



# Welfare Reform Act (Northern Ireland) 2007

## 2007 CHAPTER 2

An Act to make provision about social security and for connected purposes. [29th June 2007]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### Modifications etc. (not altering text)

- C1** [Act](#): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 4 Pt. 1** (with art. 9(2))

## PART 1

### EMPLOYMENT AND SUPPORT ALLOWANCE

### Modifications etc. (not altering text)

- C2** Pt. 1 modified (coming into force in accordance with art. 1 of the amending S.R.) by [The Social Security \(Ireland\) Order \(Northern Ireland\) 2019 \(S.R. 2019/77\)](#), **art. 2**; 2020 c. 1, Sch. 5 para. 1(1)
- C3** Pt. 1 modified (coming into force in accordance with art. 1 of the amending S.R.) by [The Social Security \(Switzerland\) \(Citizens' Rights Agreement\) Order \(Northern Ireland\) 2019 \(revoked\) 2019 \(S.R. 2019/212\)](#), **art. 2(2)(f)**; 2020 c. 1, Sch. 5 para. 1(1)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Welfare Reform Act (Northern Ireland) 2007 is up to date with all changes known to be in force on or before 11 March 2022. 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) View outstanding changes

- C4** Pt. 1 modified (coming into force in accordance with art. 1 of the amending S.R.) by [The Social Security \(Iceland\) \(Liechtenstein\) \(Norway\) \(Citizens' Rights Agreement\) Order \(Northern Ireland\) 2019 \(S.R. 2019/211\)](#), **art. 2(2)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- C5** Pt. 1 modified (1.1.2021) by [The Social Security \(Norway\) Order \(Northern Ireland\) 2020 \(S.R. 2020/357\)](#), arts. 1(2), 2, **Sch.**
- C6** Pt. 1 modified (coming into operation in accordance with art. 1 of the amending S.R.) by [The Social Security \(Switzerland\) Order \(Northern Ireland\) 2021 \(S.R. 2021/277\)](#), art. 2, **Sch.**
- C7** Pt. 1 (ss. 1-29) applied (with modifications) (1.10.2010) by [Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/312\)](#), regs. 1, **6**, Sch. 1
- C8** Pt. 1 (ss. 1-29) applied (with modifications) (1.10.2010) by [Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/312\)](#), regs. 1, **16**, Sch. 2
- C9** Pt. 1 (ss. 1-29) applied (with modifications) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), s. 123(6A)(6B) (as inserted (prosp.) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), **ss. 5(1)(b)**, 36(2))

### Entitlement

#### Employment and support allowance

**1.—**(1) An allowance, to be known as an employment and support allowance, shall be payable in accordance with the provisions of this Part.

(2) Subject to the provisions of this Part, a claimant is entitled to an employment and support allowance if he satisfies the basic conditions and <sup>[F1]</sup>either—

- (a) the first and the second conditions set out in <sup>[F2]</sup>Part 1 of] Schedule 1 (conditions relating to national insurance) or the third condition set out in <sup>[F2]</sup>that Part of] that Schedule (condition relating to youth), <sup>[F3]</sup>or
- <sup>[F3]</sup>(b) the conditions set out in Part 2 of that Schedule (conditions relating to financial position).

(3) The basic conditions are that the claimant—

- (a) has limited capability for work,
- <sup>[F4]</sup>(aa) has accepted a claimant commitment,]
- (b) is at least 16 years old,
- (c) has not reached pensionable age,
- (d) is in Northern Ireland, <sup>[F5]</sup>and]
- (e) is not entitled to income support, and
- (f) is not entitled to a jobseeker's allowance <sup>[F6]</sup>(and is not a member of a couple who are entitled to a joint-claim jobseeker's allowance)].

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[<sup>F7</sup>(3A) After the coming into operation of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in [<sup>F8</sup>Part 1 of] Schedule 1 (youth).]

