

Draft Order in Council laid before Parliament under section 1 of the Northern Ireland (Welfare Reform) Act 2015, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No. 0000 (N.I. 00)

SOCIAL SECURITY

The Welfare Reform and Work (Northern Ireland) Order 2016

Made - - - - *****

Coming into force in accordance with Article 2

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At the Court at Buckingham Palace, the 0th day of October 2016

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order has been approved by a resolution of each House of Parliament.

Her Majesty, in exercise of the powers conferred by section 1 of the Northern Ireland (Welfare Reform) Act 2015 (c. 34), is pleased, by and with the advice of Her Privy Council, to order as follows:—

Introductory

Citation and extent

1.—(1) This Order may be cited as the Welfare Reform and Work (Northern Ireland) Order 2016.

(2) This Order extends to Northern Ireland only.

Commencement

2.—(1) Except as provided by paragraph (2), the provisions of this Order come into force on such day or days as the Department may by order appoint.

(2) The following provisions come into force on the day after the day on which this Order is made—

- (a) Article 1, this Article and Articles 3 and 4;
- (b) Article 5 for the purposes of making regulations;
- (c) Articles 6 to 8;
- (d) Articles 17 to 22.

(3) An order under paragraph (1) may make such transitory or transitional provision or savings as the Department considers necessary or expedient.

Interpretation

3. In this Order—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Department” means the Department for Communities;

“the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007;

“the 2015 Order” means the Welfare Reform (Northern Ireland) Order 2015.

Transitory provision

4.—(1) Article 4 of the 2015 Order (transitory provision) applies in relation to this Order as it applies in relation to the 2015 Order.

(2) Accordingly, in that Article—

- (a) in paragraph (1)(a) after “this Order” insert “or the Welfare Reform and Work (Northern Ireland) Order 2016”; and
- (b) in paragraph (6) at the end add “or under Article 2(1) of the Welfare Reform and Work (Northern Ireland) Order 2016”.

Benefit cap

Benefit cap

5.—(1) Article 101 of the 2015 Order (benefit cap) is amended as set out in paragraphs (2) to (5).

(2) For paragraph (5) (meaning of the “relevant amount”) substitute—

“(5) Regulations under this Article may make provision for determining the “relevant amount” for the reference period applicable in the case of a single person or couple by reference to the annual limit applicable in the case of that single person or couple.

(5A) For the purposes of this Article the “annual limit” is £20,000 or £13,400.

(5B) Regulations under paragraph (5) may—

- (a) specify which annual limit applies in the case of—
 - (i) different prescribed descriptions of single person;
 - (ii) different prescribed descriptions of couple;
- (b) provide for the rounding up or down of an amount produced by dividing the amount of the annual limit by the number of periods of a duration equal to the reference period in a year.”

(3) Paragraph (6) (estimated average earnings) and the definition of “estimated average earnings” in paragraph (7) are omitted.

(4) In paragraph (7), in the definition of “welfare benefit”, for the words from “means” to the end substitute—

“means—

- (a) bereavement allowance (see section 39B of the Contributions and Benefits Act),
- (b) child benefit (see section 137 of the Contributions and Benefits Act),
- (c) child tax credit (see section 1(1)(a) of the Tax Credits Act 2002),

- (d) employment and support allowance (see section 1 of the Welfare Reform Act (Northern Ireland) 2007), including income-related employment and support allowance (as defined in subsection (7) of that section),
- (e) housing benefit (see section 129 of the Contributions and Benefits Act),
- (f) incapacity benefit (see section 30A of the Contributions and Benefits Act),
- (g) income support (see section 123 of the Contributions and Benefits Act),
- (h) jobseeker's allowance (see Article 3 of the Jobseekers Order), including income-based jobseeker's allowance (as defined in paragraph (4) of that Article),
- (i) maternity allowance under section 35 or 35B of the Contributions and Benefits Act 1992,
- (j) severe disablement allowance (see section 68 of the Contributions and Benefits Act),
- (k) universal credit,
- (l) widow's pension (see section 38 of the Contributions and Benefits Act 1992),
- (m) widowed mother's allowance (see section 37 of the Contributions and Benefits Act), or
- (n) widowed parent's allowance (see section 39A of the Contributions and Benefits Act)."

