

Status: Point in time view as at 29/04/2013.

Changes to legislation: Welfare Reform Act 2007 is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

PART 1

F1 ...

Textual Amendments

F1 Sch. 1 Pt. 1 heading repealed (29.4.2013 for specified purposes) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 14 Pt. 1; S.I. 2013/983, arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by S.I. 2013/1511; (29.10.2013) by S.I. 2013/2657; (16.6.2014) by S.I. 2014/1452; (30.6.2014) by S.I. 2014/1661; (28.7.2014) by S.I. 2014/1923; (15.9.2014) by S.I. 2014/2321; (17.11.2014) by S.I. 2014/3067; (21.11.2014) by S.I. 2014/3094; (19.1.2015) by S.I. 2015/32 (as amended (10.2.2015) by S.I. 2015/101); (10.3.2015) by S.I. 2015/634; (20.7.2015) by S.I. 2015/1537; (23.11.2015) by S.I. 2015/1930; (6.4.2017) by S.I. 2017/483; (2.2.2018) by S.I. 2018/138; (16.1.2019) by S.I. 2019/10; and (31.1.2019) by S.I. 2019/167)

Conditions relating to national insurance

- 1 (1) The first condition is that—
- (a) the claimant has actually paid Class 1 or Class 2 contributions in respect of one of the last [^{F2}two] complete tax years (“the base tax year”) before the beginning of the relevant benefit year,
 - (b) those contributions must have been paid before the relevant benefit week, and
 - [^{F3}(c) the claimant's earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year's lower earnings limit multiplied by 26.]
- [^{F4}(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of—
- (a) the claimant's relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or treated as paid, and
 - (b) the claimant's earnings factors derived from Class 2 contributions.
- (3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant's relevant earnings for the base tax year.
- (3A) Regulations under sub-paragraph (3) may, in particular, make provision—
- (a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base tax year;
 - (b) for determining the amount of a person's earnings for any such period by—

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- (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and
 - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year's lower earnings limit (or the prescribed equivalent).]
- (4) Regulations may—
- (a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of [^{F5}persons—
 - (i) who] have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time [^{F6}, or
 - (ii) who satisfy other prescribed conditions]
 - (b) with a view to securing any relaxation of the requirements of that condition in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.
- (5) In sub-paragraph (4), “benefit” means—
- [^{F7}(za) universal credit,]
 - (a) any benefit within the meaning of section 122(1) of the Contributions and Benefits Act,
 - (b) any benefit under Parts 7 to 12 of that Act,
 - (c) credits under regulations under section 22(5) of that Act,
 - [^{F8}(ca) credits under section 23A of that Act,]
 - (d) [^{F9}a contributory allowance][^{F9}an employment and support allowance], and
 - (e) working tax credit.

Textual Amendments

- F2** Word in Sch. 1 para. 1(1)(a) substituted (1.11.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(2)**, 61(3); [S.I. 2010/2377](#), **art. 2(2)(b)**
- F3** Sch. 1 para. 1(1)(c) substituted (1.11.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(3)**, 61(3); [S.I. 2010/2377](#), **art. 2(2)(b)**
- F4** Sch. 1 para. 1(2)-(3A) substituted for Sch. 1 para. 1(2)(3) (1.10.2010 for specified purposes, 1.11.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(4)**, 61(3); [S.I. 2010/2377](#), **art. 2(1)(c)**, **(2)(c)**
- F5** Words in Sch. 1 para. 1(4)(a) substituted (29.11.2011) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(5)(a)**, 61(3); [S.I. 2011/2857](#), **art. 2(b)**
- F6** Words in Sch. 1 para. 1(4)(a) inserted (29.11.2011) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 13(5)(b)**, 61(3); [S.I. 2011/2857](#), **art. 2(b)**
- F7** [Sch. 1 para. 1\(5\)\(za\)](#) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 2 para. 65**; [S.I. 2013/983](#), **art. 3(1)(b)(i)**
- F8** [Sch. 1 para. 1\(5\)\(ca\)](#) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 11**
- F9** Words in [Sch. 1 para. 1\(5\)\(d\)](#) substituted (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 3 para. 26(f)**; [S.I. 2013/983](#), **arts. 4(1)(b)**, 5, [Sch. 1](#) (with **arts. 6**, 9(1), 22, [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#);

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(23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Commencement Information

- I1** Sch. 1 para. 1(1)-(3) (5) in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(d\)](#)
- I2** Sch. 1 para. 1(4) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
- I3** Sch. 1 para. 1(4) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(d\)](#)

- 2 (1) The second condition is that—
- (a) the claimant has in respect of the last two complete tax years before the beginning of the relevant benefit year either paid or been credited with Class 1 or Class 2 contributions or been credited with earnings, and
 - (b) the earnings factor derived as mentioned in sub-paragraph (2) must be not less in each of those years than the year's lower earnings limit multiplied by 50.
- (2) The earnings factor referred to in sub-paragraph (1)(b) is the aggregate of the claimant's earnings factors derived—
- (a) from so much of his earnings as did not exceed the upper earnings limit for the year and upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited, and
 - (b) from Class 2 contributions.
- (3) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, sub-paragraph (2)(a) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit for the year.

Commencement Information

- I4** Sch. 1 para. 2 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(d\)](#)

- 3 (1) For the purposes of paragraphs 1 and 2—
- (a) “benefit year” means a period which is a benefit year for the purposes of Part 2 of the Contributions and Benefits Act or such other period as may be prescribed for the purposes of this Part of this Schedule;
 - (b) “Class 1 contributions”, “Class 2 contributions” and “primary Class 1 contributions” have the same meaning as in the Contributions and Benefits Act (see section 1 of that Act);
 - (c) “earnings” shall be construed in accordance with sections 3, 4 and 112 of that Act;
 - (d) “earnings factor” shall be construed in accordance with sections 22 and 23 of that Act;
 - (e) “lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of that Act and references to the lower or upper earnings limit of a tax year are to whatever is (or was) the limit in force for that year under that section;
 - (f) “relevant benefit year” is the benefit year which includes the beginning of the period of limited capability for work which includes the relevant benefit week;
 - (g) “tax year” means the 12 months beginning with 6th April in any year.

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- (2) Regulations may provide for sub-paragraph (1)(f) to have effect in prescribed circumstances with prescribed modifications in the case of—
- (a) a person who has previously ceased to be entitled to [^{F10}a contributory allowance][^{F10}an employment and support allowance];
 - (b) a person who has made a claim for an employment and support allowance in connection with which he failed to satisfy one or both of the conditions in paragraphs 1 and 2.

Textual Amendments

F10 Words in [Sch. 1 para. 3\(2\)\(a\)](#) substituted (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\)](#), [Sch. 3 para. 26\(f\)](#); [S.I. 2013/983](#), arts. 4(1)(b), 5, [Sch. 1](#) (with arts. 6, 9(1), 22, [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Modifications etc. (not altering text)

- C1** [Sch. 1 para. 3\(1\)\(f\)](#) modified (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), [13](#)
- C2** [Sch. 1 para. 3\(1\)\(f\)](#) modified (29.4.2013) by [The Employment and Support Allowance Regulations 2013 \(S.I. 2013/379\)](#), regs. 1(2), [14](#) (with reg. 1(3))

Commencement Information

- I5** [Sch. 1 para. 3\(1\)](#) in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(d\)](#)
- I6** [Sch. 1 para. 3\(2\)](#) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
- I7** [Sch. 1 para. 3\(2\)](#) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(d\)](#)

Condition relating to youth

- 4 (1) The third condition is that —
- (a) the claimant was under 20 or, in prescribed cases, 25 when the relevant period of limited capability for work began,
 - (b) he is not receiving full-time education,
 - (c) he satisfies such conditions as may be prescribed with respect to residence or presence in Great Britain (or both), and
 - (d) there has been a day in the relevant period of limited capability for work—
 - (i) which was a day on which he was aged at least 16, and
 - (ii) which was preceded by a period of 196 consecutive days throughout which he had limited capability for work.
- (2) In sub-paragraph (1), “relevant period of limited capability for work” means the period of limited capability for work which includes the relevant benefit week.
- (3) Regulations may prescribe circumstances in which sub-paragraph (1)(a) does not apply in the case of a person who has previously ceased to be entitled to an employment and support allowance to which he was entitled by virtue of satisfying the condition set out in sub-paragraph (1).

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- (4) Regulations may make provision about when, for the purposes of sub-paragraph (1) (b), a person is, or is not, to be treated as receiving full-time education.

Modifications etc. (not altering text)

- C3** Sch. 1 para. 4(1)(a) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **10**
- C4** Sch. 1 para. 4(1)(a) excluded (29.4.2013) by [The Employment and Support Allowance Regulations 2013 \(S.I. 2013/379\)](#), regs. 1(2), **11** (with reg. 1(3))

Commencement Information

- I8** Sch. 1 para. 4(1)(a) (c) (3) (4) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
- I9** Sch. 1 para. 4(1)(a) (c) (3) (4) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(d)**
- I10** Sch. 1 para. 4(1)(b) (d) (2) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(d)**

“Relevant benefit week”

- 5 In this Part of this Schedule, “relevant benefit week” means the week in relation to which the question of entitlement to an employment and support allowance is being considered.

