in subsection (2) above,

to provide relevant information, held by the Executive or person, to the Executive or person mentioned in paragraph (c) above for use in the provision of those services.

(6) Relevant information is, if the information is held by the Executive or a person authorised to exercise any function of the Executive—

(a) information which is relevant to the exercise of any function relating to housing benefit by the Executive or person;

(b) information which is relevant to the exercise of any function relating to the provision of services mentioned in subsection (2) above.

(7) Information must be supplied under subsection (1), (3), (4) or (5) above in such circumstances, in such manner and form, and in accordance with such requirements, as may be prescribed.

(8) "Relevant order for possession" has the same meaning as in section 129B above.".

(2) In section 172(2) of that Act (Assembly control)—

(a) in paragraph (a), after "104(3)" insert " , 129B(3) ";

(b) in paragraph (c), after "35A(7)," insert " 129D(2), ".

(3) The preceding provisions of this section have no effect after 31st December 2010.

(4) The Department may by order make such provision as it thinks necessary or expedient in consequence of the operation of subsection (3) for the purpose of securing that, with effect from 1st January 2011, housing benefit to which a person who is a former occupier (within the meaning of section 129B of the

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Contributions and Benefits Act) is entitled is not subject to any restriction as mentioned in subsection (3) of that section.

Housing benefit for persons taking up employment

32.—(1) Subsection (2) applies if a person is entitled to housing benefit (by virtue of the general conditions of entitlement) and—

(a) he is also entitled to a prescribed benefit or his partner is entitled to such a benefit,

(b) he or his partner ceases to be entitled to the prescribed benefit in prescribed circumstances, and

(c) the prescribed conditions are satisfied.

(2) That person is entitled to housing benefit in accordance with this section for a prescribed period.

(3) Subsection (2) applies whether or not the person would be entitled to housing benefit by virtue of the general conditions of entitlement for the whole or any part of the prescribed period.

(4) A person who is entitled to housing benefit by virtue of subsection (2) must be treated for all purposes—

(a) as having made a claim for that benefit, and

(b) as having complied with any requirement under or by virtue of any statutory provision in connection with the making of such a claim.

(5) The amount of housing benefit payable in respect of a person who is entitled to the benefit by virtue of subsection (2) is to be determined in accordance with regulations made for the purposes of this section.

(6) If an amount of housing benefit is, by virtue of subsection (2), payable in respect of a person for any period, no other amount of housing benefit is (by virtue of the general conditions of entitlement) payable in respect of that person for the same period.

(7) Regulations may make provision in connection with the effect of a person's entitlement to housing benefit by virtue of subsection (2) on an award of such benefit by virtue of the general conditions of entitlement in respect of that person or his partner.

(8) Regulations may make provision as to circumstances in which subsection (6) does not apply.

(9) For the purposes of subsection (1) a person must be treated as entitled to housing benefit by virtue of the general conditions of entitlement if—

(a) he is not so entitled to that benefit at the time he or his partner ceases to be entitled to the prescribed benefit as mentioned in subsection (1)(b), and

(b) his entitlement to housing benefit ceased during the prescribed period before that time.

Commencement Information

I24 S. 32 wholly in operation at 6.10.2008; s. 32 not in operation at Royal Assent see s. 60(1); s. 32 in operation for certain purposes at 1.7.2008 and wholly in operation at 6.10.2008 by S.R. 2008/276, **art. 2(1)**

Section 32: supplemental

33.—(1) The administration provisions apply in relation to housing benefit to which a person is entitled by virtue of subsection (2) of section 32 subject to—

(a) subsection (4) of that section;

(b) any prescribed modifications of those provisions which the Department thinks are necessary or expedient in connection with such housing benefit.

(2) In this section the administration provisions are—

(a) the Administration Act;

(b) any orders or regulations made in pursuance of that Act.

(3) The power to make regulations under this section or section 32 is exercisable by the Department.

(4) Regulations made under this section or section 32 shall be subject to negative resolution.

(5) Where a power under this section or section 32 to make regulations is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(6) Any such power includes power—

(a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking statutory provisions) as appears to the Department to be expedient; and

(b) to provide for a person to exercise a discretion in dealing with any matter.

(7) Any power to make regulations for the purposes of this section or section 32 is without prejudice to any power to make regulations for the purposes of any other statutory provision.

(8) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954 (c. 33), any power conferred by this section or section 32 includes power to make different provision for different areas.

(9) Regulations under this section or section 32 relating to housing benefit administered by the Department of Finance and Personnel shall not be made without the consent of that Department.

(10) Any power to make regulations under this section or section 32, where the power is not expressed to be exercisable with the consent of the Department of Finance and Personnel shall, if that Department so directs, be exercisable only in conjunction with it.

(11) In section 149 of the Administration Act (Social Security Advisory Committee) in subsection (5) in the definition of "the relevant enactments", before paragraph (b) insert—

"(aj) sections 32 and 33 of the Welfare Reform Act (Northern Ireland) 2007;".

(12) For the purposes of any statutory provision other than a relevant statutory provision entitlement to housing benefit by virtue of section 32(2) is to be treated as entitlement under section 129 of the Contributions and Benefits Act.

(13) In subsection (12), the relevant statutory provisions are—

(a) the administration provisions, and

(b) Part 7 of the Contributions and Benefits Act, except sections 122 and 130(2) and (3).

Commencement Information

I25 S. 33 wholly in operation at 6.10.2008; s. 33 not in operation at Royal Assent see s. 60(1); s. 33 in operation for certain purposes at 1.7.2008 and wholly in operation at 6.10.2008 by S.R. 2008/276, **art. 2(1)**

Sections 32 and 33: interpretation

34.—(1) This section has effect for the interpretation of sections 32 and 33.

(2) The general conditions of entitlement are the conditions governing entitlement to housing benefit provided for by Part 7 of the Contributions and Benefits Act.

(3) Partner, in relation to a person, is a person who is a member of the same couple (within the meaning of Part 7 of the Contributions and Benefits Act) as that person.

(4) Prescribed means prescribed by regulations made by the Department.

Commencement Information

I26 S. 34 wholly in operation at 6.10.2008; s. 34 not in operation at Royal Assent see s. 60(1); s. 34 in operation for certain purposes at 1.7.2008 and wholly in operation at 6.10.2008 by S.R. 2008/276, **art. 2(1)**

PROSPECTIVE

Payment of housing benefit

35 In section 126 of the Administration Act (arrangements for housing benefit), for subsection (2) substitute—

"(2) Housing benefit is to be paid in such manner as is prescribed, and regulations may, in particular, provide for—

(a) a payment or payments by the Housing Executive or the Department of Finance and Personnel, as the case may be, to the person entitled to it (E), to some other person on E's behalf or in respect of a liability which E has,

(b) a reduction in the amount of any payments which E is liable to make to the Housing Executive or the Department of Finance and Personnel, as the case may be, by way of rent or rates, or

(c) such a payment or payments and such a reduction.

(2A) In any statutory provision (whenever passed or made) "pay" in relation to housing benefit includes discharge in any manner prescribed under subsection (2) above.

(2B) Subsection (2) above does not affect any power under section 5 above to make provision in relation to the payment of benefit.".

Directions by Department

36.—(1) Section 128D of the Administration Act (power to give directions) is amended in accordance with subsections (2) to (6).

(2) In subsection (2) for "invite" substitute " require ".

(3) After subsection (2) insert—

"(2A) A requirement under subsection (2) above may specify—

(a) any information or description of information to be provided;

(b) the form and manner in which the information is to be provided.

(2B) The Housing Executive must respond to a requirement under subsection (2) above before the end of such period (not less than one month

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
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after the day on which the requirement is made) as the Department specifies in the requirement.

(2C) The Department may extend the period specified under subsection (2B) above.".

(4) For subsection (3) substitute—

"(3) After considering—

(a) the report,

(b) any proposals made by the Housing Executive in response to it, and

(c) any other information the Department thinks is relevant,

the Department may give directions to the Housing Executive under subsection (3A) or (3B) below or both.

(3A) Directions under this subsection are directions as to—

(a) standards which the Housing Executive is to attain in the prevention and detection of fraud relating to housing benefit or otherwise in the administration of that benefit;

(b) the time within which the standards are to be attained.

(3B) Directions under this subsection are directions to take such action as the Department thinks necessary or expedient for the purpose of improving the Housing Executive's exercise of its functions—

(a) in relation to the prevention and detection of fraud relating to housing benefit;

(b) otherwise in relation to the administration of that benefit.

(3C) A direction under subsection (3B) above may specify the time within which anything is to be done.".

(5) In subsection (4), for "subsection (3)" substitute " subsection (3A) ".

(6) After subsection (4) add—

"(5) If the Department proposes to give a direction under this section it must give the Housing Executive an opportunity to make representations about the proposed direction.

(6) The Department may specify a period within which representations mentioned in subsection (5) above must be made.

(7) The Department may extend a period specified under subsection (6) above.

(8) Subsections (5) to (7) above do not apply if the Department thinks that it is necessary for a direction to be given as a matter of urgency.

(9) If the Department acts under subsection (8) above it must give in writing to the Housing Executive its reasons for doing so.".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(7) After section 128D of that Act insert—

"**128DA Directions: variations and revocation**

(1) The Department may at any time in accordance with this section vary or revoke a direction under section 128D above.

(2) A direction may be varied or revoked only if the Department thinks it is necessary to do so—

(a) in consequence of representations made by the Housing Executive,

(b) to rectify an omission or error, or

(c) in consequence of a material change in circumstances.

(3) The Department must not vary a direction unless it first—

(a) sends a copy of the proposed variation to the Housing Executive,

(b) gives the Housing Executive its reasons for making the variation, and

(c) gives the Housing Executive an opportunity to make representations about the proposed variation.

(4) The Department may specify a period of not less than one month within which representations mentioned in subsection (3)(c) above must be made.

(5) The Department may extend a period specified under subsection (4) above.".

Minor and consequential amendments relating to Part 2

37 Schedule 5 (which makes miscellaneous minor amendments and amendments consequential on this Part) has effect.

Commencement Information

I27 S. 37 partly in operation; s. 37 in operation for certain purposes at 29.6.2007 see s. 60(1)(2)(b); s. 37 in operation for certain purposes at 1.4.2008 by S.R. 2008/147, **art. 2(c)**

PART 3

SOCIAL SECURITY ADMINISTRATION: GENERAL

Sharing of social security information

Social security information

38.—(1) In the Administration Act, after section 5A (sharing of functions as regards certain claims and information) insert—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

"**5B Use of social security information**

(1) A relevant authority may use for a relevant purpose any social security information which it holds.

(2) Regulations may make provision as to the procedure to be followed by a relevant authority for the purposes of any function it has relating to the administration of a specified benefit if the authority holds social security information which—

(a) is relevant for the purposes of anything which may or must be done by the authority in connection with a claim for or an award of the benefit, and

(b) was used by another relevant authority in connection with a claim for or an award of a different specified benefit or was verified by that other authority in accordance with regulations under section 5A(2)(e) above.