(5) Paragraph (8) (benefits that regulations may not prescribe as welfare benefits) is omitted.

(6) Regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of paragraphs (1) to (5).

(7) Regulations under paragraph (6) may in particular—

- (a) provide for Article 101 of the 2015 Order to have effect as if the amendments made by paragraphs (1) to (5) had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;
- (b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;
- (c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices.

(8) Regulations under paragraph (6) are subject to negative resolution.

Review of benefit cap

6.—(1) After Article 101 of the 2015 Order insert—

“Benefit cap review

101A.—(1) If the Secretary of State makes regulations under section 96A(4) of the Welfare Reform Act 2012 which amend section 96(5A)(b) of that Act, the Department may make corresponding regulations amending Article 101(5A).

(2) The regulations may provide for amendments of Article 101(5A) to come into force—

- (a) on different days for different areas;
- (b) on different days for different cases or purposes.

(3) The regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of any amendment made by the regulations.

(4) The regulations may in particular—

- (a) provide for Article 101(5A) to have effect as if the amendments made by the regulations had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;
 - (b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;
 - (c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices.”
- (2) In Article 102 of the 2015 Order (benefit cap: supplementary) after paragraph (1) insert—
- “(1A) Regulations under Article 101A must be laid before the Assembly after being made and take effect on such date as may be specified in the regulations, but shall (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 6 months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.”

Functions of Social Security Advisory Committee in relation to benefit cap

7.—(1) In section 170 of the Social Security Administration Act 1992 (functions of Social Security Advisory Committee), in subsection (5), in the definition of “the relevant Northern Ireland enactments”, after paragraph (al) insert—

“(ala) any provisions in Northern Ireland which correspond to sections 96 to 97 of that Act;”.

(2) In section 149 of the Administration Act (functions of Social Security Advisory Committee) in subsection (5) after paragraph (ak) insert—

“(aka)Articles 101 to 102 of that Order;”.

(3) In Schedule 5 to the Administration Act (regulations not requiring prior submission to Social Security Advisory Committee), after paragraph 3 insert—

“Benefit cap

3A. Regulations under Article 101A of the Welfare Reform (Northern Ireland) Order 2015.”

Freeze on certain benefits

Freeze of certain social security benefits for 4 tax years

8.—(1) For each of the tax years ending with 5 April 2017, 5 April 2018, 5 April 2019 and 5 April 2020, the amount of each of the relevant sums is to remain the same as it was in the tax year ending with 5 April 2016.

(2) Accordingly, an up-rating order made under section 132 of the Administration Act in the tax years ending with 5 April 2017, 5 April 2018 and 5 April 2019 must not cover any of the relevant sums.

(3) In this Article—

“tax year” means a period beginning with 6 April in one year and ending with 5 April in the next;

“relevant sums” are the sums—

- (a) specified in paragraph 1 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987;

- (b) specified in paragraph 1 of Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006;
- (c) specified in paragraph 25 of Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006;
- (d) specified in regulations under Article 6(2) of the Jobseekers Order;
- (e) specified in paragraph 1 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996;
- (f) specified in regulations under section 2(1)(a) of the 2007 Act;
- (g) specified in regulations under section 2(4)(c) of the 2007 Act, so far as relating to the component under section 2(3) of that Act;
- (h) specified in paragraph 1 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008;
- (i) specified in regulations under section 4(6)(c) of the 2007 Act, so far as relating to the component under section 4(5) of that Act;
- (j) specified in regulations under Article 14(2) of the 2015 Order;
- (k) specified in regulations under Article 15(3) of the 2015 Order in respect of an amount to be included under Article 15(2) of that Order (but where more than one sum is so specified, only the smaller or smallest of those sums is a "relevant sum");
- (l) specified in regulations under Article 17(3) of the 2015 Order in respect of needs or circumstances of a claimant prescribed by virtue of Article 17(2)(a) of that Order (but not in respect of needs or circumstances prescribed by virtue of Article 17(2)(b)).