Commencement Information

- I11** Sch. 1 para. 5 in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(d)**

[F11] PART 2

INCOME-RELATED ALLOWANCE

Textual Amendments

- F11** Sch. 1 Pt. 2 repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

- 6 (1) The conditions are that the claimant—
- (a) has an income which does not exceed the applicable amount or has no income;
 - (b) does not have capital which, or a prescribed part of which, exceeds the prescribed amount;
 - (c) is not entitled to state pension credit;

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- (d) is not a member of a couple the other member of which is entitled to an income-related allowance, state pension credit, income support or an income-based jobseeker's allowance;
 - (e) is not engaged in remunerative work;
 - (f) is not a member of a couple the other member of which is engaged in remunerative work;
 - (g) is not receiving education.
- (2) Where the claimant is a member of a couple, the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purpose of this paragraph as income and capital of the claimant.
- (3) Regulations may prescribe circumstances in which, for the purposes of sub-paragraph (1)(e) and (f)—
- (a) a person who is not engaged in remunerative work is to be treated as engaged in remunerative work, or
 - (b) a person who is engaged in remunerative work is to be treated as not engaged in remunerative work.
- (4) Regulations may—
- (a) make provision about when, for the purposes of sub-paragraph (1)(g), a person is, or is not, to be treated as receiving education;
 - (b) prescribe circumstances in which sub-paragraph (1)(g) does not apply.
- (5) In this paragraph—
- “applicable amount” means the amount which, in the claimant's case, is the applicable amount for the purposes of section 4(1);
 - “couple” means—
 - (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other, but are living together as husband and wife otherwise than in prescribed circumstances;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other, but are living together as if they were civil partners otherwise than in prescribed circumstances;
 - “income-based jobseeker's allowance” has the same meaning as in the Jobseekers Act 1995 (c. 18);
- (6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.
- (7) Regulations may make provision for the preceding provisions of this paragraph to have effect with prescribed modifications in a case where—
- (a) the claimant is a husband or wife by virtue of a marriage entered into under a law which permits polygamy,
 - (b) either party to the marriage has for the time being any spouse additional to the other party, and

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(c) the claimant, the other party to the marriage and the additional spouse are members of the same household.

(8) Regulations may make provision for the purposes of this paragraph as to circumstances in which people are to be treated as being or not being members of the same household.]

Modifications etc. (not altering text)

- C5** Sch. 1 para. 6(1)(g) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **33(2)(c)**
- C6** Sch. 1 para. 6(1)(g) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **18**

Commencement Information

- I12** Sch. 1 para. 6(1)(a) (c)-(g) (5) (6) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(d)**
- I13** Sch. 1 para. 6(1)(b) (2)-(4) (7) (8) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
- I14** Sch. 1 para. 6(1)(b) (2)-(4) (7) (8) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(d)**
- I15** Sch. 1 para. 6(5) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

^{F12}SCHEDULE 1A

Section 15A

Textual Amendments

- F12** Sch. 1A repealed (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 60(2), 150(2)(b)**

SCHEDULE 2

Section 22

EMPLOYMENT AND SUPPORT ALLOWANCE: SUPPLEMENTARY PROVISIONS

Limited capability for work

- 1 Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work;
 - (b) for the question of whether a person has limited capability for work to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work;
 - (c) for the question of whether a person has limited capability for work to be determined afresh in prescribed circumstances.

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Commencement Information

- I16** Sch. 2 para. 1 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I17 Sch. 2 para. 1 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

Waiting days

- 2 Except in prescribed circumstances, a person is not entitled to an employment and support allowance in respect of a prescribed number of days at the beginning of a period of limited capability for work.

Modifications etc. (not altering text)

- C7** Sch. 2 para. 2 excluded (8.4.2013 for specified purposes, 29.4.2013 in so far as not already in force) by [The Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance \(Decisions and Appeals\) Regulations 2013](#) (S.I. 2013/381), regs. 1(2), **48(6)** (with reg. 1(3))
C8 Sch. 2 para. 2 excluded (29.4.2013) by [The Employment and Support Allowance Regulations 2013](#) (S.I. 2013/379), regs. 1(2), **85(2)** (with reg. 1(3))

Commencement Information

- I18** Sch. 2 para. 2 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I19 Sch. 2 para. 2 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

Periods of less than a week

- 3 Regulations may make provision in relation to—
 (a) entitlement to an employment and support allowance, or
 (b) the amount payable by way of such an allowance,
 in respect of any period of less than a week.

Commencement Information

- I20** Sch. 2 para. 3 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I21 Sch. 2 para. 3 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

Linking periods

- 4 (1) Regulations may provide for circumstances in which a period of limited capability for work which is separated from another period of limited capability for work by not more than a prescribed length of time is to be treated for the purposes of this Part as a continuation of the earlier period.
 (2) Regulations may provide, in relation to periods which are linked by virtue of regulations under sub-paragraph (1), that a condition which was satisfied in relation to the earlier period is to be treated for the purposes of this Part as satisfied in relation to the later period.

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Commencement Information

- I22** Sch. 2 para. 4 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I23 Sch. 2 para. 4 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

- [^{F13}4A Regulations may prescribe circumstances in which a person may be entitled to employment and support allowance without having accepted a claimant commitment.]

Textual Amendments

- F13** Sch. 2 para. 4A inserted (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 54(6)**, 150(3); [S.I. 2013/358](#), **art. 2(2)**, [Sch. 2 para. 23](#)

Presence in Great Britain

- 5 Regulations may make provision for the purposes of this Part as to the circumstances in which a person is to be treated as being, or not being, in Great Britain.

Commencement Information

- I24** Sch. 2 para. 5 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I25 Sch. 2 para. 5 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

[^{F14}Contributory allowance:] entitlement in case of absence from Great Britain

Textual Amendments

- F14** Words in Sch. 2 para. 6 heading repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), **arts. 4(1)(c)**, 5, [Sch. 1](#) (with **arts. 6**, 9(1), 22, [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

- 6 Regulations may provide that in prescribed circumstances a claimant who is not in Great Britain may nevertheless be entitled to [^{F15}a contributory allowance][^{F15}an employment and support allowance].

Textual Amendments

- F15** Words in Sch. 2 para. 6 substituted (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 3 para. 26(g)**; [S.I. 2013/983](#), **arts. 4(1)(b)**, 5, [Sch. 1](#) (with **arts. 6**, 9(1), 22, [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#)

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(as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Commencement Information

I26 Sch. 2 para. 6 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

I27 Sch. 2 para. 6 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

[^{F16}Contributory allowance:] modification in relation to employment on ships etc.

Textual Amendments

F16 Words in Sch. 2 para. 7 heading repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

- 7 (1) Regulations may modify any provision of this Part, so far as relating to a contributory allowance, in its application to any person who is, has been, or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft,
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances, or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under this paragraph may, in particular, provide—
- (a) for any provision of this Part to apply even though it would not otherwise apply;
 - (b) for any such provision not to apply even though it would otherwise apply;
 - (c) for the taking of evidence, in a country or territory outside Great Britain, by a consular official or other prescribed person;
 - (d) for enabling the whole, or any part, of [^{F17}a contributory allowance][^{F17}an employment and support allowance] to be paid to such of the claimant's dependants as may be prescribed.
- (3) In this paragraph, “continental shelf operations” has the same meaning as in section 120 of the Contributions and Benefits Act.

Textual Amendments

F17 Words in Sch. 2 para. 7(2)(d) substituted (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 3 para. 26(g)**; [S.I. 2013/983](#), arts. 4(1)(b), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#);

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(23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Commencement Information

- I28** Sch. 2 para. 7 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I29 Sch. 2 para. 7 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**

Income-related allowance: entitlement in case of absence from Great Britain

- [^{F18} (1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Great Britain continues to be entitled to such an allowance after ceasing to be in Great Britain.
- (2) Regulations may modify any provision of this Part, so far as relating to an income-related allowance, in its application to a person who is entitled to such an allowance by virtue of regulations under sub-paragraph (1).
- (3) Regulations under sub-paragraph (2) may, in particular, provide—
- (a) for any provision of this Part to apply even though it would not otherwise apply;
- (b) for any such provision not to apply even though it would otherwise apply.]

Textual Amendments

- F18** Sch. 2 para. 8 repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; [S.I. 2013/983](#), arts. 4(1)(c), 5, Sch. 1 (with arts. 6, 9(1), 22, Sch. 4) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Commencement Information

- I30** Sch. 2 para. 8(1) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
I31 Sch. 2 para. 8(1) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(e)**
I32 Sch. 2 para. 8(2) (3) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(e)**

Limited capability for work-related activity

- 9 Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work-related activity;
- (b) for the question of whether a person has limited capability for work-related activity to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work-related activity;
- (c) for the question of whether a person has limited capability for work-related activity to be determined afresh in prescribed circumstances.

Status: Point in time view as at 29/04/2013.

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Commencement Information

- I33** Sch. 2 para. 9 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
I34 Sch. 2 para. 9 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(e\)](#)

Effect of work

- 10 Regulations may prescribe circumstances in which a person is to be treated as not entitled to an employment and support allowance because of his doing work.

Commencement Information

- I35** Sch. 2 para. 10 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
I36 Sch. 2 para. 10 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(e\)](#)

Treatment of allowance as “benefit”

- 11 Regulations may provide for—
- (a) an employment and support allowance,
 - ^{F19}(b) a contributory allowance, or
 - (c) an income-related allowance,]
- to be treated, for prescribed purposes of the Contributions and Benefits Act, as a benefit, or a benefit of a prescribed description.