(3) A relevant purpose is anything which is done in relation to a claim which is made or which could be made for a specified benefit if it is done for the purpose of—

(a) identifying persons who may be entitled to such a benefit;

(b) encouraging or assisting a person to make such a claim;

(c) advising a person in relation to such a claim.

(4) Social security information means—

(a) information relating to social security, child support or war pensions;

(b) evidence obtained in connection with a claim for or an award of a specified benefit.

(5) A specified benefit is a benefit which is specified in regulations for the purposes of this section.

(6) Expressions used in this section and in section 5A have the same meaning in this section as in that section.

(7) This section does not affect any power which exists apart from this section to use for one purpose social security information obtained in connection with another purpose.".

(2) In section 5A of that Act—

(a) in subsection (2) after paragraph (d) add—

"(e) the verification by a relevant authority of information or evidence supplied to or obtained by the authority in connection with a claim for or an award of a relevant benefit.";

(b) in subsection (3) for "and (d)" substitute " , (d) and (e) ".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Commencement Information

I28 S. 38 wholly in operation at 8.10.2007; s. 38(2) in operation at Royal Assent see s. 60(1)(2)(a); s. 38(1) in operation at 8.10.2007 by S.R. 2007/429, **art. 2(1)(a)**

Information relating to certain benefits

[F86]39 . . . . . .

Textual Amendments

F86 S. 39 repealed (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **123(4)** (with s. 123(5)); S.R. 2016/46, art. 3(4)(h)

Commencement Information

I29 S. 39 wholly in operation at 1.9.2008; s. 39 not in operation at Royal Assent see s. 60(1); s. 39 in operation for certain purposes at 8.8.2008 and wholly in operation at 1.9.2008 by S.R. 2008/339, **art. 2(1)(2)(a)**

Unlawful disclosure of certain information

[F87]40 . . . . . .

Textual Amendments

F87 S. 40 repealed (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **123(4)** (with s. 123(5)); S.R. 2016/46, art. 3(4)(h)

Overpayment recovery

Recovery of overpaid benefit

41.—(1) Section 69 of the Administration Act (overpayments) is amended as follows.

(2) Subsection (5) (recovery of overpayments paid into account not recoverable under regulations under subsection (4) unless determination of amount is reversed on appeal etc. and overpayment is determined on the appeal etc. to be so recoverable) ceases to have effect.

(3) In subsection (5A) (recovery of overpayments paid in consequence of misrepresentation etc. not recoverable under subsection (1) unless determination of amount is reversed on appeal etc.) for "under subsection (1) above" substitute " under subsection (1) above or under regulations under subsection (4) above ".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Benefit fraud

PROSPECTIVE

Housing Executive powers to investigate benefit fraud

42.—(1) Section 104A of the Administration Act (authorisation of investigations by the Housing Executive) is amended as follows.

(2) In subsection (1) for "any one or more of the purposes mentioned in subsection (2) below" substitute " a relevant purpose ".

(3) After subsection (1) insert—

"(1A) Each of the following is a relevant purpose—

(a) a purpose mentioned in subsection (2) below;

(b) a purpose mentioned in section 103A(2)(a), (c) or (d) above.

(1B) If the Department prescribes conditions for the purposes of this section, the Housing Executive must not proceed under this section for a purpose mentioned in section 103A(2)(a), (c) or (d) above unless any such condition is satisfied.

(1C) An authorisation made for a purpose mentioned in section 103A(2)(a), (c) or (d) above—

(a) is subject to such restrictions as may be prescribed;

(b) is not valid in such circumstances as may be prescribed.".

(4) In subsection (2) for "Those purposes" substitute " The purposes in this subsection ".

(5) In subsection (7) after paragraph (c) add— " but paragraphs (a) and (b) above do not apply in any case where the relevant purpose is as mentioned in subsection (1A)(b) above. ".

PROSPECTIVE

Housing Executive powers to prosecute benefit fraud

43 After section 110 of the Administration Act (legal proceedings) insert—

"**110A Housing Executive powers to prosecute benefit fraud**

(1) This section applies if the Housing Executive has power to bring proceedings for a benefit offence relating to housing benefit.

(2) The Housing Executive may bring proceedings for a benefit offence relating to any other relevant social security benefit unless—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(a) the proceedings relate to any benefit or circumstances or any description of benefit or circumstances which the Department prescribes for the purposes of this paragraph, or

(b) the Department has directed that the Housing Executive must not bring the proceedings,

and a direction under paragraph (b) above may relate to the Housing Executive or to particular proceedings or any description of proceedings.

(3) If the Department prescribes conditions for the purposes of this section the Housing Executive must not bring proceedings under this section unless any such condition is satisfied.

(4) The Department may continue proceedings which have been brought by the Housing Executive under this section as if the proceedings had been brought in the Department's name or it may discontinue the proceedings if—

(a) it makes provision under subsection (2)(a) above, such that the Housing Executive would no longer be entitled to bring the proceedings under this section,

(b) it gives a direction under subsection (2)(b) above in relation to the proceedings, or

(c) a condition prescribed under subsection (3) above ceases to be satisfied in relation to the proceedings.

(5) The Housing Executive must not bring proceedings for a benefit offence which does not relate to housing benefit otherwise than in accordance with this section.

(6) In subsection (2) above, "relevant social security benefit" has the same meaning as in section 115CA below.".

PROSPECTIVE

Housing Executive functions relating to benefit: information

44.—(1) Section 116C of the Administration Act (supply of information to the Housing Executive) is amended as follows—

(a) in subsection (2) at the end add " or for the purposes of anything the Housing Executive is permitted to do in relation to any other benefit by virtue of section 104A or 110A above ";

(b) in subsection (3)(a) for "offences relating to housing benefit" substitute " benefit offences (within the meaning of Part 6 above) ".

(2) Section 116D of that Act (supply of information by the Housing Executive) is amended as follows—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(a) in subsection (1), for "benefit administration information" substitute " relevant benefit information ";

(b) in subsection (2A), after "subsection (2)" insert " , in addition to any other purpose for which the information may be used, ";

(c) for subsection (4) substitute—

"(4) In subsection (1) above "relevant benefit information", in relation to the Housing Executive or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit by the Housing Executive or other person.";

(d) in subsection (5), in each place where it occurs, for "housing benefit" substitute " any relevant social security benefit ";

(e) in subsection (6), after the definition of "private pensions policy" insert—

""relevant social security benefit" has the same meaning as in section 115CA above;".

(3) In section 119A of that Act (power to require information from landlords and agents), in subsection (8) for "benefit administration information" substitute " relevant benefit information ".

Loss of benefit for commission of benefit offences

45.—(1) In section 6 of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17) (loss of benefit for commission of benefit offences) in subsection (1)(b) (period within which later offence must be committed), for "three years" substitute " five years ".

(2) The amendment made by subsection (1) shall be disregarded insofar as the application of section 6(1)(b) of that Act involves considering whether an offence committed before the day on which this section comes into operation was committed within the relevant period.

PART 4

MISCELLANEOUS

Benefits for bereaved persons

Widowed mother's allowance

46 In section 37(2) of the Contributions and Benefits Act (which links entitlement to widowed mother's allowance on the ground of being entitled to child benefit to whether one of the conditions specified in section 77(5) of the Act is satisfied), omit the words from "one of the conditions" to "person and".

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Widowed parent's allowance

47 In section 39A(3) of the Contributions and Benefits Act (which links entitlement to widowed parent's allowance on the ground of being entitled to child benefit to whether one of the conditions specified in section 77(5) of the Act is satisfied), omit the words from "one of the conditions" to "person and".

Disability living allowance: age conditions

Care component of disability living allowance: persons under the age of 16

48.—(1) Section 72 of the Contributions and Benefits Act (care component of disability living allowance) is amended as follows.

(2) After subsection (1) insert—

"(1A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) above has effect subject to the following modifications—

(a) the condition mentioned in subsection (1)(a)(ii) above shall not apply, and

(b) none of the other conditions mentioned in subsection (1) above shall be taken to be satisfied unless—

(i) he has requirements of a description mentioned in the condition substantially in excess of the normal requirements of persons of his age, or

(ii) he has substantial requirements of such a description which younger persons in normal physical and mental health may also have but which persons of his age and in normal physical and mental health would not have.".

(3) After subsection (2) insert—

"(2A) The modifications mentioned in subsection (1A) above shall have effect in relation to the application of subsection (1) above for the purposes of subsection (2) above, but only—

(a) in the case of a person who is under the age of 16 on the date on which the award of the care component would begin, and

(b) in relation to so much of any period mentioned in subsection (2) above as falls before the day on which he reaches the age of 16.".

(4) In subsection (5) (terminally ill person to be taken to have satisfied the conditions mentioned in subsection (1)(b) and (c)), after "person, shall" insert " (notwithstanding subsection (1A)(b) above) ".

(5) Subsection (6) (modifications for persons under 16) ceases to have effect.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(6) In subsection (7), for "subsections (5) and (6)" substitute " subsection (5) ".

(7) After that subsection insert—

"(7A) Subsection (1A) above has effect subject to regulations made under subsection (7) above (except as otherwise prescribed).".

Mobility component of disability living allowance: persons under the age of 16

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

(2) For subsection (4) substitute—

"(4A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) above has effect subject to the modification that the condition mentioned in paragraph (d) of that subsection shall not be taken to be satisfied unless—

(a) he requires substantially more guidance or supervision from another person than persons of his age in normal physical and mental health would require, or

(b) persons of his age in normal physical and mental health would not require such guidance or supervision.".

(3) In subsection (5), omit "Subject to subsection (4) above,".

(4) After that subsection insert—

"(5A) Subsection (4A) above has effect subject to regulations made under subsection (5) above (except as otherwise prescribed).".

(5) After subsection (9) insert—

"(9A) The modifications mentioned in subsection (4A) above shall have effect in relation to the application of subsection (1) above for the purposes of subsection (9) above, but only—

(a) in the case of a person who is under the age of 16 on the date on which the award of the mobility component would begin, and

(b) in relation to so much of any period mentioned in subsection (9) above as falls before the day on which he reaches the age of 16.".

Social fund

Matters to which regard must be had in awarding budgeting loans

50 In section 136(1A) of the Contributions and Benefits Act (principles for determining awards of budgeting loans)—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(a) in paragraph (b) (duty to have regard to criteria specified in paragraphs (b) to (e) of subsection (1)), for "(b) to (e)" substitute " (b), (d) and (e) ", and

(b) the words following paragraph (b) (which enable the Department to give directions about cases in which the applicant's personal circumstances would preclude the award of a budgeting loan) cease to have effect.

Allocations from Social Fund

51.—(1) Section 147 of the Administration Act (allocations from social fund) is amended as follows.

(2) In subsection (1) (duty of Department to allocate amounts for payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act), after "Act" insert " (in this section referred to as "section 134(1)(b) payments") ".