Employment and support allowance

Employment and support allowance: work related activity component

9.—(1) Part 1 of the 2007 Act (employment and support allowance) is amended as follows.

(2) In section 2 (amount of contributory allowance)—

- (a) in subsection (1)(b), omit "or the work-related activity component";
- (b) omit subsection (3);
- (c) in subsection (4), in each of paragraphs (a), (b) and (c), omit "or (3)".

(3) Section 4 (amount of income-related allowance)—

- (a) in subsection (2)(b), omit "or the work-related activity component";
- (b) omit subsection (5);
- (c) in subsection (6), in each of paragraphs (a), (b) and (c), omit "or (5)".

(4) The Department may by regulations make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of paragraphs (1) to (3).

(5) Regulations under paragraph (4) may in particular make provision about including a work-related activity component in an award of employment and support allowance that is converted under paragraph 7 of Schedule 4 to the 2007 Act from an award of incapacity benefit, severe disablement allowance or income support after the coming into force of paragraphs (1) to (3).

(6) Regulations under this Article are subject to negative resolution.

Universal credit

Changes to child element of universal credit

10.—(1) Article 15 of the 2015 Order (responsibility for children and young persons) is amended as follows.

(2) After paragraph (1) insert—

“(1A) But the amount mentioned in paragraph (1) is to be available in respect of a maximum of two persons who are either children or qualifying young persons for whom a claimant is responsible.”

(3) In paragraph (2)—

- (a) for “if such a” substitute “for each”;
- (b) after “person” insert “for whom a claimant is responsible who”.

(4) In paragraph (4) at the end insert “or (1A)”.

(5) In the Universal Credit Regulations (Northern Ireland) 2016—

- (a) in regulation 25(1) (the child element), after “responsible” insert “and in respect of whom an amount may be included under Article 15”;
- (b) in regulation 38 (table showing amount of elements), in the table—
 - (i) omit the row under “Child element” showing the amount for first child or qualifying young person;
 - (ii) in the row under “Child element” showing the amount for second and each subsequent child or qualifying young person, for “second and each subsequent” substitute “each”.

(6) The Department may by regulations make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of this Article.

(7) Regulations under this Article are subject to negative resolution.

Universal credit: limited capability for work

11. In Article 17(2) of the 2015 Order (universal credit: particular needs or circumstances), omit sub-paragraph (a).

Universal credit: work-related requirements

12.—(1) In Chapter 2 of Part 2 of the 2015 Order (claimant responsibilities)—

- (a) in Article 25(1)(a) (claimants subject to work-focused interview requirement only), for the words from “at least one” to “3” substitute “one”;
- (b) in Article 26(1) (claimants subject to work preparation requirement), after sub-paragraph (a) (but before the “or” immediately after it) insert—
 - “(aa) the claimant is the responsible carer for a child who is aged 2,”;
- (c) omit Article 26(5) (claimants of prescribed description to include responsible carers of children aged 3 or 4).

(2) In the Universal Credit Regulations (Northern Ireland) 2016 in regulation 90 (claimants subject to work-focused interview requirement only), omit paragraph (1).

Loans for mortgage interest, etc.

Loans for mortgage interest, etc.

13.—(1) The Department may by regulations provide for loans to be made in respect of a person’s liability to make owner-occupier payments in respect of accommodation occupied by the person as the person’s home.

- (2) The regulations may make provision about eligibility to receive a loan under the regulations.
- (3) The regulations may in particular require that a person—

- (a) is entitled to receive income support, income-based jobseeker's allowance, income-related employment and support allowance, state pension credit or universal credit;
 - (b) has received such a benefit for a prescribed period.
- (4) The regulations may make provision about the liabilities in respect of which a loan under the regulations may be made.
- (5) The regulations may in particular provide that a loan under the regulations may only be made if, and to the extent that, a person's liability to make owner-occupier payments was incurred for prescribed purposes.
- (6) The regulations may in particular make provision about—
- (a) determining or calculating the amount of a person's liabilities;
 - (b) the maximum amount of a person's liabilities in respect of which a loan under the regulations may be made.
- (7) The regulations may—
- (a) make provision about determining or calculating the amount that may be paid by way of loan under the regulations;
 - (b) require that a loan under the regulations be secured by a mortgage of or charge over a legal or beneficial interest in land.
- (8) The regulations may define "owner-occupier payment".
- (9) Regulations under this Article are subject to negative resolution.