Textual Amendments

- F19** Sch. 2 para. 11(b)(c) repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012](#) (c. 5), s. 150(3), [Sch. 14 Pt. 1](#); [S.I. 2013/983](#), [arts. 4\(1\)\(c\), 5](#), [Sch. 1](#) (with [arts. 6, 9\(1\), 22](#), [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))

Commencement Information

- I37** Sch. 2 para. 11 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(e\)](#)

Attribution of reductions in cases where allowance taken to consist of two elements

- ^{F20}12 Where an employment and support allowance is taken by virtue of section 6(5) to consist of two elements, any reduction in the amount payable in respect of the allowance which falls to be made by virtue of—
- (a) section 11,
 - (b) section 12,
 - (c) section 13,
 - (ca) ^{F21}..., or

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- (d) section 2AA of the Administration Act (full entitlement to certain benefits conditional on work-focused interview for partner),
shall be treated as reducing such of those elements by such amount as may be prescribed.]

Textual Amendments

- F20** Sch. 2 para. 12 repealed (29.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\)](#), [Sch. 14 Pt. 1](#); [S.I. 2013/983, arts. 4\(1\)\(c\), 5](#), [Sch. 1](#) (with [arts. 6, 9\(1\), 22](#), [Sch. 4](#)) (as amended: (1.7.2013) by [S.I. 2013/1511](#); (29.10.2013) by [S.I. 2013/2657](#); (16.6.2014) by [S.I. 2014/1452](#); (30.6.2014) by [S.I. 2014/1661](#); (28.7.2014) by [S.I. 2014/1923](#); (15.9.2014) by [S.I. 2014/2321](#); (17.11.2014) by [S.I. 2014/3067](#); (21.11.2014) by [S.I. 2014/3094](#); (19.1.2015) by [S.I. 2015/32](#) (as amended (10.2.2015) by [S.I. 2015/101](#)); (10.3.2015) by [S.I. 2015/634](#); (20.7.2015) by [S.I. 2015/1537](#); (23.11.2015) by [S.I. 2015/1930](#); (6.4.2017) by [S.I. 2017/483](#); (2.2.2018) by [S.I. 2018/138](#); (16.1.2019) by [S.I. 2019/10](#); and (31.1.2019) by [S.I. 2019/167](#))
- F21** Sch. 2 para. 12(ca) repealed (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(2\)\(b\)](#), [Sch. 14 Pt. 6](#)

Commencement Information

- I38** Sch. 2 para. 12 in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I39** Sch. 2 para. 12 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(e\)](#)

Treatment of information supplied as information relating to social security

- 13 Information supplied in pursuance of regulations under any of sections 8, 9 and 11 to ^[F22]13^[F22]11K^[F23]... shall be taken for all purposes to be information relating to social security.

Textual Amendments

- F22** Word in [Sch. 2 para. 13](#) substituted (29.4.2013 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [Welfare Reform Act 2012 \(c. 5\), ss. 57\(9\), 150\(3\)](#); [S.I. 2013/983, art. 7\(1\)\(d\)](#) (with [art. 7\(3\)](#)) (as amended: (1.7.2013) by [S.I. 2013/1511, art. 6](#))
- F23** Words in [Sch. 2 para. 13](#) repealed (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(2\)\(b\)](#), [Sch. 14 Pt. 6](#)

Commencement Information

- I40** Sch. 2 para. 13 in force at 27.10.2008 by [S.I. 2008/787, art. 2\(4\)\(e\)](#)

Advance claims

- 14 This Part shall have effect with prescribed modifications in relation to cases where a claim to an employment and support allowance is by virtue of regulations under section 5(1)(c) of the Administration Act (advance claims) made, or treated as if made, for a period wholly or partly after the date on which it is made.

Commencement Information

- I41** Sch. 2 para. 14 in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I42** Sch. 2 para. 14 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(e\)](#)

Status: Point in time view as at 29/04/2013.

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Members of the forces

- 15 (1) Regulations may modify—
- (a) any provision of this Part, or
 - (b) any corresponding provision made for Northern Ireland,
- in its application to persons who are or have been members of Her Majesty's forces.
- (2) For the purposes of this paragraph, Her Majesty's forces shall be taken to consist of prescribed establishments and organisations in which persons serve under the control of the Defence Council.

Commencement Information

I43 Sch. 2 para. 15 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(e\)](#)

SCHEDULE 3

Section 28

CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

Social Work (Scotland) Act 1968 (c. 49)

- 1 In section 78(2A) of the Social Work (Scotland) Act 1968 (which exempts persons in receipt of certain benefits from liability for contributions in respect of children in care etc.), after “1995” insert “, an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)”.

Commencement Information

I44 Sch. 3 para. 1 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Education (Scotland) Act 1980 (c. 41)

- 2 In section 53(3) of the Education (Scotland) Act 1980 (pupils who qualify for free school meals etc.), in paragraphs (a) and (b), after sub-paragraph (ii) insert—
- “(ia) an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

Commencement Information

I45 Sch. 3 para. 2 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Transport Act 1982 (c. 49)

- 3 In section 70 of the Transport Act 1982 (payments in respect of applicants for exemption from wearing seat belts), in subsection (2) (applicants who qualify), in paragraph (b), for “or an income-based jobseeker's allowance (payable under the Jobseekers Act 1995)” substitute “, an income-based jobseeker's allowance

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(payable under the Jobseekers Act 1995), an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance), ”.

Commencement Information

I46 Sch. 3 para. 3 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Legal Aid (Scotland) Act 1986 (c. 47)

- 4 (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 8(b) (under which persons in receipt of certain benefits are eligible for advice and assistance), for the words from second “or” to the end substitute “ , an income-based jobseeker's allowance (payable under the Jobseekers Act 1995) or an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance), ”.
- (3) In section 11(2)(b) (under which persons not in receipt of certain benefits are liable to contribute to the cost of advice and assistance), for the words from second “or” to the end substitute “ , an income-based jobseeker's allowance (payable under the Jobseekers Act 1995) or an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance), ”.

Commencement Information

I47 Sch. 3 para. 4 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

PROSPECTIVE

Income and Corporation Taxes Act 1988 (c. 1)

- 5 (1) Section 347B of the Income and Corporation Taxes Act 1988 (qualifying maintenance payments) is amended as follows.
- (2) In subsection (12) (payments to be treated as maintenance payments), at the end of paragraph (b) insert “; or
- (“ made by virtue of section 23 of the Welfare Reform Act 2007 (recovery of sums in respect of maintenance), or any corresponding enactment in Northern Ireland, in respect of an income-related employment and support allowance claimed by any other person,”.
- (3) For subsection (13) substitute—
- “(13) In subsection (12)—
- “income-based jobseeker's allowance” has the same meaning as in the Jobseekers Act 1995 or, for Northern Ireland, the same meaning as in any corresponding enactment in Northern Ireland;
- “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act

Status: Point in time view as at 29/04/2013.

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2007 (employment and support allowance) or, for Northern Ireland, under any corresponding enactment in Northern Ireland.”

Children Act 1989 (c. 41)

- 6 (1) The Children Act 1989 is amended as follows.
- (2) In section 17 (provision of services for children in need, their families and others), in subsection (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 ”.
- (3) In section 17A (direct payments), in subsection (5) (persons in relation to whom special provision applies), in 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 ”.
- (4) In section 29 (recoupment of costs of providing services etc.), in subsections (3) and (3A) (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 ”.
- (5) In section 105 (interpretation), in subsection (1), 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 2007 (employment and support allowance);”.
- (6) In Schedule 2 (local authority support for children and families), in paragraph 21(4) (persons exempt from liability to contribute to maintenance of children looked after by local authority), 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 ”.

Commencement Information

I48 Sch. 3 para. 6 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Child Support Act 1991 (c. 48)

- 7 (1) The Child Support Act 1991 is amended as follows.
- (2) In section 6 as amended by the Child Support, Pensions and Social Security Act 2000 (c. 19) (applications by those claiming or receiving benefit), in subsection (1), after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance ”.
- (3) In that section as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (applications by those receiving benefit), in subsection (1), after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance ”.

Status: Point in time view as at 29/04/2013.

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- (4) In section 46 as amended by the Child Support, Pensions and Social Security Act 2000 (reduced benefit decisions), in subsection (10)(c) (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”.
- (5) In that section as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (failure to comply with obligations imposed by section 6), in subsection (11), in the definition of “relevant benefit”, after “income-based jobseeker's allowance” insert “, an income-related employment and support allowance”.
- (6) In section 47(3)(b) (persons to be exempted from payment of fees), after “income-based jobseeker's allowance,” insert “ an income-related employment and support allowance, ”.
- (7) In section 54 (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 2007 (employment and support allowance);”.
- (8) In Part 1 of Schedule 1 as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (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

- I49** Sch. 3 para. 7(1) (8) in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I50** Sch. 3 para. 7(1) (8) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(f\)](#)
- I51** Sch. 3 para. 7(7) in force at 27.10.2008 by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Criminal Justice Act 1991 (c. 53)

- 8 In section 24 of the Criminal Justice Act 1991 (recovery of fines etc. by deduction from income support)—
- (a) in subsections (1) and (2)(d), for “or state pension credit” substitute “, state pension credit or an income-related employment and support allowance”;
 - ^{F24}(b)

Textual Amendments

- F24** Sch. 3 para. 8(b) repealed (with effect in accordance with s. 109(3) of the amending Act) by [Welfare Reform Act 2012 \(c. 5\), ss. 109\(2\), 150\(1\)\(d\)](#)

Commencement Information

- I52** Sch. 3 para. 8 in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I53** Sch. 3 para. 8 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Status: Point in time view as at 29/04/2013.

