

## SCHEDULE 1

Effective dates for superseding decisions made on the ground of a change of circumstances

### PART 1

#### Employment and support allowance and jobseeker's allowance

1. Subject to the following provisions of this Part and Part 4, in the case of an employment and support allowance or a jobseeker's allowance, a superseding decision made on the ground of a change of circumstances takes effect from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur.

2. Paragraph 1 does not apply where—

- (a) the superseding decision is not advantageous to the claimant; and
- (b) there has been an employment and support allowance decision where the Department is satisfied that, in relation to a limited capability for work determination, the claimant—
  - (i) failed to notify an appropriate office of a change of circumstances which the claimant was required by regulations under the Administration Act to notify, and
  - (ii) could not reasonably have been expected to know that the change of circumstances should have been notified.

3. Where a relevant change of circumstances results, or is expected to result, in a reduced award and the Department is of the opinion that it is impracticable for a superseding decision to take effect from the day set out in paragraph 1, that superseding decision takes effect—

- (a) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or
- (b) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

4. Where entitlement ends, or is expected to end, as the result of a change of circumstances, the superseding decision takes effect from the day on which the relevant change of circumstances occurs or is expected to occur.

5. In the case of an employment and support allowance where a person who is subject to Article 44 or 53 of the Mental Health (Northern Ireland) Order 1986(1) (power of courts to order hospital admission or guardianship and removal to hospital of persons serving sentences of imprisonment, etc.) ceases, or is expected to cease, to be detained in a hospital (as defined in that Order) for a period of less than a week, a superseding decision related to that person's departure from, or return to, hospital takes effect from the day on which that change of circumstances occurs or is expected to occur.

6. Where the superseding decision is advantageous to the claimant and the change of circumstances was notified to an appropriate office more than one month after the change occurred or after the expiry of such longer period as may be allowed under regulation 36 (effective dates for superseding decisions where changes notified late), the superseding decision takes effect from the beginning of the benefit week in which the notification was given.

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(1) [S.I. 1986/595 \(N.I. 4\)](#); Article 44 was amended by Schedule 1 to the Health and Personal Social Services (Northern Ireland) Order 1994 ([S.I. 1994/429 \(N.I. 2\)](#)), paragraph 25 of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998 ([S.I. 1998/1504 \(N.I. 9\)](#)), paragraph 5(1) of Schedule 5 to the Criminal Justice (Northern Ireland) Order 2008 ([S.I. 2008/1216 \(N.I. 1\)](#)) and paragraphs 1(1) and 8(1) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 ([c. 1 \(N.I.\)](#)) and Article 53 was amended by paragraph 27 of Schedule 5 to Criminal Justice (Children) (Northern Ireland) Order 1998 and paragraph 8(1) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009.

*Status: This is the original version (as it was originally made).*

7. In the case of an employment and support allowance decision where the Department is satisfied that, in relation to a limited capability for work determination, the claimant—

- (a) failed to notify an appropriate office of a change of circumstances which the claimant was required by regulations under the Administration Act to notify; and
- (b) could reasonably have been expected to know that the change of circumstances should have been notified,

the superseding decision takes effect in accordance with paragraph 8.

8. The superseding decision takes effect—

- (a) from the date on which the claimant ought to have notified the change of circumstances; or
- (b) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified.

9. In the case of a claimant who makes an application for a supersession which contains an express statement that that claimant is terminally ill, the superseding decision takes effect from the date on which the claimant became terminally ill.

10. Where the superseding decision is advantageous to the claimant and is made on the Department's own initiative, the decision takes effect from the beginning of the benefit week in which the Department commenced action with a view to supersession.

11. In this Part—

“employment and support allowance decision” means a decision to award an employment and support allowance embodied in or necessary to which is a determination that the claimant has, or is to be treated as having, limited capability for work;

“week” means a period of 7 days, beginning with midnight on Saturday.