Article 13: further provision

- 14.—**(1) This Article makes further provision about regulations under Article 13.
- (2) The regulations may make provision about—
- (a) circumstances in which a person is to be treated as liable or not liable to make owner-occupier payments;
 - (b) circumstances in which a person is to be treated as occupying or not occupying particular accommodation as a home.
- (3) The regulations may include—
- (a) provision about applying for a loan;
 - (b) provision requiring a person to satisfy prescribed requirements before a loan may be made under the regulations, including requirements about receiving financial advice;
 - (c) provision about entering into an agreement (which may contain such terms and conditions as the Department thinks fit, subject to what may be provided in the regulations);
 - (d) provision about the time when, and manner in which, a loan must be repaid;
 - (e) provision about other terms upon which a loan is made;
 - (f) provision about the payment of interest, including provision prescribing or providing for the determination of the rate of interest;
 - (g) provision enabling administrative costs to be charged;
 - (h) provision about adding administrative costs to the amount of a loan;
 - (i) provision about accepting substituted security.
- (4) The regulations may make provision—
- (a) requiring that, in prescribed circumstances, money lent in respect of a person's liability to make owner-occupier payments—
 - (i) is paid directly to the qualifying lender;
 - (ii) is applied by the qualifying lender towards discharging the person's liability to make owner-occupier payments;

- (b) for the costs of administering the making of payments to qualifying lenders to be defrayed, in whole or in part, at the expense of the qualifying lenders, whether by requiring them to pay prescribed fees, by deducting and retaining such part as may be prescribed of the amounts that would otherwise be paid to them or otherwise;
 - (c) for requiring a qualifying lender, in a case where by virtue of sub-paragraph (b) the amount paid to the lender is less than it would otherwise have been, to credit against the liability in relation to which the amount is paid the amount of the difference (in addition to the payment actually made);
 - (d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as a qualifying lender for the purposes of this Article (other than this sub-paragraph);
 - (e) for the recovery from any body or person—
 - (i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid;
 - (ii) of any fees or other sums due from that body or person by virtue of sub-paragraph (b);
 - (f) for cases where the same person is liable to make owner-occupier payments under more than one agreement to make such payments.
- (5) The regulations may provide for the Department to make arrangements with another person for the exercise of functions under the regulations.
- (6) The regulations may include—
- (a) provision requiring information and documents to be provided;
 - (b) provision authorising the disclosure of information.
- (7) The bodies and persons who are “qualifying lenders” for the purposes of this Article are—
- (a) a deposit taker;
 - (b) an insurer;
 - (c) other prescribed bodies or persons.
- (8) In this Article—
- “deposit taker” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
- “insurer” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of insurance.
- (9) The definitions of “deposit taker” and “insurer” in this Article must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section;
 - (c) Schedule 2 to that Act.

Consequential amendments

15.—(1) Section 13A of the Administration Act (payment out of benefit of sums in respect of mortgage interest) is repealed.

(2) In section 170 of the Social Security Administration Act 1992 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant Northern Ireland enactments”, after paragraph (an) insert—

“(ao) any provisions in Northern Ireland which corresponds to sections 18, 19 and 21 of the Welfare Reform and Work Act 2016;”.

(3) In section 149 of the Administration Act (functions of Social Security Advisory Committee) in subsection (5) after paragraph (am) insert—

“(an) Articles 13, 14 and 16 of the Welfare Reform and Work (Northern Ireland) Order 2016;”.