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Social Security Contributions and Benefits Act 1992 (c. 4)

- 9 (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 insert “; 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 insert—
- “(8) In this section, “contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 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) In section 88 (increases of benefits to be in respect of only one adult dependant), for “86A” substitute “ 85 ”.
- (8) 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 124 (income support), in subsection (1), after paragraph (g) insert “; 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 124 insert—
- “(7) In this section, “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”
- (11) In section 150 (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 2007 the calculation of the amount of which includes

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an addition in respect of the support component or the work-related activity component;”.

- (12) Sections 171A to 171G (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) 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 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied).”

Commencement Information

- I54** Sch. 3 para. 9(1) (3)(b) (4) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
- I55** Sch. 3 para. 9(1) (3)(b) (4) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)
- I56** Sch. 3 para. 9(2) (3)(a) (6)-(11) (13) in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Social Security Administration Act 1992 (c. 5)

- 10 (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 insert “; 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;”.
- (5) In section 15A (payment out of benefit of sums in respect of mortgage interest etc.)—
- (a) in subsection (1) (cases in which section applies), 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 ”;
- (b) in subsection (4), in the definition of “qualifying associate”, for “or state pension credit” substitute “, state pension credit or an income-related

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- employment and support allowance ” and for “or the State Pension Credit Act 2002” substitute “ , the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007 ”;
- (c) in that subsection, in the definition of “relevant benefits”, after paragraph (c) insert—
- “(d) an employment and support allowance;”.
- (6) In section 71 (overpayments), in subsection (11) (benefits to which section applies), after paragraph (ab) insert—
- “(ac) an employment and support allowance;”.
- (7) In section 73 (overlapping benefits)—
- (a) in subsection (1), after “contribution-based jobseeker's allowance” insert “ or a contributory employment and support allowance ”;
- (b) in subsection (4), at the end of paragraph (b) insert “or
- (c) a contributory employment and support allowance;”.
- (8) In section 74 (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 ”;
- (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 74A (payment of benefit where maintenance payments collected by Secretary of State), 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 105 (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 109(1) (diversion of arrested earnings to the Secretary of State_Scotland), after “income support”, in both places, insert “ or an income-related employment and support allowance ”.
- (12) In section 121DA (interpretation of Part 6), in subsection (1) (definition of “relevant social security legislation”), after paragraph (hh) insert—
- “(hi) Part 1 of the Welfare Reform Act 2007;”.
- ^{F25}(13)
- (14) In section 122B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “the Jobseekers Act 1995” insert “ , Part 1 of the Welfare Reform Act 2007 ”.
- (15) In section 122C (supply of information to authorities administering benefit), in subsection (6)(b), after “the Jobseekers Act 1995” insert “ , Part 1 of the Welfare Reform Act 2007 ”.

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- (16) In section 124 (provisions relating to age, death and marriage), in subsection (1), before “and” at the end of paragraph (ab) insert—
“(ac) of the provisions of Part 1 of the Welfare Reform Act 2007;”.
- (17) In section 125 (regulations as to notification of death), in subsection (1), after “the State Pension Credit Act 2002” insert “, Part 1 of the Welfare Reform Act 2007”.
- (18) In section 126 (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”.
- (19) In section 130 (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 insert—
“(f) an employment and support allowance.”
- (20) In section 132 (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;”.
- (21) In section 150 (annual up-rating of benefits)—
(a) in subsection (1) (Secretary of State to review certain sums each year to determine whether value retained in relation to prices), after paragraph (l) insert—
“(m) specified in regulations under section 2(1)(a) or (4)(c) or 4(2)(a) or (6)(c) of the Welfare Reform Act 2007;”;
(b) in subsection (7) (power to include in annual up-rating order provision for increase in sums not required to be up-rated), for “or the State Pension Credit Act 2002” substitute “, the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007”.
- (22) In section 159B (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 insert—
“(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 2007 which are relevant in calculating the amount payable by way of a contributory employment and support allowance;”.
- (23) After section 159B insert—

“159C 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) 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—

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- (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 Secretary of State; 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) applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iii), the amount of the alteration which he proposes to make by an order under section 150 or 152 or by or under any other enactment, and
 - (b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).
- (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 commencing date 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 at a rate determined by reference to the amounts of the items referred to in subsection (1)(b)(i) to (iii) 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 sums referred to in section 150 by any enactment or by an order under section 150 or 152 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;

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“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 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 159B.”

(24) After section 160A insert—

“160B 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
 - (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 Secretary of State; and the award shall have effect accordingly.
- (3) Subsection (2) 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) 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 2007.”

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- (25) In section 164 (destination of repayments), in subsection (1), after “section 38 of the Jobseekers Act 1995” insert “, section 27 of the Welfare Reform Act 2007”.
- (26) In section 165(6)(a) (under which no adjustment between the National Insurance Fund and the Consolidated Fund is required for administrative expenses of the Secretary of State relating to benefits payable out of money provided by Parliament), for “or section 20 of the State Pension Credit Act 2002” substitute “, section 20 of the State Pension Credit Act 2002 or section 27 of the Welfare Reform Act 2007”.
- (27) In section 166 (financial review and report), in subsection (2) (duty at end of each review period to review operation of certain provisions)—
- (a) after paragraph (b) insert—
 - “(ba) the provisions of Part 1 of the Welfare Reform Act 2007 relating to contributory employment and support allowance;”;
 - (b) in paragraph (c), for “and (b)” substitute “to (ba)”.
- (28) In section 170 (Social Security Advisory Committee), in subsection (5)—
- (a) in the definition of “the relevant enactments”, after paragraph (ai) insert—
 - “(aia) the provisions of Part 1 of the Welfare Reform Act 2007;”;
 - (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ai) insert—
 - “(aia) any provisions in Northern Ireland which correspond to provisions of Part 1 of the Welfare Reform Act 2007;”.
- (29) In section 179 (reciprocal agreements with countries outside the United Kingdom)—
- (a) in subsection (3)(a), after “the State Pension Credit Act 2002” insert “, Part 1 of the Welfare Reform Act 2007”;
 - (b) in subsection (4), before “and” at the end of paragraph (ae) insert “and
 - (af) to Part 1 of the Welfare Reform Act 2007;”;
 - (c) in subsection (5), after paragraph (ab) insert—
 - “(ac) employment and support allowance;”.
- (30) In section 180 (payment of travelling expenses by Secretary of State), after “the State Pension Credit Act 2002”, in both places, insert “, Part 1 of the Welfare Reform Act 2007”.
- (31) In section 187 (certain benefits to be inalienable), in subsection (1), after paragraph (ab) insert—
 - “(ac) an employment and support allowance;”.
- (32) In section 191 (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 2007 (employment and support allowance);”;
 - (c) after the definition of “income-related benefit” insert—

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““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

Textual Amendments

F25 Sch. 3 para. 10(13) repealed (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(2)(f), **Sch. 14 Pt. 13**

Commencement Information

I57 Sch. 3 para. 10(1)-(8) (12) (32) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**

I58 Sch. 3 para. 10(1) (2) (32) in force at 27.7.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(3)(a)**

I59 Sch. 3 para. 10(1)-(8) (12) (32) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(f)**

I60 Sch. 3 para. 10(9)-(11) (13)-(31) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(f)**

Local Government Finance Act 1992 (c. 14)

- 11 (1) The Local Government Finance Act 1992 is amended as follows.
- (2) In Schedule 4 (enforcement in England and Wales)—
- (a) in paragraph 6 (deductions from income support etc.), in sub-paragraphs (1) and (2)(b), for “or state pension credit” substitute “ , state pension credit or an employment and support allowance ”;
 - (b) in paragraph 12 (relationship between remedies), after sub-paragraph (1)(bb) insert—
 - “(bc) deductions from an employment and support allowance may be resorted to more than once.”;
 - (c) in that paragraph, in sub-paragraph (1)(d), after “state pension credit” insert “ , deductions from an employment and support allowance ”.
- (3) In Schedule 8 (enforcement in Scotland), in paragraph 6 (deductions from income support etc.), in sub-paragraphs (1) and (2)(b), for “or state pension credit” substitute “ , state pension credit or an employment and support allowance ”.

Commencement Information

I61 Sch. 3 para. 11 in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(f)**

Jobseekers Act 1995 (c. 18)

- 12 (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 1 (the jobseeker's allowance), in subsection (2) (conditions of entitlement), for paragraph (f) substitute—
 - “(f) does not have limited capability for work;”.
- (3) In section 3 (income-based conditions), in subsection (1)—
- (a) in paragraph (b), for “or state pension credit” substitute “ , state pension credit or an income-related employment and support allowance ”;
 - (b) after paragraph (dd) insert—

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“(de) is not a member of a couple the other member of which is entitled to an income-related employment and support allowance;”.

(4) In section 3A (conditions for claims by joint-claim couples), in subsection (1), after paragraph (cc) insert—

“(cd) that neither member of the couple is entitled to an income-related employment and support allowance;”.

(5) In section 35 (interpretation)—

(a) in subsection (1), 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 2007 (employment and support allowance);”;

(b) in subsection (2), for “capable of work” substitute “ limited capability for work ”.

(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 Act, in accordance with the provisions of Part 1 of the Welfare Reform Act 2007 (employment and support allowance).

(2) References in Part 1 of the Welfare Reform Act 2007 to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this Act, as references to the purposes of this Act.”

Commencement Information

I62 Sch. 3 para. 12(1) (5) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)

I63 Sch. 3 para. 12(1) (5) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

I64 Sch. 3 para. 12(2)-(4) (6) in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Pensions Act 1995 (c. 26)

13 In Schedule 4 to the Pensions Act 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 2002” substitute “, the State Pension Credit Act 2002 and Part 1 of the Welfare Reform Act 2007 ”.