(3) In subsection (3) (types of allocation that may be made)—

(a) for paragraph (a) substitute—

"(a) may be for all section 134(1)(b) payments or for any description of such payments;";

(b) in paragraph (b) (power to allocate different amounts for different purposes), for "different purposes" substitute " payments of different descriptions "; and

(c) in paragraph (d) (additional allocations), omit the words from "to the same officer" to the end.

(4) After subsection (3) insert—

"(3A) Without prejudice to the generality of subsection (3)(a) above, descriptions of section 134(1)(b) payments may, in particular, be framed by reference to—

(a) the purposes for which payments are made;

(b) the persons by whom payments are made (including where such persons are located);

(c) the persons to whom payments are made (including where such persons are located).".

Compensation for pneumoconiosis etc.

"Relevant employer"

52.—(1) The Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (NI 9) is amended as follows.

(2) In Article 2(2) (interpretation), at the end add—

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

""relevant employer" has the meaning given in the Schedule.".

(3) In Article 3(3)(b) (payments to persons disabled by pneumoconiosis, etc.) for the words from "every person" to "disablement," substitute " every relevant employer of the person so disabled ".

(4) In Article 11(2) (regulations subject to affirmative resolution), after "Article 4" insert " , regulations under paragraph 9 of the Schedule ".

(5) Insert the Schedule (definition of "relevant employer") set out in Schedule 6.

Commencement Information

I30 S. 52 wholly in operation at 10.8.2007; s. 52 not in operation at Royal Assent see s. 60(1); s. 52 in operation for specified purpose at 19.7.2007 and in operation at 10.8.2007 for all other purposes by S.R. 2007/335, **art. 2**

"Dependant"

53.—(1) In Article 5 of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (NI 9) (meaning of "dependant"), for paragraph (1)(c) substitute—

"(c) if neither sub-paragraph (a) nor sub-paragraph (b) applies but the deceased left a person who was residing with him and with whom he was in a qualifying relationship, that person;".

(2) After paragraph (2) of that Article insert—

"(2A) For the purposes of paragraph (1)(c)—

(a) two persons of the opposite sex are in a qualifying relationship if they are living together as husband and wife;

(b) two persons of the same sex are in a qualifying relationship if they are living together as if they were civil partners.

(2B) For the purposes of paragraph (2A)(b), two persons of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.".

(3) In Schedule 22 to the Civil Partnership Act 2004 (c. 33) (existing provisions to which the provisions of section 246 about interpretation of references to stepchildren apply), after paragraph 6 insert—

"**6A** Article 5(3) of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 ("child" and "relative": establishment of relationship).".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Other

Power to stop payment of allowances to care home residents

54.—(1) In section 67 of the Contributions and Benefits Act (exclusions relating to attendance allowance) for subsection (2) substitute—

"(2) Regulations may provide that an attendance allowance shall not be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(3) The reference in subsection (2) above to a care home is to an establishment that provides accommodation together with nursing or personal care.

(4) The following are qualifying services for the purposes of subsection (2) above—

(a) accommodation,

(b) board, and

(c) personal care.

(5) The reference in subsection (2) above to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.

(6) The power to specify an enactment for the purposes of subsection (2) above includes power to specify it only in relation to its application for a particular purpose.".

(2) In section 72 of that Act (care component of disability living allowance), for subsection (8) substitute—

"(8) Regulations may provide that no amount in respect of a disability living allowance which is attributable to entitlement to the care component shall be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(9) The reference in subsection (8) above to a care home is to an establishment that provides accommodation together with nursing or personal care.

(10) The following are qualifying services for the purposes of subsection (8) above—

(a) accommodation,

(b) board, and

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(c) personal care.

(11) The reference in subsection (8) above to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.

(12) The power to specify an enactment for the purposes of subsection (8) above includes power to specify it only in relation to its application for a particular purpose.".

Commencement Information

I31 S. 54 wholly in operation at 29.10.2007; s. 54 not in operation at Royal Assent see s. 60(1); s. 54 in operation for specified purposes at 8.10.2007 and in operation at 29.10.2007 in so far as not already in operation by S.R. 2007/429, **art. 2(1)(c)(2)**

Medical examinations

55.—(1) The 1998 Order is amended as follows.

(2) In Article 2 (interpretation), in paragraph (2), after the definition of "the Department" insert—

""health care professional" means—

(a) a registered medical practitioner;

(b) a registered nurse;

(c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999 (c. 8); or

(d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17) as the Department may prescribe;".

(3) In Article 19 (medical examination required by the Department), in paragraphs (1) and (2)(b), for "medical practitioner" substitute " health care professional approved by the Department ".

(4) In Article 20 (medical examination required by appeal tribunal), in paragraph (2), for "medical practitioner" substitute " health care professional approved by the Department ".

(5) In that Article, after paragraph (2), insert—

"(2A) The power under paragraph (2) to refer a person to a health care professional approved by the Department includes power to specify the description of health care professional to whom the person is to be referred.".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Minor and consequential amendments relating to Part 4

56 Schedule 7 (which makes miscellaneous minor amendments and amendments consequential on this Part) has effect.

Commencement Information

I32 S. 56 wholly in operation at 27.10.2008; s. 56 in operation for certain purposes at Royal Assent see s. 60(1)(2)(c); s. 56 in operation for certain purposes at 8.10.2007 by S.R. 2007/429, **art. 2(1)(d)**; s. 56 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

PART 5

GENERAL

Interpretation

57.—(1) In this Act—

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998 (NI 10);

"the 2000 Act" means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4);

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992 (c. 8);

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

"the Department" **[**[F88]means the Department for Communities**]** ;

"the Housing Executive" means the Northern Ireland Housing Executive;

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

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

(2) In the application, for the purposes of this Act, of—

(a) section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post) omit the word "registering";

(b) section 39(2) of that Act (time beginning on a particular day), omit the word "not".

Textual Amendments

F88 Words in s. 57(1) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 60** (with art. 9(2))

Repeals

58 The statutory provisions specified in Schedule 8 are hereby repealed to the extent specified.

Commencement Information

I33 S. 58 partly in operation; s. 58 in operation for certain purposes at Royal Assent see s. 60(1)(2)(d); s. 58 in operation for certain purposes at 8.10.2007 by S.R. 2007/429, **art. 2(1)(e)**; s. 58 in operation for certain purposes at 7.4.2008 by S.R. 2008/93, **art. 2(b)**; s. 58 in operation for certain purposes at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2; s. 58 in operation for certain purposes at 1.9.2008 by S.R. 2008/339, **art. 2(2)(c)** (with art. 3(1)(2)); s. 58 in operation for certain purposes at 7.10.2008 by S.R. 2008/339, **art. 2(3)(b)**

Transition

59.—(1) The Department may by order make in connection with the coming into operation of any provision of this Act, except Part 1, such transitional provision or savings as it considers necessary or expedient.

(2) The power under subsection (1) includes power to make incidental, supplementary and consequential provision.

Commencement

60.—(1) This Act, except the provisions specified in subsection (2), shall come into operation on such day or days as the Department may by order appoint.

(2) The provisions referred to in subsection (1) are—

(a) sections 38(2), 41, 50, 51, 53, 55, 57, 59, this section and section 61;

(b) paragraphs 1 and 5 of Schedule 5 and section 37 so far as relating thereto;

(c) paragraphs 1(1) and (3), 2 and 4 of Schedule 7 and section 56 so far as relating thereto;

(d) Schedule 8, so far as relating to—

(i) section 136(1A) of the Contributions and Benefits Act;

(ii) section 69(5), 69ZA and 147(3) of the Administration Act; and

(iii) Article 38(7)(a) of, and paragraph 62(2) of Schedule 6 to, the 1998 Order,

and section 58 so far as relating thereto.

Subordinate Legislation Made

P1 S. 60(1) power partly exercised: different dates appointed for specified provisions by S.R. 2007/335, **art. 2**;
S. 60(1) power partly exercised: different dates appointed for specified provisions by S.R. 2007/429, **art. 2**;
S. 60(1) power partly exercised: different dates appointed for specified provisions by S.R. 2008/93, **art. 2**;
S. 60(1) power partly exercised: 1.4.2008 appointed for specified provisions by S.R. 2008/147, **art. 2**;
S. 60(1) power partly exercised: different dates appointed for specified provisions by S.R. 2008/276, art. 2, **Sch.**;
S. 60(1) power partly exercised: different dates appointed for specified provisions by S.R. 2008/339, **art. 2** (with art. 3(1)(2));
S. 60(1) power partly exercised: 27.10.2008 appointed for specified provision by S.R. 2008/425, **art. 2**;
S. 60(1) power partly exercised: 9.9.2010 appointed for specified provisions by S.R. 2010/308, **art. 2**;
S. 60(1) power partly exercised: 11.7.2011 appointed for specified provisions by S.R. 2011/260, **art. 2**

Short title

61 This Act may be cited as the Welfare Reform Act (Northern Ireland) 2007.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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 1

Section 1.

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

[F89PART 1

CONTRIBUTORY ALLOWANCE]

Textual Amendments

F89 Sch. 1 Pt. 1 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, , 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, **Sch. 2** (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, **art. 4** (with art. 5); S.R. 2018/1, **art. 4** (with art. 5); S.R. 2018/97, **art. 4** (with art. 5); S.R. 2018/138, **art. 4** (with art. 5); S.R. 2019/7, **art. 2(5)-(7)** (with art. 2(8)-(12))

Conditions relating to national insurance

1.—(1) The first condition is that—

(a) the claimant has actually paid Class 1 or Class 2 contributions in respect of one of the last [F90two] complete tax years ("the base tax year") before the beginning of the relevant benefit year,

(b) those contributions must have been paid before the relevant benefit week, and

[F91(c) the claimant's earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 26.]

[F92(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of

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

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

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

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

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

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

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

(ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year's lower earnings limit (or the prescribed equivalent).**]**

(4) Regulations may—

(a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of **[**[F93] persons—

(i) who**]** have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time **[**[F94], or

(ii) who satisfy other prescribed conditions**]**;

(b) with a view to securing any relaxation of the requirements of that condition in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.

(5) In sub-paragraph (4), "benefit" means—

[[F95](za) universal credit,**]**

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

(b) any benefit under Parts 7 to 12 of that Act,

(c) credits under regulations under section 22(5) of that Act,

[[F96](ca) credits under section 23A of that Act,**]**

(d) **[**[F97]an employment and support allowance**]**, and

(e) working tax credit.