(4) In Article 4 of the Social Security (Northern Ireland) Order 1998 (use of computers), in paragraph (2)—

(a) omit the “or” after sub-paragraph (k);

(b) after sub-paragraph (n) insert—

“or

(o) Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

(5) In Article 9 of the Social Security (Northern Ireland) Order 1998 (decisions by Department)—

(a) in paragraph (3) (meaning of “relevant benefit”), after sub-paragraph (bb) insert—

“(bc) a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;”;

(b) in paragraph (4) (meaning of “relevant enactment”), for “or section 29 of that Act” substitute “, section 29 of that Act or Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016”.

(6) In Article 12 of the Social Security (Northern Ireland) Order 1998 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, for “and section 29 of that Act” substitute “, section 29 of that Act and Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016”.

(7) In Article 28 of the Social Security (Northern Ireland) Order 1998 (correction of errors and setting aside of decisions), in paragraph (3)—

(a) omit the “or” after sub-paragraph (i);

(b) after sub-paragraph (j) insert—

“or

(k) Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

(8) In Article 39 of the Social Security (Northern Ireland) Order 1998 (interpretation, etc. of Chapter 2 of Part 2), after paragraph (1) insert—

“(1A) In this Chapter—

(a) a reference to a benefit includes a reference to a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(b) a reference to a claim for a benefit includes a reference to an application for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(c) a reference to a claimant includes a reference to an applicant for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016 or, in relation to a couple jointly applying for a loan under that Article, a reference to the couple or either member of the couple;

(d) a reference to an award of a benefit to a person includes a reference to a decision that a person is eligible for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(e) a reference to entitlement to a benefit includes a reference to eligibility for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

(9) In section 3A of the State Pension Credit Act (Northern Ireland) 2002 (housing credit), in subsection (5)(a), omit the words from “(and,” to “payments)”.

(10) In Article 16 of the 2015 Order (universal credit: amount in respect of housing costs), in paragraph (3)(a), omit the words from “(and,” to “payments)”.

(11) In Article 121 of the 2015 Order (information-sharing in relation to welfare services etc.), in paragraph (8), in the definition of “relevant social security benefit” for the words from “has” to the end substitute—

“means—

(a) a relevant social security benefit as defined in section 115CA(7) of the Administration Act, or

(b) a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016 (loans for mortgage interest, etc.);”.

(12) The following provisions are repealed—

(a) in the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992—

(i) Article 3;

(ii) Schedule 1;

(b) in the Jobseekers Order, paragraph 23 of Schedule 2;

(c) in the State Pension Credit Act (Northern Ireland) 2002, paragraph 9 of Schedule 2;

(d) in the Civil Partnership Act 2004, paragraph 109 of Schedule 24;

(e) in the 2007 Act, paragraph 4(5) of Schedule 3;

(f) in the 2015 Order—

(i) in Schedule 2, paragraph 6;

(ii) in Schedule 4, paragraph 11.

Transitional provisions

16.—(1) Regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of Articles 13 to 15.

(2) The regulations may include provision for temporarily excluding the making of a loan under regulations under Article 13 after the coming into force of Articles 13 to 15.

(3) The regulations may in particular—

(a) provide for a temporary exclusion to continue until a time or times specified in a notice issued by the Department;

(b) enable the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person.

(4) The regulations may include provision for enabling assistance with payments in respect of accommodation occupied as a home to be given by means of a qualifying benefit after the coming into force of Articles 13 to 15 (including where the making of loans is temporarily excluded).

(5) The regulations may in particular—

(a) provide for legislation that has been repealed or revoked to be treated as having effect;

(b) provide for assistance by means of a qualifying benefit to continue until a time or times specified in a notice issued by the Department;

(c) enable the Department to issue notices under sub-paragraph (b) specifying different times for different persons or descriptions of person.

(6) In this Article “qualifying benefit” means income support, income-based jobseeker’s allowance, income-related employment and support allowance, state pension credit or universal credit.

(7) Regulations under this Article may make different provision for different areas, cases or purposes.

(8) Regulations under this Article are subject to negative resolution.

Social security administration

Expenses of paying sums in respect of vehicle hire

17. In the Administration Act, after section 13A insert—

“Expenses in respect of vehicle hire, etc.