Commencement Information

I65 Sch. 3 para. 13 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

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Children (Scotland) Act 1995 (c. 36)

- 14 In section 22 of the Children (Scotland) Act 1995 (promotion of welfare of children in need), in subsection (4) (under which persons in receipt of certain benefits cannot be required to repay financial assistance), at the end insert “; or
(c) an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”

Commencement Information

I66 Sch. 3 para. 14 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Employment Tribunals Act 1996 (c. 17)

- 15 (1) The Employment Tribunals Act 1996 is amended as follows.
(2) In section 16 (power to provide for recoupment of benefits)—
(a) in subsections (3)(a) and (c) and (5)(cc) and (e), for “or income support” substitute “, income support or income-related employment and support allowance ”;
(b) in subsection (3)(b), for “either benefit” substitute “ jobseeker's allowance, income support or income-related employment and support allowance ”;
(c) in subsection (4), for paragraph (b) substitute—
“(b) so as to apply to all or any of the benefits mentioned in subsection (3).”
(3) In section 17 (recoupment: further provisions), in subsection (1), for “or income support”, in both places, substitute “, income support or income-related employment and support allowance ”.
(4) In that section, at the end insert—
“(5) In this section and section 16 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”

Commencement Information

I67 Sch. 3 para. 15 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)

I68 Sch. 3 para. 15 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Education Act 1996 (c. 56)

- 16 (1) The Education Act 1996 is amended as follows.
(2) In section 457 (charges and remissions policies), in subsection (4)(b) (cases where receipt of benefit by pupil's parent to give rise to remission), after sub-paragraph (ii) insert—
“(iia) in receipt of an income-related employment and support allowance.”

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- (3) In section 512ZB (provision of free school lunches and milk), in subsection (4) (eligibility for free lunches), in paragraphs (a) and (b), after sub-paragraph (ii) insert—
- “(ia) in receipt of an income-related employment and support allowance.”
- (4) In section 579 (interpretation), in subsection (1), after the definition of “higher education” insert—
- ““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

Commencement Information

I69 Sch. 3 para. 16 in force at 27.10.2008 by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

Social Security Act 1998 (c. 14)

- 17 (1) The Social Security Act 1998 is amended as follows.
- (2) In section 2 (use of computers), in subsection (2) (meaning of “relevant enactment”), after paragraph (i) insert “; or
- “(Part 1 of the Welfare Reform Act 2007.”
- (3) In section 8 (which provides for any decision on a claim for a relevant benefit, or under or by virtue of a relevant enactment, to be made by the Secretary of State)—
- (a) in subsection (3) (definition of “relevant benefit”), after paragraph (b) insert—
- “(ba) an employment and support allowance;”;
- (b) in subsection (4) (definition of “relevant enactment”), for “or the State Pension Credit Act 2002” substitute “ , the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007 ”.
- (4) In section 11 (regulations with respect to decisions), in subsection (3), in the definition of “the current legislation”, for “and the State Pension Credit Act 2002” substitute “ , the State Pension Credit Act 2002 and Part 1 of the Welfare Reform Act 2007 ”.
- (5) In section 27 (restrictions on entitlement to benefit in certain cases of error), in subsection (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 section 28 (correction of errors and setting aside of decisions), in subsection (3) (definition of “relevant enactment”), at the end insert “; or
- (g) Part 1 of the Welfare Reform Act 2007.”
- (7) In section 31 (incapacity for work), after subsection (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

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the Welfare Reform Act 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 insert “, or
(iv) section 159C(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 insert “; or
(g) section 18 of the Welfare Reform Act 2007.”

Commencement Information

- I70** Sch. 3 para. 17(1) (3) (6) (7) in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I71** Sch. 3 para. 17(1) (3)-(6) in force at 27.7.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(3\)\(a\)](#)
- I72** Sch. 3 para. 17(1) (3) (6) (7) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(f\)](#)
- I73** Sch. 3 para. 17(2) in force at 27.7.2008 by [S.I. 2008/787, art. 2\(3\)\(a\)](#)
- I74** Sch. 3 para. 17(4) (5) (8) (9) in force at 27.10.2008 by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Welfare Reform and Pensions Act 1999 (c. 30)

- 18 In section 72 of the Welfare Reform and Pensions Act 1999 (power to make regulations about the use and supply of social security information), in subsection (3) (provisions in connection with which the power is exercisable), at the end insert “, or
(d) Part 1 of the Welfare Reform Act 2007.”

Commencement Information

- I75** Sch. 3 para. 18 in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
- I76** Sch. 3 para. 18 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Immigration and Asylum Act 1999 (c. 33)

- 19 In section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits), in subsection (1) (benefits to which entitlement excluded), after “State Pension Credit Act 2002” insert “or to income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) ”.

Commencement Information

- I77** Sch. 3 para. 19 in force at 27.10.2008 by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Child Support, Pensions and Social Security Act 2000 (c. 19)

Status: Point in time view as at 29/04/2013.

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Textual Amendments

F26 Sch. 3 para. 20 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 7 Pt. 3](#); [S.I. 2010/293](#), art. 2(3)(b) (with art. 2(4))

Commencement Information

I78 Sch. 3 para. 20 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), art. 2(1)

I79 Sch. 3 para. 20 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), art. 2(4)(f)

PROSPECTIVE

Local Government Act 2000 (c. 22)

- 21 In section 94 of the Local Government Act 2000 (disclosure of information), in subsection (1) (benefit information which may be disclosed), for “or state pension credit” substitute “, state pension credit or an income-related employment and support allowance”.

Adults with Incapacity (Scotland) Act 2000 (asp 4)

- 22 (1) The Adults with Incapacity (Scotland) Act 2000 is amended as follows.
- (2) In section 39(1)(a) (which excepts from matters which may be managed those relating to benefit under the Contributions and Benefits Act), at the end insert “ or Part 1 of the Welfare Reform Act 2007 ”.
- (3) In section 41(a) (duties of managers in relation to matters which may be managed), at the end insert “ or Part 1 of the Welfare Reform Act 2007 ”.

Commencement Information

I80 Sch. 3 para. 22 in force at 27.10.2008 by [S.I. 2008/787](#), art. 2(4)(f)

Social Security Fraud Act 2001 (c. 11)

- 23 (1) The Social Security Fraud Act 2001 is amended as follows.
- (2) In section 7 (loss of benefit for commission of benefit offences), after subsection (4A) insert—
- “(4B) The Secretary of State 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;

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- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.”

^{F27}(3)

- (4) In section 9 (effect of offences on benefits of 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 10 (power to supplement and mitigate loss of benefit provisions), in subsection (3) (definition of “social security benefit”), after paragraph (bb) insert—
“(bc) any benefit under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) or under any provision having effect in Northern Ireland corresponding to that Part;”.

- (7) In section 11 (loss of benefit regulations), in subsection (3) (regulations subject to affirmative resolution procedure), in paragraph (c), after “(4A)”, in both places, insert “ , (4B) ”.

- (8) In section 13 (interpretation of sections 7 to 12), after the definitions by reference to the Jobseekers Act 1995 insert—
““income-related allowance” has the same meaning as in Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

Textual Amendments

F27 Sch. 3 para. 23(3) repealed (1.4.2010) by [Welfare Reform Act 2009 \(c. 24\), s. 61\(3\)](#), [Sch. 7 Pt. 3](#); [S.I. 2010/293, art. 2\(5\)\(a\)](#)

Commencement Information

I81 Sch. 3 para. 23(1)-(5) (8) in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)

I82 Sch. 3 para. 23(1)-(5) (8) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

I83 Sch. 3 para. 23(6) (7) in force at 27.10.2008 by [S.I. 2008/787, art. 2\(4\)\(f\)](#)

Status: Point in time view as at 29/04/2013.

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Income Tax (Earnings and Pensions) Act 2003 (c. 1)

- 24 (1) The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.
- (2) In section 658(4) (amount charged to tax to be calculated in accordance with section 661), after “carer's allowance,” insert “ contributory employment and support allowance, ”.
- (3) In the table of taxable benefits in section 660 (“Table A”), after the entry relating to “Carer's allowance” insert—

“Contributory employment and support allowance	WRA 2007	Section 1(2)(a)
Any provision made for Northern Ireland which corresponds to section 1(2)(a) of WRA 2007”		

- (4) In section 661(1) (social security income taxable on an accruals basis), after “carer's allowance,” insert— “ contributory employment and support allowance, ”.
- (5) In the table of benefits wholly exempt from tax in section 677 (“Table B”), after the entry relating to “Housing benefit” insert—

“Income-related employment and support allowance	WRA 2007	Section 1(2)(b)
Any provision made for Northern Ireland which corresponds to section 1(2)(b) of WRA 2007”		

- (6) In Part 1 of Schedule 1 (abbreviations of Acts), at the end insert—

“WRA 2007	The Welfare Reform Act 2007”
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Commencement Information

- I84** Sch. 3 para. 24 in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)
- I85** Sch. 3 para. 24 in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)

SCHEDULE 4

Section 29

TRANSITION RELATING TO PART 1

General power to provide for transition relating to Part 1

- 1 (1) Regulations may make such provision as the Secretary of State considers necessary or expedient—
- (a) in connection with the coming into force of any provision of, or repeal relating to, this Part, or
- (b) otherwise for the purposes of, or in connection with, the transition to employment and support allowance.

Status: Point in time view as at 29/04/2013.

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(2) The following provisions of this Schedule are not to be taken as prejudicing the generality of sub-paragraph (1).