Textual Amendments

F90 Word in Sch. 1 para. 1(1)(a) substituted (1.11.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 12(2)**, 36(2); S.R. 2010/341, **art. 2(2)(b)**

F91 Sch. 1 para. 1(1)(c) substituted (1.11.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 12(3)**, 36(2); S.R. 2010/341, **art. 2(2)(b)**

F92 Sch. 1 para. 1(2)(3)(3A) substituted (1.10.2010 for certain purposes, otherwise 1.11.2010) for Sch. 1 para. 1(2)(3) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 12(4)**, 36(2); S.R. 2010/341, **art. 2(1)(c)(2)(c)**

F93 Words in Sch. 1 para. 1(4)(a) substituted (16.12.2011) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 12(5)(a)**, 36(2); S.R. 2011/430, **art. 2**

F94 Words in Sch. 1 para. 1(4)(a) inserted (16.12.2011) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 12(5)(b)**, 36(2); S.R. 2011/430, **art. 2**

F95 Sch. 1 para. 1(5)(za) inserted (27.9.2017) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 2 para. 54**; S.R. 2017/190, art. 4(1)(2)(g)(i)

F96 Sch. 1 para. 1(5)(ca) inserted (11.2.2008) by Pensions Act (Northern Ireland) 2008 (c. 1), s. 3(3), **Sch. 1 para. 11**

F97 Words in Sch. 1 para. 1(5)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(f)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I34 Sch. 1 para. 1 wholly in operation at 27.10.2008; Sch. 1 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 1(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 1 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

2.—(1) The second condition is that—

(a) the claimant has in respect of the last two complete tax years before the beginning of the relevant benefit year either paid or been credited with Class 1 or Class 2 contributions or been credited with earnings, and

(b) the earnings factor derived as mentioned in sub-paragraph (2) must be not less in each of those years than the year's lower earnings limit multiplied by 50.

(2) The earnings factor referred to in sub-paragraph (1)(b) is the aggregate of the claimant's earnings factors derived—

(a) from so much of his earnings as did not exceed the upper earnings limit for the year and upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited, and

(b) from Class 2 contributions.

(3) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, sub-paragraph (2)(a) shall have effect as if such

contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit for the year.

3.—(1) For the purposes of paragraphs 1 and 2—

(a) "benefit year" means a period which is a benefit year for the purposes of Part 2 of the Contributions and Benefits Act or such other period as may be prescribed for the purposes of this Part of this Schedule;

(b) "Class 1 contributions", "Class 2 contributions" and "primary Class 1 contributions" have the same meaning as in the Contributions and Benefits Act (see section 1 of that Act);

(c) "earnings" shall be construed in accordance with sections 3, 4 and 112 of that Act;

(d) "earnings factor" shall be construed in accordance with sections 22 and 23 of that Act;

(e) "lower earnings limit" and "upper earnings limit" shall be construed in accordance with section 5 of that Act and references to the lower or upper earnings limit of a tax year are to whatever is (or was) the limit in force for that year under that section;

(f) "relevant benefit year" is the benefit year which includes the beginning of the period of limited capability for work which includes the relevant benefit week;

(g) "tax year" means the 12 months beginning with 6th April in any year.

(2) Regulations may provide for sub-paragraph (1)(f) to have effect in prescribed circumstances with prescribed modifications in the case of—

(a) a person who has previously ceased to be entitled to **[**[F98]an employment and support allowance**]**;

(b) a person who has made a claim for an employment and support allowance in connection with which he failed to satisfy one or both of the conditions in paragraphs 1 and 2.

Textual Amendments

F98 Words in Sch. 1 para. 3(2)(a) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(f)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Modifications etc. (not altering text)

C20 Sch. 1 para. 3(1)(f) modified (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **13(1)**

C21 Sch. 1 para. 3(1)(f) modified by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), reg. 13 (as substituted (28.6.2010) by Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010 (S.R. 2010/200), **reg. 9(7)**)

C22 Sch. 1 para. 3(1)(f) modified (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations(Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **14(1)**

Commencement Information

I35 Sch. 1 para. 3 wholly in operation at 27.10.2008; Sch. 1 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 3(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 3 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Condition relating to youth

4.—(1) The third condition is that—

(a) the claimant was under 20 or, in prescribed cases, 25 when the relevant period of limited capability for work began,

(b) he is not receiving full-time education,

(c) he satisfies such conditions as may be prescribed with respect to residence or presence in Northern Ireland (or both), and

(d) there has been a day in the relevant period of limited capability for work—

(i) which was a day on which he was aged at least 16, and

(ii) which was preceded by a period of 196 consecutive days throughout which he had limited capability for work.

(2) In sub-paragraph (1), "relevant period of limited capability for work" means the period of limited capability for work which includes the relevant benefit week.

(3) Regulations may prescribe circumstances in which sub-paragraph (1)(a) does not apply in the case of a person who has previously ceased to be entitled to an employment and support allowance to which he was entitled by virtue of satisfying the condition set out in sub-paragraph (1).

(4) Regulations may make provision about when, for the purposes of sub-paragraph (1)(b), a person is, or is not, to be treated as receiving full-time education.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

Modifications etc. (not altering text)

C23 Sch. 1 para. 4(1)(a) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **10(1)**

C24 Sch. 1 para. 4(1)(a) excluded (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations(Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **11(1)**

Commencement Information

I36 Sch. 1 para. 4 wholly in operation at 27.10.2008; Sch. 1 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 4(1)(a)(c)(3)(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 4 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

"Relevant benefit week"

5 In this Part of this Schedule, "relevant benefit week" means the week in relation to which the question of entitlement to an employment and support allowance is being considered.

[F99 PART 2

INCOME-RELATED ALLOWANCE

Textual Amendments

F99 Sch. 1 Pt. 2 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

6.—(1) The conditions are that the claimant—

(a) has an income which does not exceed the applicable amount or has no income;

(b) does not have capital which, or a prescribed part of which, exceeds the prescribed amount;

(c) is not entitled to state pension credit;

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(d) is not a member of a couple the other member of which is entitled to an income-related allowance, state pension credit, income support or an income-based jobseeker's allowance;

(e) is not engaged in remunerative work;

(f) is not a member of a couple the other member of which is engaged in remunerative work;

(g) is not receiving education.

(2) Where the claimant is a member of a couple, the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purpose of this paragraph as income and capital of the claimant.

(3) Regulations may prescribe circumstances in which, for the purposes of sub-paragraph (1)(e) and (f)—

(a) a person who is not engaged in remunerative work is to be treated as engaged in remunerative work, or

(b) a person who is engaged in remunerative work is to be treated as not engaged in remunerative work.

(4) Regulations may—

(a) make provision about when, for the purposes of sub-paragraph (1)(g), a person is, or is not, to be treated as receiving education;

(b) prescribe circumstances in which sub-paragraph (1)(g) does not apply.

(5) In this paragraph—

"applicable amount" means the amount which, in the claimant's case, is the applicable amount for the purposes of section 4(1);

[[F100]"couple" means—

(a) two people who are married to, or civil partners of, each other and are members of the same household, or

(b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other otherwise than in prescribed circumstances;**]**

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

[F101](6) . . . . . .

(7) Regulations may make provision for the preceding provisions of this paragraph to have effect with prescribed modifications in a case where—

(a) the claimant is a husband or wife by virtue of a marriage entered into under a law which permits polygamy,

(b) either party to the marriage has for the time being any spouse additional to the other party, and

(c) the claimant, the other party to the marriage and the additional spouse are members of the same household.

(8) Regulations may make provision for the purposes of this paragraph as to circumstances in which people are to be treated as being or not being members of the same household.**]**

Textual Amendments

F100 Words in Sch. 1 para. 6(5) substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **72(a)** (with regs. 6-9)

F101 Sch. 1 para. 6(6) omitted (13.1.2020) by virtue of The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **72(b)** (with regs. 6-9)

Modifications etc. (not altering text)

C25 Sch. 1 para. 6(1)(g) referred to (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **15** (subject to reg. 18)

C26 Sch. 1 para. 6(1)(g) excluded (27.10.2008) by Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008/280), regs. 1(1), **18**

Commencement Information

I37 Sch. 1 para. 6 wholly in operation at 27.10.2008; Sch. 1 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 1 para. 6(1)(b)(2)-(4)(7)(8) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 6(5) in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 1 para. 6 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

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

I38 Sch. 2 para. 1 wholly in operation at 27.10.2008; Sch. 2 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 1 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 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.

Modifications etc. (not altering text)

C27 Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by The Employment and Support Allowance Regulations (Northern Ireland) 2016 (S.R. 2016/219), regs. 1(2), **85(2)**

C28 Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by The Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (S.R. 2016/221), regs. 1(1)(b), **47(6)**

C29 Sch. 2 para. 2 restricted (temp.) (13.3.2020) by The Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020 (S.R. 2020/33), regs. 1(1), **2** (with reg. 5)

Commencement Information

I39 Sch. 2 para. 2 wholly in operation at 27.10.2008; Sch. 2 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 2 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 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

I40 Sch. 2 para. 3 wholly in operation at 27.10.2008; Sch. 2 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 3 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

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

I41 Sch. 2 para. 4 wholly in operation at 27.10.2008; Sch. 2 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 4 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

[F102 Exemption

Textual Amendments

F102 Sch. 2 para. 4A and cross-heading inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **60(6)**; S.R. 2016/215, art. 2(3)(b)

4A. Regulations may prescribe circumstances in which a person may be entitled to employment and support allowance without having accepted a claimant commitment.**]**

Presence in Northern Ireland

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 Northern Ireland.

Commencement Information

I42 Sch. 2 para. 5 wholly in operation at 27.10.2008; Sch. 2 para. 5 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 5 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

[F103 Contributory allowance:] entitlement in case of absence from Northern Ireland

Textual Amendments

F103 Words in Sch. 2 para. 6 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

6 Regulations may provide that in prescribed circumstances a claimant who is not in Northern Ireland may nevertheless be entitled to **[**[F104]an employment and support allowance**]**.

Textual Amendments

F104 Words in Sch. 2 para. 6 substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I43 Sch. 2 para. 6 wholly in operation at 27.10.2008; Sch. 2 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 6 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

[F105 Contributory allowance:] modification in relation to employment on ships etc.

Textual Amendments

F105 Words in Sch. 2 para. 7 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

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, or

(b) outside Northern Ireland at any prescribed time or in any prescribed circumstances.

(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 Northern Ireland, by a consular official or other prescribed person;

(d) for enabling the whole, or any part, of **[**F106 an employment and support allowance**]** to be paid to such of the claimant's dependants as may be prescribed.

Textual Amendments

F106 Words in Sch. 2 para. 7(2)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I44 Sch. 2 para. 7 wholly in operation at 27.10.2008; Sch. 2 para. 7 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 7 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

Income-related allowance: entitlement in case of absence from Northern Ireland

8.—**[**[F107](1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Northern Ireland continues to be entitled to such an allowance after ceasing to be in Northern Ireland.

(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.**]**

Textual Amendments

F107 Sch. 2 para. 8 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I45 Sch. 2 para. 8 wholly in operation at 27.10.2008; Sch. 2 para. 8 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 8(1) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 2 para. 8 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

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

I46 Sch. 2 para. 9 wholly in operation at 27.10.2008; Sch. 2 para. 9 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 9 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 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.

