

WELFARE REFORM ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 4: Miscellaneous

Schedules

Schedule 3 – Consequential amendments relating to Part 1

304. *Paragraph 1* amends the Social Work (Scotland) Act 1968 so that people in Scotland receiving income-related employment and support allowance will be exempted from liability to contribute towards the cost of their children being in care.
305. *Paragraph 2* amends the Education (Scotland) Act 1980 so that for the purposes of qualifying for free school meals families receiving income-related employment and support allowance in Scotland are treated the same as those receiving income support or income-based jobseeker's allowance.
306. *Paragraph 3* amends the Transport Act 1982 so that people receiving income-related employment and support allowance will be reimbursed the costs of obtaining a medical certificate for the exemption from having to wear a seat belt on medical grounds.
307. *Paragraph 4* amends the Legal Aid (Scotland) Act 1986 so that recipients of income-related employment and support allowance in Scotland will have the same entitlements to free legal advice and assistance as people receiving income support and income-based jobseeker's allowance.
308. *Paragraph 5* amends the Income and Corporation Taxes Act 1988 so that payments of sums in respect of maintenance made under section 23 will be treated the same way for tax liability purposes as other payments made under corresponding provisions for income support and jobseeker's allowance.
309. *Paragraph 6* amends the Children Act 1989 so that in England and Wales people receiving income-related employment and support allowance will be exempted from liability to contribute towards the costs of maintaining their children in care, services and assistance provided to children in need and their families and other provision and support.
310. *Paragraph 7* amends the Child Support Act 1991 so that an income-related employment and support allowance will be treated the same way as income-based jobseeker's allowance and income support for the purposes of applications, reduced benefit decisions and fees under both the old child support scheme and the modified scheme introduced by the Child Support, Pensions and Social Security Act 2000 and calculation of child support maintenance in the old scheme.
311. *Paragraph 8* amends the Criminal Justice Act 1991 so that the Secretary of State will be able to make regulations enabling fines or compensation orders imposed on an offender entitled to an income-related employment and support allowance to be deducted from that benefit.

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(c.5) which received Royal Assent on 3rd May 2007*

312. *Paragraph 9* amends the Social Security Contributions and Benefits Act 1992 so that earnings factors will be calculated the same way for an employment and support allowance as jobseeker's allowance for the purpose of satisfying the contributions conditions, and also so that an employment and support allowance recipient of either the support component or the work-related activity component will be entitled to a Christmas Bonus. The paragraph also makes a number of other consequential amendments to the Act.
313. *Paragraph 10* amends the Social Security Administration Act 1992 so that an employment and support allowance will be subject to the usual provisions that relate to other benefits in respect of claims and overpayments and makes other consequential changes. It also makes provision about the annual up-rating of the rates of an employment and support allowance.
314. *Paragraph 10(10)* inserts a reference to income-related employment and support allowance into section 105 of the Social Security Administration Act 1992 thus ensuring that the offence provided for in that section applies to those in receipt of income-related employment and support allowance. The offence provided for in section 105 currently applies to those in receipt of income support on the grounds of incapacity.
315. *Paragraph 10(23)* inserts a new section 159C into the Social Security Administration Act 1992 which makes provision, like that in relation to other benefits set out in sections 159, 159A and 159B of that Act, which sets out the circumstances, such as the annual up-rating of benefits, where the level of a person's employment and support allowance changes without a decision being made by the Secretary of State to supersede the decision on their award.
316. *Paragraph 10(24)* inserts a new section, section 160B, into the Social Security Administration Act 1992 to provide for implementation of increases in employment and support allowance due to attainment of particular ages, without a decision being made by the Secretary of State to supersede the decision on their award.
317. *Paragraph 11* amends the Local Government Finance Act 1992 so that in England and Wales and in Scotland arrears of unpaid council tax can be recovered by deductions from employment and support allowance.
318. *Paragraph 12* makes consequential amendments to the Jobseekers Act 1995. In particular it amends section 1 of the Act to provide that one of the conditions of entitlement to a jobseeker's allowance is that the claimant does not have limited capability for work instead of the current condition that the claimant "is capable of work". Further amendments make it clear that the question of whether a person has or does not have limited capability for work is to be determined in accordance with the provisions of Part 1 of this Act.
319. *Paragraph 13* amends the Pensions Act 1995 to include the Welfare Reform Act 2007 in the list of enactments to which the rules for determining pensionable age apply for the purposes of the definition in section 1(6).
320. *Paragraph 14* amends the Children (Scotland) Act 1995 so that in Scotland people receiving income-related employment and support allowance will be exempted from liability to repay financial assistance provided to children or their families.
321. *Paragraph 15* amends the Employment Tribunals Act 1996 so that income-related employment and support allowance can be recouped from certain awards made by employment tribunals.
322. *Paragraph 16* amends the Education Act 1996 so that in England and Wales people receiving income-related employment and support allowance will be entitled to free school meals, milk and the remission of other charges.

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323. *Paragraph 17* makes consequential amendments to the Social Security Act 1998. In particular, the amendments apply the provisions relating to the making of benefit decisions by the Secretary of State, the supersession and revision of decisions, and the rights to independent appeal to an employment and support allowance.
324. *Paragraph 18* amends the Welfare Reform and Pensions Act 1999 so that the powers enabling the Secretary of State to share certain information with local authorities and others in connection with the administration of benefits will apply to information relating to an employment and support allowance.
325. *Paragraph 19* amends the Immigration and Asylum Act 1999 so that people could not receive income-related employment and support allowance whilst subject to immigration control.
326. *Paragraph 20* amends the Child Support, Pensions and Social Security Act 2000 so that the provisions relating to penalties for breaching a community order will apply to income-related employment and support allowance.
327. *Paragraph 21* amends the Local Government Act 2000 so that the provisions on data sharing where a grant for welfare services is or will be paid to the benefit recipient would apply to income-related employment and support allowance.
328. *Paragraph 22* amends the Adults with Incapacity (Scotland) Act 2000 so that in Scotland employment and support allowance will be exempted from the matters to be managed on behalf of a person incapable of managing their own affairs.
329. *Paragraph 23* amends the Social Security Fraud Act 2001. In particular, the amendments apply the provisions relating to the loss of benefit for the commission of offences and the provision of benefit for the families of those who have lost entitlement due to benefit offences to employment and support allowance.
330. *Paragraph 24* amends the Income Tax (Earnings and Pensions) Act 2003 so that a contributory employment and support allowance is treated the same way for tax purposes as incapacity benefit.