13B.—(1) This section applies where—

- (a) a relevant benefit component is payable in respect of a person (“the beneficiary”),
- (b) an agreement has been entered into by or on behalf of the beneficiary with a relevant provider for the lease or hire purchase of a motor vehicle, and
- (c) by virtue of regulations under section 5(1), the Department pays all or part of the relevant benefit component to the relevant provider for the purpose of discharging, in whole or in part, an obligation of the beneficiary under the agreement.

(2) Regulations may make provision—

- (a) for the expenses of the Department in administering the making of payments to relevant providers to be defrayed, in whole or in part, at the expense of relevant providers, whether by requiring them to pay prescribed fees or by deducting and retaining a prescribed part of the payments that would otherwise be made to them or by such other method as may be prescribed;
- (b) for the recovery from a relevant provider of any fees or other sums due from that provider under paragraph (a).

(3) In this section—

“relevant benefit component” means—

- (a) the mobility component of disability living allowance, if it is payable at the higher rate (see section 73(11)(a) of the Contributions and Benefits Act), or
- (b) the mobility component of personal independence payment, if it is payable at the enhanced rate (see Article 84(2) of the Welfare Reform (Northern Ireland) Order 2015);

“relevant provider” means a person whose business consists of or includes the supply by way of lease or hire purchase of motor vehicles to persons in respect of whom a relevant benefit component is payable.”

Payments under Articles 135 and 137 of the 2015 Order

Regulations as to payments under Articles 135 and 137 of the 2015 Order

18.—(1) In Article 135 of the 2015 Order (discretionary support)—

(a) in paragraph (3) for sub-paragraph (h) substitute—

“(h) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of payments made under this Article;”;

(b) in paragraph (3)(i) at the end add “and for appeals against such decisions”;

(c) after paragraph (3) insert—

“(3A) Without prejudice to the generality of paragraph (3), regulations may make any provision referred to in that paragraph by applying to, or in relation to, discretionary

support (with or without prescribed modifications) any statutory provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.”

- (2) In Article 137 (payments to persons suffering financial disadvantage)—
- (a) in paragraph (1) after “this Order” insert “, the Welfare Reform and Work (Northern Ireland) Order 2016”;
 - (b) in paragraph (3) for sub-paragraph (i) substitute—
 - “(i) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of payments made in excess of entitlement ;”;
 - (c) in paragraph (3)(j) at the end add “and for appeals against such decisions”;
 - (d) in paragraph (3)(k) after “functions” insert “(including functions as to the disclosure of information)”;
 - (e) after paragraph (3) insert—
 - “(3A) Without prejudice to the generality of paragraphs (2) and (3), regulations may make any provision referred to in those paragraphs by applying to, or in relation to, payments (with or without prescribed modifications) any statutory provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.”

Further mitigation payments

Payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit

19.—(1) The 2015 Order is amended as follows.

(2) After Article 137 insert—

“Payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit

137A.—(1) The Department may, in accordance with regulations under this Article, make payments in respect of persons who qualify under paragraph (2) or (3).

(2) A person qualifies under this paragraph if—

- (a) the person is entitled to universal credit in respect of a period which falls within the mitigation period;
- (b) the amount of the award of universal credit includes an amount under Article 16 (“the housing costs element”);
- (c) the amount of the housing costs element falls to be calculated in accordance with Part 5 of Schedule 4 to the Universal Credit Regulations (renters in social rented sector); and
- (d) in the calculation of the amount of the housing costs element a deduction is made under paragraph 35 of that Schedule (deduction if the number of bedrooms in the accommodation occupied by the renter exceeds the number of bedrooms to which the renter is entitled in accordance with the regulations).

(3) A person qualifies under this paragraph if—

- (a) the person is entitled to housing benefit in the form of a rent rebate or rent allowance in respect of a period which falls within the mitigation period;
- (b) the calculation of the amount of rent allowance or rent rebate to which the person is entitled involves making a determination in accordance with regulation B14 of

the Housing Benefit Regulations (determination of maximum rent (social sector));
and

- (c) in making that determination a reduction is made under paragraph (2)(b) of that regulation (reduction in eligible rent if the number of bedrooms in the dwelling occupied by the claimant exceeds the number of bedrooms to which the claimant is entitled in accordance with the regulations).