Commencement Information

I47 Sch. 2 para. 10 wholly in operation at 27.10.2008; Sch. 2 para. 10 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 10 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

[[F108]10ZA. Regulations may for any purpose of this Part provide for—

(a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;

(b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.**]**

Textual Amendments

F108 Sch. 2 para. 10ZA inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(b)**; S.R. 2016/215, art. 2(3)(b)

[[F109]Good [[F110]reason] for failure to comply with certain regulations

Textual Amendments

F109 Sch. 2 para. 10A and preceding cross-heading inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 24(2)**, 36(1)(i)

F110 Word in Sch. 2 para. 10A heading substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(a)**; S.R. 2016/215, art. 2(3)(b)

10A.—(1) This paragraph applies to any regulations made under **[**[F111]paragraph 10ZA**]** that prescribe matters to be taken into account in determining whether a person has **[**[F112]a good reason**]** for any failure to comply with the regulations.

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

(a) the person's physical or mental health or condition;

(b) the availability of childcare.**]**

Textual Amendments

F111 Words in Sch. 2 para. 10A(1) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(c)(i)**; S.R. 2016/215, art. 2(3)(b)

F112 Words in Sch. 2 para. 10A(1) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(c)(ii)**; S.R. 2016/215, art. 2(3)(b)

[[F113]*Responsibility for children*

Textual Amendments

F113 Sch. 2 para. 10B and cross-heading inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(7)**; S.R. 2016/215, art. 2(3)(b)

10B. Regulations may for any purpose of this Part specify circumstances in which a person is or is not responsible for a child.**]**

Treatment of allowance as "benefit"

11 Regulations may provide for—

(a) an employment and support allowance,

(b) **[**[F114]a contributory allowance, or**]**

(c) **[**[F114]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.

Textual Amendments

F114 Sch. 2 para. 11(b)(c) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

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

12 **[**[F115]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.**]**

Textual Amendments

F115 Sch. 2 para. 12 repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

Commencement Information

I48 Sch. 2 para. 12 wholly in operation at 27.10.2008; Sch. 2 para. 12 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 12 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

Treatment of information supplied as information relating to social security

13 Information supplied in pursuance of regulations under any of sections 8 to **[**[F116]11K**]** shall be taken for all purposes to be information relating to social security.

Textual Amendments

F116 Word in Sch. 2 para. 13 substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(8); S.R. 2016/215, **art. 2(3)(b)**; S.R. 2017/190, art. 9 (with arts. 10-25)

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.

Commencement Information

I49 Sch. 2 para. 14 wholly in operation at 27.10.2008; Sch. 2 para. 14 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 14 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

SCHEDULE 3

Section 28.

CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

The Education Reform (Northern Ireland) Order 1989 (NI 20)

1 In Article 131 of the Education Reform (Northern Ireland) Order 1989 (charges and remissions policies), in paragraph (3)(b) (cases where receipt of benefit by pupil's parent to give rise to remission), for "or an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995)" substitute " , an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related employment and support allowance (payable under Part 1 of the Welfare Reform Act (Northern Ireland) 2007) ".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

The Child Support (Northern Ireland) Order 1991 (NI 23)

2.—(1) The Child Support (Northern Ireland) Order 1991 is amended as follows.

(2) In Article 2 (interpretation), after the definition of "income-based jobseeker's allowance" insert—

""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);".

(3) In Article 9 as amended by the 2000 Act (applications by those claiming or receiving benefit), in paragraph (1), after "income-based jobseeker's allowance" insert " , an income-related employment and support allowance ".

(4) In that Article as it has effect apart from the 2000 Act (applications by those receiving benefit), in paragraph (1), after "income-based jobseeker's allowance" insert " , an income-related employment and support allowance ".

(5) In Article 43 as amended by the 2000 Act (reduced benefit decisions), in paragraph (10), in the definition of "relevant benefit", for "or an income-based jobseeker's allowance" substitute " , an income-based jobseeker's allowance, an income-related employment and support allowance ".

(6) In that Article as it has effect apart from the 2000 Act (failure to comply with obligations imposed by Article 9), in paragraph (11), in the definition of "relevant benefit", after "income-based jobseeker's allowance" insert " , an income-related employment and support allowance ".

(7) In Article 44(2)(b) (persons to be exempted from payment of fees), after "income-based jobseeker's allowance," insert " an income-related employment and support allowance, ".

(8) In Part 1 of Schedule 1 as it has effect apart from the 2000 Act (calculation of child support maintenance), in paragraph 5(4) (parents who are to be taken to have no assessable calculable income), after "income-based jobseeker's allowance" insert " , an income-related employment and support allowance ".

Commencement Information

I50 Sch. 3 para. 2 partly in operation; Sch. 3 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 2(1)(8) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 2(2) in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

3.—(1) The Contributions and Benefits Act is amended as follows.

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(2) In section 6A (notional payment of primary Class 1 contribution where earnings not less than lower earnings limit), in subsection (3) (purposes for which Class 1 contribution treated as paid), at the end add "; and

(e) any purposes relating to employment and support allowance.".

(3) In section 22 (earnings factors)—

(a) in subsection (2) (purposes for which a person may be treated as having annual earnings factors), in paragraph (a), after "jobseeker's allowance" insert " , to a contributory employment and support allowance ";

(b) in subsection (5) (power to provide for crediting earnings or Class 2 contributions), after "jobseeker's allowance" insert " , to a contributory employment and support allowance ".

(4) At the end of section 22 add—

"(8) In this section, "contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).".

(5) Sections 30A to 30E (incapacity benefit) cease to have effect.

(6) In section 61A (contributions paid in error), in subsection (3), at the end of paragraph (c) insert " and ".

(7) **[**[F117]In section 88 (increases of benefit to be in respect of only one adult dependant), for "86A" substitute " 85 ".**]**

(8) **[**[F118]In section 89(1) and (1A) (earnings to include occupational and personal pensions etc. for purposes of provisions relating to increases of benefits in respect of adult dependants), for "to 86A" substitute " to 85 ".**]**

(9) In section 123 (income support), in subsection (1), after paragraph (g) add "; and

(h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance.".

(10) At the end of section 123 add—

"(7) In this section, "income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).".

(11) In section 146 (interpretation of Part 10: Christmas bonus)—

(a) in subsection (1) (definition of "qualifying benefit"), after paragraph (b) insert—

"(ba) a qualifying employment and support allowance;";

(b) in subsection (2), after the definition of "the qualifying age for state pension credit" insert—

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

""qualifying employment and support allowance" means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 the calculation of the amount of which includes an addition in respect of the support component or the work-related activity component;".

(12) Sections 167A to 167G (incapacity for work) cease to have effect.

(13) In paragraph 5 of Schedule 3 (contribution conditions for widowed mother's allowance etc.), after sub-paragraph (6) insert—

"(6A) The first condition shall be taken to be satisfied if the contributor concerned was entitled to main phase employment and support allowance at any time during—

(a) the year in which he attained pensionable age or died under that age, or

(b) the year immediately preceding that year.

(6B) The reference in sub-paragraph (6A) above to main phase employment and support allowance is to an employment and support allowance in the case of which the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act (Northern Ireland) 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied).".

Textual Amendments

F117 Sch. 3 para. 3(7) repealed (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 30(4), 34(1), 36(1)(m)(2), **Sch. 4 Pt. 2** (with s. 14(2))

F118 Sch. 3 para. 3(8) repealed (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 30(4), 34(1), 36(1)(m)(2), **Sch. 4 Pt. 2** (with s. 14(2))

Commencement Information

I51 Sch. 3 para. 3 partly in operation; Sch. 3 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 3(1)(3)(b)(4) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 3 (except sub-paras. (5)(12)) in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

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

(2) In section 1 (entitlement to benefit dependent on claim), in subsection (4) (definition of "benefit"), after "state pension credit;" insert—

"(ac) an employment and support allowance;".

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) in subsection (2) (benefits to which section applies), at the end add "; and

(f) an employment and support allowance.".

(4) In section 5 (regulations about claims for and payments of benefit), in subsection (2) (benefits to which section applies), after paragraph (ab) insert—

"(ac) an employment and support allowance;".

F119(5) . . . . . .

(6) In section 69 (overpayments), in subsection (11) (benefits to which section applies), after paragraph (ab) insert—

"(ac) an employment and support allowance;".

(7) In section 71 (overlapping benefits)—

(a) in subsection (1), after "contribution-based jobseeker's allowance" insert " or a contributory employment and support allowance ";

(b) in subsection (4), after paragraph (b) add "or

(c) a contributory employment and support allowance,".

(8) In section 72 (income support and other payments)—

(a) in subsections (1)(b) and (2)(b), for "or state pension credit" substitute " , state pension credit or an income-related employment and support allowance ";

(b) in subsection (3)(b), for "or an income-based jobseeker's allowance", in each place, substitute " , an income-based jobseeker's allowance or an income-related employment and support allowance ".

(9) In section 72A (payment of benefit where maintenance payments collected by Department), in subsection (7) (benefits to which section applies), after "an income-based jobseeker's allowance" insert " , an income-related employment and support allowance ".

(10) In section 100 (failure to maintain)—

(a) in subsection (1)(b), for "or an income-based jobseeker's allowance" substitute " , an income-based jobseeker's allowance or an income-related employment and support allowance ";

(b) in subsection (4), after "an income-based jobseeker's allowance" insert " or an income-related employment and support allowance ".

(11) In section 115CA (interpretation of Part 6), in subsection (1) (definition of "the relevant social security legislation"), after paragraph (hh) insert—

"(hi) Part 1 of the Welfare Reform Act (Northern Ireland) 2007;".

F120(12) . . . . . .

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

(13) In section 116B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after "the Jobseekers (Northern Ireland) Order 1995" insert " , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ".

(14) In section 116C (supply of information to the Housing Executive), in subsection (6)(b), after "the Jobseekers (Northern Ireland) Order 1995" insert " , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ".

(15) In section 118 (regulations as to notification of death), in subsection (1), after "the State Pension Credit Act (Northern Ireland) 2002" insert " , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ".

(16) In section 119 (personal representatives to give information about the estate of a deceased person who was in receipt of certain benefits), in subsection (1), after "state pension credit" insert " , an income-related employment and support allowance ".

(17) In section 122 (duties of employers: statutory sick pay), in subsection (1) (power to require employer to supply information in connection with making of claim for certain benefits by employee), at the end add—

"(f) an employment and support allowance.".

(18) In section 124 (power to require employers to provide information in connection with claims to certain benefits), in subsection (1), after paragraph (a) insert—

"(aa) an employment and support allowance;".

(19) In section 139B (effect of alterations affecting state pension credit)—

(a) before "or" at the end of subsection (1)(b)(iii) insert—

"(iiia) in any component of a contributory employment and support allowance,";

(b) in subsection (6), in the definition of "component", at the end add—

"(c) in relation to a contributory employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 which are relevant in calculating the amount payable by way of a contributory employment and support allowance;".