Commencement Information

- I86** Sch. 4 para. 1(1) in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
I87 Sch. 4 para. 1(1) in force at 27.7.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(3\)\(b\)](#)
I88 Sch. 4 para. 1(2) in force at 27.7.2008 by [S.I. 2008/787, art. 2\(3\)\(b\)](#)

Pre-commencement claims

- 2 Regulations may—
- (a) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made before the appointed day to be treated wholly or partly as a claim for an employment and support allowance;
 - (b) make provision for the purpose of enabling claims for an employment and support allowance to be made before the appointed day for a period beginning on or after that day.

Commencement Information

- I89** Sch. 4 para. 2 in force at 18.3.2008 for specified purposes by [S.I. 2008/787, art. 2\(1\)](#)
I90 Sch. 4 para. 2 in force at 27.7.2008 in so far as not already in force by [S.I. 2008/787, art. 2\(3\)\(b\)](#)

PROSPECTIVE

Post-commencement claims

- 3 Regulations may—
- (a) make provision excluding the making of a claim for incapacity benefit or severe disablement allowance on or after the appointed day;
 - (b) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made on or after the appointed day to be treated in prescribed circumstances as a claim for an employment and support allowance;
 - (c) make provision for a claim for an employment and support allowance to be treated wholly or partly as a claim for incapacity benefit, income support or severe disablement allowance;
 - (d) make provision excluding the making of a claim for an employment and support allowance by a person who is entitled to an existing award.

PROSPECTIVE

Award of employment and support allowance for pre-commencement period

- 4 Regulations may—

Status: Point in time view as at 29/04/2013.

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- (a) make provision for an employment and support allowance of such a kind as the regulations may provide to be awarded in prescribed circumstances for a period before the appointed day;
- (b) make provision with respect to conditions of entitlement in relation to an award under sub-paragraph (a) and the amount payable by way of an allowance under such an award.

PROSPECTIVE

Matching of awards of employment and support allowance

- 5 (1) For the purposes of this paragraph, an award of an employment and support allowance is one that falls to be made on matching terms if—
- (a) it is made in pursuance of a claim by a person who was previously entitled to an existing award, and
 - (b) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him (“the hypothetical award”) would have been made on the basis of the linking of periods of incapacity for work.
- (2) Regulations may—
- (a) make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the hypothetical award;
 - (b) make provision for the modification of matched awards for the purpose of securing that the person with the award is put in the position he would have been had he been made the hypothetical award which was then the subject of conversion under paragraph 7.
- (3) In sub-paragraph (2)(b), the reference to matched awards is to awards of an employment and support allowance that have been the subject of matching in pursuance of regulations under sub-paragraph (2)(a).
- 6 (1) For the purposes of this paragraph an award of an employment and support allowance is one which falls to be made on matching terms if—
- (a) it is made in pursuance of a claim by a person who was previously entitled to an existing award,
 - (b) had he continued to be entitled to that award, it would have been the subject of conversion under paragraph 7 before the date of his claim for an employment and support allowance, and
 - (c) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him would have been made on the basis of the linking of periods of incapacity for work.
- (2) Regulations may make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the award that would have resulted from conversion under paragraph 7 had entitlement to the existing award continued.

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Treatment of existing awards

- 7 (1) Regulations may—
- (a) make provision for converting existing awards into awards of an employment and support allowance, and with respect to the terms of conversion;
 - (b) make provision for the termination of existing awards in prescribed circumstances.
- (2) Regulations under sub-paragraph (1)(a) may, in particular—
- (a) make provision for conversion of an existing award—
 - (i) on application, in accordance with the regulations, by the person entitled to the award, or
 - (ii) without application;
 - (b) make provision about the conditions to be satisfied in relation to an application for conversion;
 - (c) make provision about the timing of conversion;
 - (d) provide for an existing award to have effect after conversion as an award of an employment and support allowance—
 - (i) of such a kind,
 - (ii) for such period,
 - (iii) of such an amount, and
 - (iv) subject to such conditions,as the regulations may provide;
 - (e) make provision for determining in connection with conversion of an existing award whether a person has limited capability for work-related activity.
 - [^{F28}(f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.]
- (3) Regulations under sub-paragraph (1)(a) may, in relation to existing awards which have been the subject of conversion under this paragraph, include provision about revision under section 9 of the Social Security Act 1998 (c. 14), or supersession under section 10 of that Act in respect of the period before conversion.

Textual Amendments

F28 Sch. 4 para. 7(2)(f) inserted (20.3.2012 for specified purposes, 1.5.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 51\(4\)](#), 150(3); [S.I. 2012/863](#), [art. 2\(1\)\(b\)\(2\)\(a\)](#)

Commencement Information

I91 Sch. 4 para. 7 in force at 27.7.2010 by [S.I. 2010/1905](#), [art. 2\(b\)](#)

Transitional allowances

- 8 (1) Regulations may—
- (a) make provision for a person's continuing entitlement to an employment and support allowance awarded by virtue of regulations under paragraph 7 (a “transitional allowance”) to be determined by reference to such provision as may be made by the regulations;

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- (b) make provision for the review of an award of a transitional allowance;
- (c) make provision for the termination of an award of a transitional allowance;
- (d) make provision for this Part, or any other enactment relating to social security, to have effect with prescribed modifications in relation to a person with a transitional allowance;
- (e) make provision for the purpose of enabling a transitional allowance to be revised under section 9 of the Social Security Act 1998 (c. 14) or superseded under section 10 of that Act.

(2) In this paragraph “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

I92 Sch. 4 para. 8 in force at 27.7.2010 by [S.I. 2010/1905](#), **art. 2(c)**

PROSPECTIVE

- 9 (1) Regulations may prescribe circumstances in which a person who is entitled to a transitional allowance immediately before reaching pensionable age is to be treated as having satisfied the condition in paragraph 5(2) of Schedule 3 to the Contributions and Benefits Act (first contribution condition for entitlement to state pension).
- (2) In this paragraph, “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26).

Post-commencement up-rating of incapacity benefit and severe disablement allowance

- 10 Regulations may provide for section 150 of the Administration Act (annual up-rating of benefits), so far as relating to—
- (a) incapacity benefit under section 30A of the Contributions and Benefits Act,
or
 - (b) severe disablement allowance,
- to have effect with prescribed modifications in relation to tax years beginning on or after the appointed day.

Commencement Information

I93 Sch. 4 para. 10 in force at 11.12.2008 by [S.I. 2008/3167](#), **art. 2(b)**

Interpretation

- 11 In this Schedule—
- “appointed day” means the day appointed for the coming into force of section 1;
 - “existing award” means—
 - (a) an award of incapacity benefit,
 - (b) an award of severe disablement allowance, and

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- (c) an award of income support made to a person to whom regulation 6(4) (a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, the Income Support (General) Regulations 1987 (S.I. 1987/1967) (persons incapable of work or disabled) applies;
“incapacity benefit” (except in paragraph 10(a)) means—
- (a) incapacity benefit under section 30A, 40 or 41 of the Contributions and Benefits Act,
- (b) long-term incapacity benefit under regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (S.I. 1995/310) (former sickness benefit), and
- (c) invalidity benefit which has effect by virtue of regulation 17(1) of those regulations as if it were long-term incapacity benefit;
- “severe disablement allowance” means severe disablement allowance under section 68 of that Act (as it has effect by virtue of article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No. 9, and Transitional and Savings Provisions) Order 2000 (S.I. 2000/2958) (C. 89));
- “transitional allowance” has the meaning given by paragraph 8(1)(a).

Commencement Information

I94 Sch. 4 para. 11 in force at 27.7.2008 by [S.I. 2008/787](#), [art. 2\(3\)\(b\)](#)

SCHEDULE 5

Section 40

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

Social Security Contributions and Benefits Act 1992 (c. 4)

- [^{F29}1] (1) The Contributions and Benefits Act is amended as follows.
- (2) In section 123(4) (income-related benefits), for the words before paragraph (a) substitute “ Each billing authority and in Scotland each local authority ”.
- (3) In section 130(2) (housing benefit: qualifying payments), for paragraph (a) substitute—
- “(a) payments to a billing authority or to a local authority in Scotland in respect of council tax;”.
- (4) In section 137(1) (interpretation of Part 7), after the definition of “industrial injuries scheme” insert—
- ““local authority” in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;”.]