(4) The mitigation period—

- (a) begins on 2nd January 2017; and
- (b) ends on 31st March 2020.

(5) Regulations may make provision—

- (a) for determining the amount of payments, the periods in respect of which payments are to be made, and the persons to whom payments are to be made;
- (b) for payments to be made without any claim being made;
- (c) imposing conditions on persons receiving payments, including conditions requiring them to provide to the Department such information as may be prescribed;
- (d) for the disclosure of information relating to payments in prescribed circumstances or to prescribed persons;
- (e) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of payments made in excess of entitlement;
- (f) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of payments;
- (g) imposing functions (including functions as to the disclosure of information) on a statutory body other than the Department in connection with the administration of the regulations;
- (h) for such other matters as appear to the Department to be necessary or appropriate in connection with the making of payments including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

(6) The provision included in regulations under paragraph (5)(a) for determining, in the case of any person, the amount of a payment in respect of any period must be such as to ensure that the amount of the payment when added to the amount of the housing costs element to which that person is entitled in respect of that period does not exceed—

- (a) in a case falling within paragraph (2), the amount of the housing costs element to which that person would have been entitled in respect of that period if the deduction mentioned in sub-paragraph (d) of that paragraph had not been made;
- (b) in a case falling within paragraph (3), the amount of the rent allowance or rent rebate to which that person would have been entitled in respect of that period if the reduction mentioned in sub-paragraph (c) of that paragraph had not been made.

(7) Without prejudice to the generality of paragraph (5), regulations may make any provision referred to in that paragraph by applying to, or in relation to, payments (with or without prescribed modifications) any provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.

(8) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.

(9) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(10) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.

- (11) A power conferred by this Article to make regulations includes power—
- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
 - (b) to provide for the Department to exercise a discretion in dealing with any matter.

(12) In this Article—

“the Housing Benefit Regulations” means the Housing Benefit Regulations (Northern Ireland) 2006;

“payment” means a payment under this Article;

“prescribed” means prescribed by regulations under this Article;

“statutory body” means a body established by or under a statutory provision;

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016.”

(3) In Article 4(2) at the end add “or Article 137A (payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit)”.

Cost of work allowance

20.—(1) The 2015 Order is amended as follows.

(2) After Article 137A (inserted by Article 19(2)) insert—

“Cost of work allowance

137B.—(1) The Department may, in accordance with this Article and regulations, make payments known as cost of work allowances.

(2) A cost of work allowance is a payment which—

(a) is made on one occasion in each of the years 2017, 2018 and 2019;

(b) is awarded in each of those years—

(i) to an individual who on the qualifying date in that year satisfies the 4 requirements set out in paragraphs (4) to (7) as they apply in relation to an individual;

(ii) to a couple who on the qualifying date in that year satisfy the 4 requirements set out in paragraphs (4) to (7) as they apply in relation to a couple.

(3) In relation to an individual or a couple “the qualifying date” in a year is such date as may be prescribed; and different dates may be prescribed in relation to different classes or descriptions of individual or couple.

(4) The first requirement—

(a) in relation to an individual is that the individual has, on the qualifying date, been ordinarily resident in Northern Ireland for a period of at least 3 months;

(b) in relation to a couple is that both of them have on the qualifying date been ordinarily resident in Northern Ireland for period of at least 3 months.

(5) The second requirement—

(a) in relation to an individual is that on the qualifying date the individual—

(i) is entitled (otherwise than jointly with another) to universal credit or to working tax credit; and

(ii) has been so entitled for the whole of the preceding period of 3 months;

(b) in relation to a couple is that on the qualifying date the couple—

(i) are jointly entitled to universal credit or to working tax credit; and

(ii) have been so entitled for the whole of the preceding period of 3 months.