(20) After section 139B insert—

"**139C Effect of alteration of rates of an employment and support allowance**

(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—

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(a) an award of an employment and support allowance is in force in favour of any person ("the recipient"), and

(b) an alteration—

(i) in any component of the allowance,

(ii) in the recipient's benefit income, or

(iii) in the recipient's war disablement or war widow's or widower's pension,

affects the computation of the amount of the employment and support allowance to which he is entitled.

(2) Where, as a result of the alteration, the amount of the employment and support allowance to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of the employment and support allowance payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of an employment and support allowance as before, the award shall continue in force accordingly.

(4) Subsection (5) below applies where a statement mentioned in section 159C(4) of the Great Britain Administration Act is made.

(5) If, in a case where this subsection applies, an award of an employment and support allowance is made in favour of a person before the proposed commencing date (within the meaning of section 159C(4) of the Great Britain Administration Act) and after the date on which the statement is made, the award—

(a) may provide for the employment and support allowance to be paid as from the proposed commencing date (within the meaning of that section) at a rate determined by reference to the amounts of the items referred to in subsection (1)(b)(i) to (iii) above which will be in force on that date, or

(b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

"alteration" means—

(a) in relation to any component of an employment and support allowance, its alteration by or under any enactment;

(b) in relation to a person's benefit income, the alteration of any of the applicable sums by any enactment or an order under section 132 or

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133 above to the extent that any such alteration affects the amount of his benefit income;

(c) in relation to a person's war disablement pension or war widow's or widower's pension, its alteration by or under any enactment;

"applicable sums" has the same meaning as in section 139 above;

"benefit income", in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

"the commencing date", in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

"component", in relation to an employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 which are relevant in calculating the amount payable by way of an employment and support allowance;

"war disablement pension" and "war widow's or widower's pension" have the same meaning as in section 139B above.".

(21) After section 140A insert—

"**140B Implementation of increases in employment and support allowance due to attainment of particular ages**

(1) This section applies where—

(a) an award of an employment and support allowance is in force in favour of a person ("the recipient"), and

(b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age ("the qualifying age").

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an employment and support allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of the Department; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to a benefit under the Contributions and Benefits Act.

(4) Subsection (2) above does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to an employment and support allowance, other than—

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(a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case, and

(b) the question whether, in consequence, the amount of his employment and support allowance falls to be varied.

(5) In this section, "component", in relation to a recipient and his employment and support allowance, means any of the amounts determined in accordance with regulations made under section 2(1)(a) or 4(2)(a) of the Welfare Reform Act (Northern Ireland) 2007.".

(22) In section 144 (destination of repayments, etc.), in subsection (1), after "Article 38 of the Jobseekers (Northern Ireland) Order 1995" insert " , section 27 of the Welfare Reform Act (Northern Ireland) 2007 ".

(23) In section 145 (adjustments between National Insurance Fund and Consolidated Fund), in subsection (6)(a) after "state pension credit" insert " , income-related employment and support allowance ".

(24) In section 149 (Social Security Advisory Committee), in subsection (5) in the definition of "the relevant enactments", after paragraph (ai) insert—

"(aia) the provisions of Part 1 of the Welfare Reform Act (Northern Ireland) 2007;".

(25) In section 155 (reciprocal agreements with countries outside the United Kingdom)—

(a) in subsection (3)(a), after "the State Pension Credit Act (Northern Ireland) 2002" insert " , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ";

(b) in subsection (4), after paragraph (ac) insert "and

(ad) to Part 1 of the Welfare Reform Act (Northern Ireland) 2007;";

(c) in subsection (5), after paragraph (ab) insert—

"(ac) employment and support allowance;".

(26) In section 156 (payment of travelling expenses by Department), after "the State Pension Credit Act (Northern Ireland) 2002", in both places, insert " , Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ".

(27) In section 163 (certain benefits to be inalienable), in subsection (1), after paragraph (ab) insert—

"(ac) an employment and support allowance;".

(28) In section 167(1) (general interpretation)—

(a) in the definition of "benefit", for "and state pension credit" substitute " , state pension credit and an employment and support allowance ";

(b) after the definition of "the Contributions and Benefits Act" insert—

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""contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);";

(c) after the definition of "income-related benefit" insert—

""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);".

Textual Amendments

F119 Sch. 3 para. 4(5) repealed (6.4.2018) by The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **15(12)(e)**; S.R. 2018/66, art. 2(1) (with art. 2(2)(3))

F120 Sch. 3 para. 4(12) repealed (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 12**; S.R. 2016/46, art. 3(6)(c)

Commencement Information

I52 Sch. 3 para. 4 wholly in operation at 27.10.2008; Sch. 3 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 4(1)(2)(28) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; Sch. 3 para. 4(3)-(8)(11) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 4 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

The Children (Northern Ireland) Order 1995 (NI 2)

5.—(1) The Children (Northern Ireland) Order 1995 is amended as follows.

(2) In Article 2 (interpretation), in paragraph (2), after the definition of "income-based jobseeker's allowance" insert—

""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);".

(3) In Article 18 (duty of authority to provide personal social services for children in need, their families and others), in paragraph (9) (persons exempt from repayment of assistance), for "or of an income-based jobseeker's allowance" substitute " , of an income-based jobseeker's allowance or of an income-related employment and support allowance ".

(4) In Article 18C (direct payments), in paragraph (7) (persons in relation to whom special provision applies), in sub-paragraph (b), for "or of an income-based jobseeker's allowance" substitute " , of an income-based jobseeker's allowance or of an income-related employment and support allowance ".

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(5) In Article 24 (recoupment of costs of providing services, etc.), in paragraph (3) (exempt persons), for "or of an income-based jobseeker's allowance" substitute " , of an income-based jobseeker's allowance or of an income-related employment and support allowance ".

(6) In Article 39 (liability to contribute), in paragraph (4) (persons exempt from liability to contribute), for "or of an income-based jobseeker's allowance" substitute " , of an income-based jobseeker's allowance or of an income-related employment and support allowance ".

The Jobseekers (Northern Ireland) Order 1995 (NI 15)

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

(2) In Article 2 (interpretation)—

(a) in paragraph (2), after the definition of "income-based jobseeker's allowance" insert—

""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);";

(b) in paragraph (3), for "capable of work" substitute " limited capability for work ".

(3) In Article 3 (the jobseeker's allowance), in paragraph (2) (conditions of entitlement), for sub-paragraph (f) substitute—

"(f) does not have limited capability for work;".

(4) In Article 5 (income-based conditions), in paragraph (1)—

(a) in sub-paragraph (b), for "or state pension credit" substitute " , state pension credit or an income-related employment and support allowance ";

(b) after sub-paragraph (dd) insert—

"(de) is not a member of a couple the other member of which is entitled to an income-related employment and support allowance;".

(5) In Article 5A (conditions for claims by joint-claim couples), in paragraph (1), after sub-paragraph (cc) insert—

"(cd) that neither member of the couple is entitled to an income-related employment and support allowance;".

(6) In Schedule 1 (supplementary provisions), for paragraph 2, and the italic cross-heading immediately preceding it, substitute—

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"Limited capability for work

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

(2) References in Part 1 of the Welfare Reform Act (Northern Ireland) 2007 to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this Order as references to the purposes of this Order.".

Commencement Information

I53 Sch. 3 para. 6 wholly in operation at 27.10.2008; Sch. 3 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 6(1)(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 6 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

The Road Traffic (Northern Ireland) Order 1995 (NI 18)

7 In Article 25 of the Road Traffic (Northern Ireland) Order 1995 (payments in respect of applicants for exemption from wearing seat belts), in paragraph (2) (applicants who qualify), in sub-paragraph (b) after "Jobseekers (Northern Ireland) Order 1995" insert " , an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) or ".

The Pensions (Northern Ireland) Order 1995 (NI 22)

8 In Schedule 2 to the Pensions (Northern Ireland) Order 1995 (equalisation of pensionable ages for men and women), in paragraph 1 (enactments for the purposes of which the rules for determining pensionable age apply) for "and the State Pension Credit Act (Northern Ireland) 2002" substitute " , the State Pension Credit Act (Northern Ireland) 2002 and Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ".

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

9.—(1) The Industrial Tribunals (Northern Ireland) Order 1996 is amended as follows.

(2) In Article 18 (power to provide for recoupment of benefits)—

(a) in paragraphs (3)(a) and (c) and (4)(cc) and (e), for "or income support" substitute " , income support or income-related employment and support allowance ";

(b) in paragraph (3)(b), for "either benefit" substitute " jobseeker's allowance, income support or income-related employment and support allowance ".

(3) In Article 19 (recoupment: further provisions), in paragraph (1), for "or income support", in both places, substitute " , income support or income-related employment and support allowance ".

(4) In that Article, at the end add—

"(5) In this Article and Article 18 "income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).".

Commencement Information

I54 Sch. 3 para. 9 wholly in operation at 27.10.2008; Sch. 3 para. 9 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 9 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

The Social Security (Northern Ireland) Order 1998 (NI 10)

10.—(1) The 1998 Order is amended as follows.

(2) In Article 4 (use of computers), in paragraph (2) (meaning of "relevant statutory provision"), after sub-paragraph (i) add "; or

(j) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.".

(3) In Article 9 (which provides for any decision on a claim for a relevant benefit, or under or by virtue of a relevant statutory provision, to be made by the Department) —

(a) in paragraph (3) (meaning of "relevant benefit"), after paragraph (b) insert—

"(ba) an employment and support allowance;";

(b) in paragraph (4) (definition of "relevant statutory provision"), for "or the State Pension Credit Act (Northern Ireland) 2002" substitute " , the State Pension Credit Act (Northern Ireland) 2002 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007. ".

(4) In Article 12 (regulations with respect to decisions), in paragraph (3), in the definition of "the current legislation", for "and the State Pension Credit Act (Northern Ireland) 2002" substitute " , the State Pension Credit Act (Northern Ireland) 2002 and Part 1 of the Welfare Reform Act (Northern Ireland) 2007. ".

(5) In Article 27 (restrictions on entitlement to benefit in certain cases of error), in paragraph (7), in the definition of "benefit"—

(a) after paragraph (dd) insert—

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"(de) an employment and support allowance;";

(b) in paragraph (e), for "to (dd)" substitute " to (de) ".

(6) In Article 28 (correction of errors and setting aside of decisions), in paragraph (3) (definition of "relevant statutory provision"), at the end add "; or

(g) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.".

(7) In Article 31 (incapacity for work), after paragraph (1) insert—

"(1A) Regulations may provide that a determination that a person is disqualified for any period in accordance with regulations under section 18(1) to (3) of the Welfare Reform Act (Northern Ireland) 2007 shall have effect for such purposes as may be prescribed as a determination that he is to be treated as not having limited capability for work for that period, and vice versa.".

(8) In Schedule 2 (decisions against which no appeal lies), in paragraph 6(b) (alteration of rates of benefit), at the end add ", or

(iv) section 139C(1)(b) of that Act (employment and support allowance).".

