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*Status: Point in time view as at 06/04/2018.*

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## SCHEDULES

### 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) ”.

##### *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 ”.

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(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

- II** 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.

(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) <sup>[F1]</sup>In section 88 (increases of benefit to be in respect of only one adult dependant), for “86A” substitute “ 85 ”.]

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(8) [F<sup>2</sup>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—

““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).”.

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### Textual Amendments

- F1** 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))
- F2** 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

- I2** 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-para. (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;”.

(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;”.

<sup>F3</sup>(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”;

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(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;”.

<sup>F4</sup>(12) .....

(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;”.

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- (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—

- (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

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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 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

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(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—

(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)—



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- (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—
  - ““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

- F3** 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))
- F4** 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

- I3** 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**

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### *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”.

(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;”.

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- (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—

*“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**

- I4** 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 ”.

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### *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**

**I5** 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.”.

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(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—

“(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.”.

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#### Commencement Information

- I6** 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

- I7** 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** <sup>F5</sup> .....

#### Textual Amendments

- F5** 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)

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*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) <sup>F6</sup>.....

(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—

“(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—

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“(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**

**F6** 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**

**I8** 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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