Textual Amendments

F29 Sch. 5 para. 1 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); [S.I. 2013/358](#), art. 8(c), [Sch. 4](#) (with arts. 9, 10, Sch. 5)

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Social Security Administration Act 1992 (c. 5)

2 The Administration Act is amended as follows.

- [^{F303} In section 134 (arrangements for housing benefit)—
- (a) in subsection (8)(a) before “war” in each place insert “ prescribed ”;
 - (b) in that subsection omit “or surviving civil partner's”;
 - (c) after subsection (13) insert—
 - “(14) In this section “war widow's pension” includes any corresponding pension payable to a widower or surviving civil partner.”]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

- [^{F304} In section 139 (arrangements for council tax benefit)—
- (a) in subsection (6)(a) before “war” in each place insert “ prescribed ”;
 - (b) in subsection (11) omit the definition of “war disablement pension” and for the definition of “war widow's pension” substitute—
 - ““war widow's pension” includes any corresponding pension payable to a widower or surviving civil partner.”]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

- [^{F305} In section 139E (information about attainment of standards), in subsection (1)—
- (a) for “section 139D(3)” substitute “ section 139D(3A) or (3B) ”;
 - (b) after paragraph (a) insert—
 - “(aa) whether the authority has taken the action which it has been directed to take;”;
 - (c) in paragraph (b) after “those standards” insert “ or take that action ”.]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

Commencement Information

I95 Sch. 5 para. 5 in force at 1.4.2008 by [S.I. 2008/411](#), [art. 2\(3\)\(c\)](#)

- [^{F306} (1) Section 139F (enforcement notices) is amended as follows.
- (2) In subsection (1)—
- (a) for “section 139D(3)” substitute “ section 139D(3A) or (3B) ”;
 - (b) after paragraph (a) insert—
 - “(aa) is not satisfied that the authority has taken the action which it has been directed to take;”;

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- (c) in paragraph (b) after “those standards” insert “ or take that action ”.
- (3) In subsection (2)(a), after “paragraph (a)” insert “ , (aa) ”.
- (4) In subsection (4), at the beginning insert “ If the notice identifies directions under section 139D(3A), ”.
- (5) After subsection (4) insert—
- “(4A) If the notice identifies directions under section 139D(3B), the authority’s response shall either—
- (a) state that the authority has taken the action, or is likely to take it within the time specified in the directions, and justify that statement; or
- (b) state that the authority has not taken the action, or is not likely to take it within that time, and (if the authority wishes) give reasons why a determination under section 139G below should not be made or should not include any particular provision.”]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

Commencement Information

I96 Sch. 5 para. 6 in force at 1.4.2008 by [S.I. 2008/411](#), [art. 2\(3\)\(c\)](#)

- [^{F307} (1) Section 139G (enforcement determinations) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “the standards” insert “ or taken the action ”;
- (b) in paragraph (b) after “those standards” insert “ or take that action ”.
- (3) In subsections (3) and (5)(c), after “the standards” insert “ or the taking of the action ”.]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

Commencement Information

I97 Sch. 5 para. 7 in force at 1.4.2008 by [S.I. 2008/411](#), [art. 2\(3\)\(c\)](#)

- [^{F308} (1) In section 140A(2)(c) (subsidies to certain authorities), for “or levying authority” substitute “ and to each local authority in Scotland ”.
- (2) Sub-paragraph (1) must be taken to have had effect from 1 April 1997 (the date of the coming into force of section 140A of that Act).]

Status: Point in time view as at 29/04/2013.

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Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)

[^{F30}9 In section 140B(5A) (calculation of amount of subsidy), for “section 139D(3)” substitute “ section 139D(3A) or (3B) ”.]

Textual Amendments

F30 Sch. 5 paras. 3-9 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)

Commencement Information

I98 Sch. 5 para. 9 in force at 1.4.2008 by [S.I. 2008/411](#), [art. 2\(3\)\(c\)](#)

10 In section 191 (interpretation), in the definition of “prescribe” at the end insert “ and “prescribed” must be construed accordingly ”.

Local Government etc. (Scotland) Act 1994 (c. 39)

11 In Schedule 13 to the Local Government etc. (Scotland) Act 1994 (minor and consequential amendments)—

- (a) paragraph 174(4) is omitted;
- (b) paragraph 175(3) extends also to England and Wales and, accordingly, the amendments made by that sub-paragraph extend also to England and Wales.

Housing Act 1996 (c. 52)

[^{F31}12 In section 122(5) of the Housing Act 1996 for “regulations or order as are mentioned in subsection (3) or (4)” substitute “ order as is mentioned in subsection (4) ”.]

Textual Amendments

F31 Sch. 5 para. 12 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)

Commencement Information

I99 Sch. 5 para. 12 in force at 7.4.2008 by [S.I. 2007/2872](#), [art. 2\(1\)\(d\)](#) (with [art. 3\(1\)\(a\)](#))

PROSPECTIVE

Child Support, Pensions and Social Security Act 2000 (c. 19)

[^{F32}13 In Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals), in paragraph 1(2), after paragraph (b) insert—

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“(c) a decision of a relevant authority under or by virtue of section 75 or 76 of the Administration Act that an amount of housing benefit or council tax benefit is recoverable;”.]

Textual Amendments

F32 Sch. 5 para. 13 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); [S.I. 2013/358, art. 8\(c\), Sch. 4](#) (with [arts. 9, 10, Sch. 5](#))

Civil Partnership Act 2004 (c. 33)

- 14 In Schedule 24 to the Civil Partnership Act 2004 (amendments relating to social security, child support and tax credits), omit paragraph 65.

SCHEDULE 6

Section 58

SCHEDULE TO BE INSERTED IN THE PNEUMOCONIOSIS ETC. (WORKERS' COMPENSATION) ACT 1979

Commencement Information

I100 Sch. 6 in force at 12.7.2007 for specified purposes by [S.I. 2007/1991, art. 2\(1\)](#)

I101 Sch. 6 in force at 10.8.2007 in so far as not already in force by [S.I. 2007/1991, art. 2\(2\)](#)

“THE SCHEDULE

Section 2(3)

DEFINITION OF “RELEVANT EMPLOYER”

Basic definition

- 1 Subject to the following provisions, “relevant employer”, in relation to a person disabled by a disease to which this Act applies, means any person—
- (a) by whom the disabled person was employed in a prescribed occupation at any time during the period during which he was developing the disease, and
 - (b) against whom he might have or might have had a claim for damages in respect of the disablement.

Disregarded employers

- 2 A person is not a relevant employer in relation to a person disabled by a disease to which this Act applies if the disabled person has had no period of employment with him which is a qualifying period of employment.
- 3 A person is not a relevant employer in relation to a person disabled by a disease to which this Act applies if the disabled person's qualifying period of employment with him did not exceed 12 months.
- 4 A person is not a relevant employer in relation to a person disabled by a disease to which this Act applies if the disabled person's qualifying period of employment with him—

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- (a) did not exceed 5 years, and
 - (b) represents not more than 25% of the time during which the disabled person was employed in a prescribed occupation.
- 5 A person is not a relevant employer in relation to a person disabled by a disease to which this Act applies if the disabled person's qualifying period of employment with him—
- (a) did not exceed 7 years, and
 - (b) represents not more than 20% of the time during which the disabled person was employed in a prescribed occupation.
- 6 In paragraphs 3 to 5, references to the disabled person's qualifying period of employment with his employer, where there has been more than one such period, are to the aggregate of those periods.

“Qualifying period of employment”

- 7 (1) In this Schedule, “qualifying period of employment”, in relation to a person disabled by a disease to which this Act applies, means any period of employment in a prescribed occupation, except for—
- (a) a period of employment which ended more than 20 years before the qualifying date, and
 - (b) in the case of a claim relating to diffuse mesothelioma, a period of employment which began not more than 15 years before the qualifying date.
- (2) In sub-paragraph (1), “qualifying date” means—
- (a) the date on which the Secretary of State determines a claim for disablement benefit made by or on behalf of the disabled person in respect of the disease, or
 - (b) if the disabled person has died without a claim for disablement benefit in respect of the disease having been determined, the date on which he died.

“Prescribed occupation”

- 8 (1) In this Schedule, “prescribed occupation”, in relation to a person disabled by a disease to which this Act applies, means an occupation prescribed in relation to the disease by the Secretary of State by order made by statutory instrument.
- (2) A statutory instrument that—
- (a) contains an order under sub-paragraph (1), and
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Power to amend Schedule

- 9 Regulations made by the Secretary of State may—
- (a) amend this Schedule for the purpose of adding to the cases in which a person is not a relevant employer in relation to a person disabled by a disease to which this Act applies;
 - (b) amend or repeal any provision of this Schedule relating to such cases.”

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SCHEDULE 7

Section 63

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 4

PROSPECTIVE

Vaccine Damage Payments Act 1979 (c. 17)

- 1 (1) The Vaccine Damage Payments Act 1979 is amended as follows.
- (2) In section 4(2) (power to make regulations about appeals), at the beginning insert “ In relation to appeals under subsection (1) to an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998, ”.
- (3) In section 4(3) (provision which may be made under the preceding subsection), for “The regulations” substitute “ Regulations under subsection (2) ”.
- (4) In section 7A (correction of errors and setting aside of decisions)—
- ^{F33}(a)
- (b) in subsection (2) (nothing in subsection (1) to affect other powers), after “subsection (1)” insert “ or (1A) ”.
- (5) In section 8 (regulations), in subsection (1) (references in the Act to regulations are to regulations made by the Secretary of State), after “provisions of this Act” insert “ , except sections 4(3A) and (3B) and 7A(1A), ”.
- (6) In that section, in subsection (3) (provision which may be contained in regulations made by the Secretary of State)—
- (a) after paragraph (b) insert “ and ”;
- (b) paragraph (d) (power to confer functions on appeal tribunals) ceases to have effect.
- (7) In that section, at the end insert—
- “(4) Any power of the Department for Social Development in Northern Ireland to make regulations under this Act—
- (a) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 which shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954; and
- (b) includes power to make such incidental or supplementary provision as appears to the Department to be appropriate.”

^{F34}(8)

^{F34}(9)

Textual Amendments

F33 Sch. 7 para. 1(4)(a) repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 228\(o\)](#)

Status: Point in time view as at 29/04/2013.

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F34 Sch. 7 para. 1(8) (9) repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 228\(o\)](#)

Social Security Contributions and Benefits Act 1992 (c. 4)

- 2 (1) The Contributions and Benefits Act is amended as follows.
- (2) In section 73 (mobility component of disability living allowance), in subsection (9) (a), after “subsection (1)” insert “ (a) to (d) ”.
- (3) In section 140 (social fund payments: principles of determination), for subsection (3) substitute—
- “(3) Without prejudice to the generality of subsection (2), the Secretary of State may issue directions under that subsection for the purpose of securing that allocations under section 168 of the Administration Act are not exceeded.”