(9) In Schedule 3 (decisions against which an appeal lies), in paragraph 3 (payability of benefit), at the end add "; or

(g) section 18 of the Welfare Reform Act (Northern Ireland) 2007.".

Commencement Information

I55 Sch. 3 para. 10 wholly in operation at 27.10.2008; Sch. 3 para. 10 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 10(1)(3)(6) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; Sch. 3 para. 10(2) in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**; Sch. 3 para. 10(7) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 10 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

The Immigration and Asylum Act 1999 (c. 33)

11 In section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) in subsection (2) (benefits to which entitlement excluded), after "2002," insert " to income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) ".

The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)

12 In Article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (power to make regulations about the use and supply of social security

information), in paragraph (3) (provisions in connection with which the power is exercisable), at the end add “, or

(d) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

Commencement Information

I56 Sch. 3 para. 12 wholly in operation at 27.10.2008; Sch. 3 para. 12 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 12 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

13 [F121] . . . . . .

Textual Amendments

F121 Sch. 3 para. 13 repealed (23.9.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 34(1), 36(2), **Sch. 4 Pt. 3**; S.R. 2010/327, **art. 2(2)(c)(vi)(d)**

The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)

14.—(1) The Social Security Fraud Act (Northern Ireland) 2001 is amended as follows.

(2) In section 6 (loss of benefit for commission of benefit offences) after subsection (4A) insert—

“(4B) The Department may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

(a) the rate of the allowance were such reduced rate as may be prescribed;

(b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;

(c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.”.

(3) [F122] . . . . . .

(4) In section 8 (effect of offence on benefits for members of offender's family), in subsection (1) (benefits to which section applies), after paragraph (bb) insert—

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"(bc) employment and support allowance;".

(5) In that section, after subsection (4A) insert—

"(4B) In relation to cases in which the benefit is employment and support allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-related allowance shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or more of the following applied—

(a) the rate of the allowance were such reduced rate as may be prescribed;

(b) the allowance were payable only if there is compliance by the offender or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;

(c) the allowance were payable only if circumstances are otherwise such as may be prescribed.".

(6) In section 9 (power to supplement and mitigate loss of benefit provisions) in subsection (3) (definition of "social security benefit"), after paragraph (bb) insert—

"(bc) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance) or under Part 1 of the Welfare Reform Act 2007;".

(7) In section 10 (loss of benefit regulations), in subsection (3) (regulations subject to confirmatory procedure), in paragraph (c) after "(4A)", in both places, insert " , (4B) ".

(8) In section 12 (interpretation of sections 6 to 11), after the definitions by reference to the Jobseekers Order insert—

""income-related allowance" has the same meaning as in Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);".

Textual Amendments

F122 Sch. 3 para. 14(3) repealed (23.9.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 34(1), 36(2), **Sch. 4 Pt. 3**; S.R. 2010/327, **art. 2(2)(c)(vi)(d)**

Commencement Information

I57 Sch. 3 para. 14 wholly in operation at 27.10.2008; Sch. 3 para. 14 not in operation at Royal Assent see s. 60(1); Sch. 3 para. 14(1)-(5)(8) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1; Sch. 3 para. 14 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

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SCHEDULE 4

Section 29.

TRANSITION RELATING TO PART 1

General power to provide for transition relating to Part 1

1.—(1) Regulations may make such provision as the Department considers necessary or expedient—

(a) in connection with the coming into operation of any provision of, or repeal relating to, this Part, or

(b) otherwise for the purposes of, or in connection with, the transition to employment and support allowance.

(2) The following provisions of this Schedule are not to be taken as prejudicing the generality of sub-paragraph (1).

Commencement Information

I58 Sch. 4 para. 1 wholly in operation at 27.7.2008; Sch. 4 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 1(1) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; Sch. 4 para. 1(2) in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**

Pre-commencement claims

2 Regulations may—

(a) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made before the appointed day to be treated wholly or partly as a claim for an employment and support allowance;

(b) make provision for the purpose of enabling claims for an employment and support allowance to be made before the appointed day for a period beginning on or after that day.

Commencement Information

I59 Sch. 4 para. 2 wholly in operation at 27.7.2008; Sch. 4 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 2 in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**

Post-commencement claims

3 Regulations may—

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(a) make provision excluding the making of a claim for incapacity benefit or severe disablement allowance on or after the appointed day;

(b) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made on or after the appointed day to be treated in prescribed circumstances as a claim for an employment and support allowance;

(c) make provision for a claim for an employment and support allowance to be treated wholly or partly as a claim for incapacity benefit, income support or severe disablement allowance;

(d) make provision excluding the making of a claim for an employment and support allowance by a person who is entitled to an existing award.

Commencement Information

I60 Sch. 4 para. 3 partly in operation; Sch. 4 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 4 para. 3(b)-(d) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**

PROSPECTIVE

Award of employment and support allowance for pre-commencement period

4 Regulations may—

(a) make provision for an employment and support allowance of such a kind as the regulations may provide to be awarded in prescribed circumstances for a period before the appointed day;

(b) make provision with respect to conditions of entitlement in relation to an award under sub-paragraph (a) and the amount payable by way of an allowance under such an award.

PROSPECTIVE

Matching of awards of employment and support allowance

5.—(1) For the purposes of this paragraph, an award of an employment and support allowance is one that falls to be made on matching terms if—

(a) it is made in pursuance of a claim by a person who was previously entitled to an existing award, and

(b) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement

allowance, the award which would have been made to him ("the hypothetical award") would have been made on the basis of the linking of periods of incapacity for work.

(2) Regulations may—

(a) make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the hypothetical award;

(b) make provision for the modification of matched awards for the purpose of securing that the person with the award is put in the position he would have been had he been made the hypothetical award which was then the subject of conversion under paragraph 7.

(3) In sub-paragraph (2)(b), the reference to matched awards is to awards of an employment and support allowance that have been the subject of matching in pursuance of regulations under sub-paragraph (2)(a).

6.—(1) For the purposes of this paragraph an award of an employment and support allowance is one which falls to be made on matching terms if—

(a) it is made in pursuance of a claim by a person who was previously entitled to an existing award,

(b) had he continued to be entitled to that award, it would have been the subject of conversion under paragraph 7 before the date of his claim for an employment and support allowance, and

(c) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him would have been made on the basis of the linking of periods of incapacity for work.

(2) Regulations may make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the award that would have resulted from conversion under paragraph 7 had entitlement to the existing award continued.

Treatment of existing awards

7.—(1) Regulations may—

(a) make provision for converting existing awards into awards of an employment and support allowance, and with respect to the terms of conversion;

(b) make provision for the termination of existing awards in prescribed circumstances.

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(2) Regulations under sub-paragraph (1)(a) may, in particular—

(a) make provision for conversion of an existing award—

(i) on application, in accordance with the regulations, by the person entitled to the award, or

(ii) without application;

(b) make provision about the conditions to be satisfied in relation to an application for conversion;

(c) make provision about the timing of conversion;

(d) provide for an existing award to have effect after conversion as an award of an employment and support allowance—

(i) of such a kind,

(ii) for such period,

(iii) of such an amount, and

(iv) subject to such conditions,

as the regulations may provide;

(e) make provision for determining in connection with conversion of an existing award whether a person has limited capability for work-related activity.

[[F123](f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.**]**

(3) Regulations under sub-paragraph (1)(a) may, in relation to existing awards which have been the subject of conversion under this paragraph, include provision about revision under Article 10 of the 1998 Order, or supersession under Article 11 of that Order in respect of the period before conversion.

Textual Amendments

F123 Sch. 4 para. 7(2)(f) inserted (17.3.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **57(4)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

Modifications etc. (not altering text)

C30 Sch. 4 para. 7 Power to modify conferred (11.3.2017) by The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), **9(5)**; S.R. 2017/46, art. 2(a)

Transitional allowances

8 Regulations may—

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(a) make provision for a person's continuing entitlement to an employment and support allowance awarded by virtue of regulations under paragraph 7 (a "transitional allowance") to be determined by reference to such provision as may be made by the regulations;

(b) make provision for the review of an award of a transitional allowance;

(c) make provision for the termination of an award of a transitional allowance;

(d) make provision for this Part, or any other statutory provision relating to social security, to have effect with prescribed modifications in relation to a person with a transitional allowance;

(e) make provision for the purpose of enabling a transitional allowance to be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order.

PROSPECTIVE

9.—(1) Regulations may prescribe circumstances in which a person who is entitled to a transitional allowance immediately before reaching pensionable age is to be treated as having satisfied the condition in paragraph 5(2) of Schedule 3 to the Contributions and Benefits Act (first contribution condition for entitlement to state pension).

(2) In this paragraph, "pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (NI 22).

PROSPECTIVE

Post-commencement up-rating of incapacity benefit and severe disablement allowance

10 Regulations may provide for section 132 of the Administration Act (annual up-rating of benefits), so far as relating to—

(a) incapacity benefit under section 30A of the Contributions and Benefits Act, or

(b) severe disablement allowance,

to have effect with prescribed modifications in relation to tax years beginning on or after the appointed day.

Interpretation

11 In this Schedule—

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"appointed day" means the day appointed for the coming into operation of section 1;

"existing award" means—

(a) an award of incapacity benefit,

(b) an award of severe disablement allowance, and

(c) an award of income support made to a person to whom regulation 6(4)(a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, the Income Support (General) Regulations (Northern Ireland) 1987 (SR 1987/459) (persons incapable of work or disabled) applies;

"incapacity benefit" (except in paragraph 10(a)) means—

(a) incapacity benefit under section 30A, 40 or 41 of the Contributions and Benefits Act;

(b) long-term incapacity benefit under regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 (SR 1995/35) (former sickness benefit); and

(c) invalidity benefit which has effect by virtue of regulation 17(1) of those regulations as if it were long-term incapacity benefit;

"income support" means income support under section 123 of the Contributions and Benefits Act;

"severe disablement allowance" means severe disablement allowance under section 68 of that Act (as it has effect by virtue of Article 4 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000 (SR 2000/332));

"transitional allowance" has the meaning given by paragraph 8(a).

SCHEDULE 5

Section 37.

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

1 The Administration Act is amended as follows.

2 In section 128E (information about attainment of standards), in subsection (1)—

(a) for "section 128D(3)" substitute " section 128D(3A) or (3B) ";

(b) after paragraph (a) insert—

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"(aa) whether the Housing Executive has taken the action which it has been directed to take;";

(c) in paragraph (b) after "those standards" insert " or take that action ".

3.—(1) Section 128F (enforcement notices) is amended as follows.

(2) In subsection (1)—

(a) for "section 128D(3)" substitute " section 128D(3A) or (3B) ";

(b) after paragraph (a) insert—

"(aa) is not satisfied that the Housing Executive has taken the action which it has been directed to take;";

(c) in paragraph (b) after "those standards" insert " or take that action ".

(3) In subsection (2)(a), after "paragraph (a)" insert " , (aa) ".