- (6) The third requirement—
- (a) in relation to an individual, is that on the qualifying date the individual—
 - (i) is engaged in qualifying remunerative work; and
 - (ii) has been so engaged for the whole of the preceding period of 3 months;
 - (b) in relation to a couple, is that at least one of them—
 - (i) is, on the qualifying date, engaged in qualifying remunerative work, and
 - (ii) has been so engaged for the whole of the preceding period of 3 months.
- (7) The fourth requirement—
- (a) in relation to an individual, is that the income of the individual in respect of a prescribed period exceeds such amount as may be prescribed but does not exceed such other higher amount as may be prescribed;
 - (b) in relation to a couple, is that the combined income of the couple in respect of a prescribed period exceeds such amount as may be prescribed but does not exceed such other higher amount as may be prescribed.
- (8) Regulations may make provision—
- (a) for cases where an individual is, or couple are, to be taken as satisfying, or not satisfying, the requirements in paragraphs (4) to (7) and in particular for determining—
 - (i) for the purposes of the second requirement, whether an individual is, or couple are, on the qualifying date entitled to universal credit or working tax credit and, if so, for what period the individual has, or couple have, been so entitled;
 - (ii) for the purposes of the third requirement, what is, or is not, qualifying remunerative work and the circumstances in which a person is, or is not, engaged in it;
 - (iii) for the purposes of the fourth requirement, the income of a person in respect of any period;
 - (b) for determining the amount of an allowance payable to an individual or a couple which must include provision—
 - (i) for the allowance awarded to an individual to include, in prescribed circumstances, an additional amount where the individual is responsible for one or more children;
 - (ii) for the allowance awarded to a couple to include, in prescribed circumstances, an additional amount where the couple is responsible for one or more children;
 - (c) for the circumstances in which—
 - (i) a person is, or is not, responsible for a child;
 - (ii) a couple are, or are not, responsible for a child;
 - (d) for payment of the allowance to be made without any claim being made;
 - (e) imposing conditions on persons receiving an allowance, including conditions requiring them to provide to the Department such information as may be prescribed;
 - (f) for the disclosure of information relating to allowances in prescribed circumstances or to prescribed persons;
 - (g) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of an allowance paid in excess of entitlement;

- (h) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of allowances and for appeals against such decisions;
- (i) imposing functions (including functions as to the disclosure of information) on a statutory body other than the Department in connection with the administration of the regulations;
- (j) for such other matters as appear to the Department to be necessary or appropriate in connection with the paying of allowances including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

(9) Without prejudice to the generality of paragraph (8), regulations may make any provision referred to in that paragraph by applying to, or in relation to, an allowance (with or without prescribed modifications) any statutory provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.

(10) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.

(11) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(12) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.

(13) A power conferred by this Article to make regulations includes power—

- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
- (b) to provide for the Department to exercise a discretion in dealing with any matter.

(14) In this Article—

“allowance” means a cost of working allowance;

“child” means a person under the age of 16;

“couple”—

- (a) in relation to a case where the second requirement applies by reference to entitlement to universal credit, has the same meaning as it has for the purposes of the Part 2;
- (b) in relation to a case where that requirement applies by reference to entitlement to working tax credit, has the same meaning as it has for the purposes of Part 1 of the Tax Credits Act 2002;

“prescribed” means prescribed by regulations under this Article;

“statutory body” means a body established by or under a statutory provision.”

(3) In Article 4(2) at the end add “or Article 137B (cost of work allowance)”.

Amendments

Minor correction of 2015 Order

21. In Article 121(7)(c) of the 2015 Order for “an education and library board” substitute “the Education Authority”.

Power to make consequential amendments

22.—(1) The Department may by regulations make such amendments and revocations of statutory rules (whenever made) as appear to the Department to be necessary or expedient in consequence of any provision of this Order.

(2) In this Article “statutory rules” has the meaning given by the Statutory Rules (Northern Ireland) Order 1979.

(3) Regulations under this Article are subject to negative resolution.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with social security in Northern Ireland. It amends the law relating to the benefit cap, employment and support allowance, universal credit, the expenses of vehicle hire and loans for mortgage interest and other liabilities. It also introduces a freeze on certain benefits and makes additional provision in relation to mitigation payments in connection with welfare reform.

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