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## 2007 CHAPTER 2

### **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”.

##### **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—

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“(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.

(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)

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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)—

- (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)—

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- (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—

““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**

- II** 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](#)

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## **“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).”.

## *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.

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(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
- (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**

- I2** 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\(1\)\(c\)\(2\)](#)

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## 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.”.

## 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

- I3** 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](#)

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