(4) In subsection (4), at the beginning insert " If the notice identifies directions under section 128D(3A) above, ".

(5) After subsection (4) insert—

"(4A) If the notice identifies directions under section 128D(3B) above, the Housing Executive's response shall either—

(a) state that the Housing Executive has taken the action, or is likely to take it within the time specified in the directions, and justify that statement; or

(b) state that the Housing Executive has not taken the action, or is not likely to take it within that time, and (if the Housing Executive wishes) give reasons why a determination under section 128G below should not be made or should not include any particular provision.".

4.—(1) Section 128G (enforcement determinations) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) after "the standards" insert " or taken the action ";

(b) in paragraph (b) after "those standards" insert " or take that action ".

(3) In subsections (3) and (5)(c), after "the standards" insert " or the taking of the action ".

5 In section 167(1) (interpretation), in the definition of "prescribe" at the end add " and "prescribed" must be construed accordingly ".

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PROSPECTIVE

The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

6 In Schedule 7 to the 2000 Act (housing benefit: revisions and appeals), in paragraph 1(2), after head (b) add—

"(c) a decision of a relevant authority under or by virtue of section 73 of the Administration Act that an amount of housing benefit is recoverable;".

SCHEDULE 6

Section 52(5).

SCHEDULE TO BE INSERTED IN THE PNEUMOCONIOSIS, ETC., (WORKERS' COMPENSATION) (NORTHERN IRELAND) ORDER 1979

Commencement Information

I61 Sch. 6 wholly in operation at 10.8.2007; Sch. 6 not in operation at Royal Assent see s. 60(1); Sch. 6 in operation for specified purposes at 19.7.2007 and in operation at 10.8.2007 for all other purposes by S.R. 2007/335, **art. 2**

"THE SCHEDULE

DEFINITION OF "RELEVANT EMPLOYER"

Basic definition

1 Subject to the following provisions, "relevant employer", in relation to a person disabled by a disease to which this Order applies, means any person—

(a) by whom the disabled person was employed in a prescribed occupation at any time during the period during which he was developing the disease, and

(b) against whom he might have or might have had a claim for damages in respect of the disablement.

Disregarded employers

2 A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person has had no period of employment with him which is a qualifying period of employment.

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3 A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him did not exceed 12 months.

4 A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him—

(a) did not exceed 5 years, and

(b) represents not more than 25 per cent. of the time during which the disabled person was employed in a prescribed occupation.

5 A person is not a relevant employer in relation to a person disabled by a disease to which this Order applies if the disabled person's qualifying period of employment with him—

(a) did not exceed 7 years, and

(b) represents not more than 20 per cent. of the time during which the disabled person was employed in a prescribed occupation.

6 In paragraphs 3 to 5, references to the disabled person's qualifying period of employment with his employer, where there has been more than one such period, are to the aggregate of those periods.

"Qualifying period of employment"

7.—(1) In this Schedule, "qualifying period of employment", in relation to a person disabled by a disease to which this Order applies, means any period of employment in a prescribed occupation, except for—

(a) a period of employment which ended more than 20 years before the qualifying date, and

(b) in the case of a claim relating to diffuse mesothelioma, a period of employment which began not more than 15 years before the qualifying date.

(2) In sub-paragraph (1), "qualifying date" means—

(a) the date on which the Department determines a claim for disablement benefit made by or on behalf of the disabled person in respect of the disease, or

(b) if the disabled person has died without a claim for disablement benefit in respect of the disease having been determined, the date on which he died.

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Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

"Prescribed occupation"

8.—(1) In this Schedule, "prescribed occupation", in relation to a person disabled by a disease to which this Order applies, means an occupation prescribed in relation to the disease by the Department by order.

(2) An order under sub-paragraph (1) shall be subject to negative resolution.

Power to amend Schedule

9 Regulations made by the Department may—

(a) amend this Schedule for the purpose of adding to the cases in which a person is not a relevant employer in relation to a person disabled by a disease to which this Order applies;

(b) amend or repeal any provision of this Schedule relating to such cases."

SCHEDULE 7

Section 56.

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 4

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

1.—(1) The Contributions and Benefits Act is amended as follows.

(2) In section 73 (mobility component of disability living allowance), in subsection (9)(a), after "subsection (1)" insert " (a) to (d) ".

(3) In section 136 (social fund payments: principles of determination), for subsection (3) substitute—

"(3) Without prejudice to the generality of subsection (2) above, the Department may issue directions under that subsection for the purpose of securing that allocations under section 147 of the Administration Act are not exceeded.".

Commencement Information

I62 Sch. 7 para. 1 wholly in operation at 8.10.2007; Sch. 7 para. 1(1)(3) in operation at Royal Assent see s. 60(1)(2)(c); Sch. 7 para. 1(2) in operation at 8.10.2007 by S.R. 2007/429, **art. 2(1)(d)**

Status: *Point in time view as at 13/03/2020. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 17 May 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)*

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

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

(2) In section 117 (unauthorised disclosure of information relating to particular persons), in subsection (6A), for "medical practitioner" substitute " health care professional ".

(3) In section 147 (allocations from social fund), in subsection (5) (power to give directions with respect to the control and management of social fund allocations to particular officers or groups of officers), for "the amounts allocated to them" substitute " any amounts allocated to them ".

(4) In subsection (6) of that section (definition of "appropriate officer"), for "payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act" substitute " section 134(1)(b) payments ".

The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)

3 In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (social security: amendments following certain orders), at the end of paragraph (2) add " the Welfare Reform Act 2007 ".

The Social Security (Northern Ireland) Order 1998 (NI 10)

4 In Article 38(7) of the 1998 Order (principles applicable on review of social fund determination), at the end of sub-paragraph (a)(i) insert " and ".

SCHEDULE 8

Section 58.

REPEALS

Commencement Information

I63 Sch. 8 partly in operation; Sch. 8 in operation for specified purposes at Royal Assent, see s. 60(1)(2)(d); Sch. 8 in operation for specified purposes at 8.10.2007 by S.R. 2007/429, **art. 2(1)(e)**; Sch. 8 in operation for specified purposes at 7.4.2008 by S.R. 2008/93, **art. 2(b)**; Sch. 8 in operation for specified purposes at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2; Sch. 8 in operation for specified purposes at 1.9.2008 by S.R. 2008/339, **art. 2(2)(c)** (with art. 3(1)(2)); Sch. 8 in operation for specified purposes at 7.10.2008 by S.R. 2008/339, **art. 2(3)(b)**

Short Title	Extent of repeal
The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).	In section 6A(3), the word "and" at the end of paragraph (c). Section 20(1)(b).

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In section 20(2)—
(a) in the definition of "long-term benefit", paragraph (a);
(b) in the definition of "short-term benefit", paragraph (b).
In section 21(1)—
(a) the words from "short-term incapacity benefit" to "subsection (5) of that section,";
(b) the words "or short-term or long-term incapacity benefit under section 40 or 41 below".
In section 21(2), in the table—
(a) the heading "Short-term benefit";
(b) the entry relating to short-term incapacity benefit;
(c) the heading "Other benefits".
In section 21(4), the words "short-term benefit or".
In section 21(5A)(c), the words "2(4)(a) and (5)(a),".
Sections 30A to 30E.
In section 37(2), the words from "one of the conditions" to "person and".
In section 39A(3), the words from "one of the conditions" to "person and".
Sections 40 to 42.
In section 44(4), the words from "except that" to the end.
Section 47.
In section 61—
(a) in subsection (1), the words "under section 47(1) above or";
(b) subsection (2).
In section 61A(3), paragraph (d) and the word "and" immediately preceding it.
Section 72(6).
In section 73(5), the words "Subject to subsection (4) above,".
Section 84.
Section 86A.
Section 87.

	In section 89(1) and (1A), the words “, and in regulations under section 86A above,”. Section 93. In section 123(1), the word “and” at the end of paragraph (f). Section 129(4). In section 136(1A), the words following paragraph (b). Section 146(1)(b). Sections 167A to 167G. Section 167ZP(1) to (3). In section 172(2)(a), the words “section 30DD(5)(b) or (c);”. In Schedule 3, paragraphs 2 and 5(6). In Schedule 4— (a) in Part 1, paragraphs 2 and 2A; (b) in Part 4, paragraphs 1A and 2. In Schedule 11, paragraph 2(d)(i). In Schedule 12, paragraphs 1, 3, 4, 5 and 6. In Schedule 13, paragraphs 1 and 2.
The Social Security Administration (Northern Ireland) Act 1992 (c. 8).	Section 2A(2)(d) and (e). In section 2AA(2), paragraph (c) and the word “and” at the end of paragraph (d). Section 69(5). In section 69ZA(2)— (a) in paragraph (a), the words “paragraph (a) of subsection (5) and”; (b) paragraph (b). In section 71(4), the word “or” at the end of paragraph (a). Section 122(1)(a) and (c). Section 124(1)(b) and (c). In section 147(3)(d), the words from “to the same officer” to the end.
The Pension Schemes (Northern Ireland) Act 1993 (c. 49).	Section 42(3). In Schedule 7, paragraph 33.
The Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (NI 12).	Articles 3 to 5, 7 to 9 and 15.

	In Schedule 1, paragraphs 2, 3(3), 8 to 10, 13, 17, 24, 28, 33, 38(2) and (3), 43, 44, 48, 49 and 54(4).
The Jobseekers (Northern Ireland) Order 1995 (NI 15).	In Schedule 2, paragraphs 3, 6, 8, 9, 20, 23(2), 36(2) and 52(3), (4) and (5).
The Pensions (Northern Ireland) Order 1995 (NI 22).	In Schedule 2, paragraphs 14(b) and 18(3) and (4).
The Social Security (Northern Ireland) Order 1998 (NI 10).	In Article 4(2), the word "or" at the end of sub-paragraph (h). In Article 28(3), the word "or" at the end of sub-paragraph (e). Article 31(1). In Article 38(7)(a), head (iii), and the word "and" immediately preceding it. Article 73. In Schedule 2, in paragraph 6(b), the word "or" at the end of paragraph (ii). In Schedule 3, in paragraph 3, the word "or" at the end of paragraph (e). In Schedule 6, paragraphs 54(3), 57, 62(2) and 80(1).
The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11).	Articles 58 to 61. In Article 69(3), the word "or" at the end of sub-paragraph (b). In Schedule 8, paragraphs 19 to 24.
The National Insurance Contributions Act 2002 (c. 19).	In Schedule 1, paragraph 33(2).
The Tax Credits Act 2002 (c. 21).	In Schedule 3, paragraphs 37, 38, 40 and 42.
The State Pension Credit Act (Northern Ireland) 2002 (c. 14).	In Schedule 2, paragraphs 22(a) and 25(a).
The Housing Support Services (Northern Ireland) Order 2002 (NI 8).	Articles 6 and 7.
The Civil Partnership Act 2004 (c. 33).	In Schedule 24, paragraphs 68 and 69.

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