(4) For the purposes of this Part, a person has limited capability for work if—

- (a) his capability for work is limited by his physical or mental condition, and
- (b) the limitation is such that it is not reasonable to require him to work.

(5) An employment and support allowance is payable in respect of a week.

(6) In subsection (3)—

[<sup>F9</sup>“joint-claim jobseeker's allowance” means a jobseeker's allowance entitlement to which arises by virtue of Article 3(2B) of the Jobseekers Order;]

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (NI 22).

[<sup>F10</sup>(6A) [<sup>F11</sup>In subsection (3)(f), in relation to a contributory allowance, the reference to a couple entitled to a joint-claim jobseeker's allowance does not include a couple so entitled by virtue of regulations under paragraph 8A of Schedule 1 to the Jobseekers Order.]]

(7) [<sup>F11</sup>In this Part—

“contributory allowance” means an employment and support allowance entitlement to which is based on subsection (2)(a) [<sup>F12</sup>(and see section 1B(2))];

“income-related allowance” means an employment and support allowance entitlement to which is based on subsection (2)(b).]]

### Textual Amendments

**F1** Word in s. 1(2) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

**F2** Words in s. 1(2)(a) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

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- F3** S. 1(2)(b) and word repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))
- F4** S. 1(3)(aa) inserted (2.5.2016 for specified purposes, 27.9.2017 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 [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **60(2)**; S.R. 2016/215, art. 2(3)(b); S.R. 2017/190, art. 9 (with arts. 10-25)
- F5** Word in s. 1(3)(d) inserted (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 3 para. 18**; S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))
- F6** Words in s. 1(3)(f) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))
- F7** S. 1(3A) inserted (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **59**; S.R. 2016/46, art. 3(2)(b)(ii)
- F8** Words in s. 1(3A) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))
- F9** Words in s. 1(6) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2

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(with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

**F10** S. 1(6A) inserted (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **56**; S.R. 2016/46, art. 3(2)(b)(i)

**F11** S. 1(6A)(7) repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes, 17.1.2018 and further specified dates for specified purposes, 16.5.2018 and further specified dates for specified purposes, 5.9.2018 and further specified dates for specified purposes, 1.2.2019 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5); S.R. 2018/1, art. 4 (with art. 5); S.R. 2018/97, art. 4 (with art. 5); S.R. 2018/138, art. 4 (with art. 5); S.R. 2019/7, art. 2(5)-(7) (with art. 2(8)-(12))

**F12** Words in s. 1(7) inserted (28.11.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **58(2)**; S.R. 2016/46, art. 5(a) (as substituted by S.R. 2016/166, art. 3)

#### Commencement Information

**II** S. 1 wholly in operation at 27.10.2008; s. 1 not in operation at Royal Assent see s. 60(1); s. 1 in operation for certain purposes at 1.7.2008 and 27.10.2008 by S.R. 2008/276, **art. 2(2)(c)**, **Sch. Pt. 1**; s. 1 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/276, **art. 2(2)(d)**, **Sch. Pt. 2**

#### [<sup>F13</sup>Duration of [<sup>F14</sup>contributory] allowance

**1A.—(1)** The period for which a person is entitled to [<sup>F15</sup>an employment and support allowance] by virtue of the first and second conditions set out in [<sup>F16</sup>Part 1 of] Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by reference (under the second condition set out in [<sup>F16</sup>Part 1 of] Schedule 1) to the same two tax years.

(2) In subsection (1) the “relevant maximum number of days” is—

- (a) 365 days; or
- (b) if the Department by order specifies a greater number of days, that number of days.

(3) The fact that a person's entitlement to [<sup>F17</sup>an employment and support allowance] has ceased as a result of subsection (1) does not prevent his being entitled to a further such allowance if—

- (a) he satisfies the first and second conditions set out in [<sup>F18</sup>Part 1 of] Schedule 1, and
- (b) the two tax years by reference to which he satisfies the second condition include at least one year which is later than the second of the two years by