Commencement Information

I102 Sch. 7 para. 2 partly in force; Sch. 7 para. 2(1)(3) in force at 3.7.2007 see s. 70

I103 Sch. 7 para. 2(2) in force at 1.10.2007 by [S.I. 2007/2819](#), [art. 2\(1\)\(d\)](#)

Social Security Administration Act 1992 (c. 5)

- 3 (1) The Administration Act is amended as follows.
- (2) In section 2AA(2) (benefits to which section applies), for paragraph (e) substitute—
- “(e) carer's allowance.”
- (3) In section 123 (unauthorised disclosure of information relating to particular persons), in subsection (6A), for “medical practitioner” substitute “ health care professional ”.
- (4) In section 168 (allocations from social fund), in subsection (5) (power to give directions with respect to the control and management of social fund allocations to particular officers or groups of officers), for “the amounts allocated to them” substitute “ any amounts allocated to them ”.
- (5) In subsection (6) of that section (definition of “appropriate officer”), for “payments from the social fund such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act” substitute “ section 138(1)(b) payments ”.

Social Security Act 1998 (c. 14)

- 4 In section 38(7) of the Social Security Act 1998 (principles applicable on review of social fund determination), at the end of paragraph (a)(i) insert “ and ”.

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SCHEDULE 8

Section 67

REPEALS

Commencement Information

- I104** Sch. 8 partly in force; Sch. 8 in force at 3.7.2007 for specified purposes see s. 70
- I105** Sch. 8 in force at 1.10.2007 for specified purposes by [S.I. 2007/2819](#), [art. 2\(1\)\(e\)](#)
- I106** Sch. 8 in force at 7.4.2008 for specified purposes by [S.I. 2007/2872](#), [art. 2\(1\)\(c\)](#) (with [arts. 3-5](#))
- I107** Sch. 8 in force at 1.9.2008 for specified purposes by [S.I. 2008/2101](#), [art. 2\(2\)\(c\)](#) (with [art. 3\(1\)\(2\)](#))
- I108** Sch. 8 in force at 7.10.2008 for specified purposes by [S.I. 2008/2101](#), [art. 2\(3\)\(c\)](#) (with [art. 3\(3\)](#))
- I109** Sch. 8 in force at 27.10.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(4\)\(g\)](#)
- I110** Sch. 8 in force at 27.3.2009 for specified purposes by [S.I. 2009/775](#), [art. 2\(b\)](#) (with [art. 3](#))

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vaccine Damage Payments Act 1979 (c. 17)	Section 3A(6). In section 8(3), paragraph (d), and the word “and” immediately preceding it.
Pneumoconiosis etc. (Workers' Compensation) Act 1979 (c. 41)	Section 3(5).
Income and Corporation Taxes Act 1988 (c. 1)	In section 347B(12)(b), the word “or” at the end of sub-paragraph (i).
Criminal Justice Act 1991 (c. 53)	In section 24(4), in the definition of “income support”, the words “incapacity benefit or”.
Social Security Contributions and Benefits Act 1992 (c. 4)	In section 6A(3), the word “and” at the end of paragraph (c). Section 20(1)(b). In section 20(2)— (a) in the definition of “long-term benefit”, paragraph (a); (b) in the definition of “short-term benefit”, paragraph (b). In section 21(1)— (a) the words from “short-term incapacity benefit” to “subsection (5) of that section,”; (b) the words “or short-term or long-term incapacity benefit under section 40 or 41 below”. In section 21(2), in the table— (a) the heading “Short-term benefit”; (b) the entry relating to short-term incapacity benefit; (c) the heading “Other benefits”. In section 21(4), the words “short-term benefit or”.

The repeal of section 69(5) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) has effect only in relation to child benefit and guardian's allowance.

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<p>Social Security Administration Act 1992 (c. 5)</p>	<p>In section 21(5A)(c), the words “2(4)(a) and (5)(a),”.</p> <p>Sections 30A to 30E.</p> <p>In section 37(2), the words from “one of the conditions” to “person and”.</p> <p>In section 39A(3), the words from “one of the conditions” to “person and”.</p> <p>Sections 40 to 42.</p> <p>In section 44(4), the words from “except that” to the end.</p> <p>Section 47.</p> <p>In section 61—</p> <p style="padding-left: 20px;">(a) in subsection (1), the words “under section 47(1) above or”;</p> <p style="padding-left: 20px;">(b) subsection (2).</p> <p>In section 61A(3), paragraph (d), and the word “and” immediately preceding it.</p> <p>Section 72(6).</p> <p>In section 73(5), the words “Subject to subsection (4) above,”.</p> <p>Section 84.</p> <p>Section 86A.</p> <p>Section 87.</p> <p>In section 89(1) and (1A), the words “, and in regulations under section 86A above,”.</p> <p>Section 93.</p> <p>In section 124(1), the word “and” at the end of paragraph (f).</p> <p>Section 130(4).</p> <p>In section 140(1A), the words following paragraph (b).</p> <p>Section 150(1)(b).</p> <p>Section 171ZP(1) to (3).</p> <p>Sections 171A to 171G.</p> <p>In section 176(1)(a), the words “section 30DD(5)(b) or (c);”.</p> <p>In Schedule 3, paragraphs 2 and 5(6).</p> <p>In Schedule 4—</p> <p style="padding-left: 20px;">(a) in Part 1, paragraphs 2 and 2A;</p> <p style="padding-left: 20px;">(b) in Part 4, paragraphs 1A and 2.</p> <p>In Schedule 11, paragraph 2(d)(i).</p> <p>In Schedule 12, paragraphs 1, 3, 4, 5 and 6.</p> <p>In Schedule 13, paragraphs 1 and 2.</p> <p>Section 2A(2)(e) and (f).</p> <p>In section 2AA(2), paragraph (c) and the word “and” at the end of paragraph (d).</p> <p>Section 5(3).</p> <p>Section 71(5).</p> <p>In section 71ZA(2)—</p>
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The repeal of section 69(5) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) has effect only in relation to child benefit and guardian's allowance.

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	(a) in paragraph (a), the words “paragraph (a) of subsection (5) and”; (b) paragraph (b). In section 73(4), the word “or” at the end of paragraph (a). Section 130(1)(a) and (c). Section 132(1)(b) and (c). In section 134(8)(a), the words “or surviving civil partner's”. In section 150, subsection (1)(aa) and, in subsection (3)(b), “(aa),”. In section 168(3)(d), the words from “to the same officer” to the end.
Social Security Administration (Northern Ireland) Act 1992 (c. 8)	Section 69(5).
Disability (Grants) Act 1993 (c. 14)	In section 1— (a) in subsection (1), paragraphs (a) and (b) and the word “and” immediately preceding paragraph (c); (b) in subsection (4)(a), the words from “the reference in subsection (1)(a)” to first “and”.
Pension Schemes Act 1993 (c. 48)	Section 46(3). In Schedule 8, paragraph 39.
Social Security (Incapacity for Work) Act 1994 (c. 18)	Sections 1, 2(1) to (3), (5) and (6), 3, 5 to 7 and 13. In Schedule 1, paragraphs 2, 3(3), 8 to 10, 13, 24(2) and (4), 28, 33, 38(2) and (3), 44 and 55.
Local Government etc. (Scotland) Act 1994 (c. 39)	In Schedule 13, paragraph 174(4).
Jobseekers Act 1995 (c. 18)	In Schedule 2, paragraphs 19(2), (3) and (5), 25, 26, 40(2) and 53(2).
Pensions Act 1995 (c. 26)	In Schedule 4, paragraphs 18(b) and 21(3) and (4).
Housing Act 1996 (c. 52)	In section 122— (a) subsection (3); (b) in subsection (5)(b), the words “or regulations”. In Schedule 13, paragraph 3(2).
Social Security Act 1998 (c. 14)	In section 2(2), the word “or” at the end of paragraph (h). In section 28(3), the word “or” at the end of paragraph (e). Section 31(1).

The repeal of section 69(5) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) has effect only in relation to child benefit and guardian's allowance.

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	In section 38(7)(a), sub-paragraph (iii), and the word “and” immediately preceding it. Section 77. In Schedule 2, in paragraph 6(b), the word “or” at the end of paragraph (ii). In Schedule 3, in paragraph 3, the word “or” at the end of paragraph (e). In Schedule 7, paragraphs 73(3), 81(2) and 103(1).
Welfare Reform and Pensions Act 1999 (c. 30)	Sections 61 to 64. In section 72(3), the word “or” at the end of paragraph (b). In Schedule 8, paragraphs 20 to 25.
Local Government Act 2000 (c. 22)	Sections 94 and 95.
State Pension Credit Act 2002 (c. 16)	In Schedule 2, paragraphs 9(5)(b)(ii), 16(3), 18(3), 24(2) and 37(a).
National Insurance Contributions Act 2002 (c. 19)	In Schedule 1, paragraph 14(2).
Tax Credits Act 2002 (c. 21)	In Schedule 3, paragraphs 25, 26, 28 and 30.
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 658(4), the words “incapacity benefit”. In section 660(1), in Table A, the entry relating to incapacity benefit. In section 661(1), the words “incapacity benefit.”. Sections 663 and 664. In Schedule 6, paragraph 187.
Civil Partnership Act 2004 (c. 33)	In Schedule 24, paragraphs 14, 15 and 65.

The repeal of section 69(5) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) has effect only in relation to child benefit and guardian's allowance.

Status:

Point in time view as at 29/04/2013.

Changes to legislation:

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