STATUTORY RULES OF NORTHERN IRELAND

2017 No. 190 (C. 11)

SOCIAL SECURITY

The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017

Made - - - - 25th September 2017

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by Article 2(2), (3)(a) and (4) of the Welfare Reform (Northern Ireland) Order 2015(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

Citation

1. This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017.

Interpretation

2.—(1) In this Order—

"the 1992 Act" means the Social Security Administration (Northern Ireland) Act 1992(**2**);

"the 1995 Order" means the Jobseekers (Northern Ireland) Order 1995(**3**);

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998(**4**);

"the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007(**5**);

"the 2010 Transitional Regulations" means the Employment and Support Allowance (Transitional Provision and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(**6**);

"the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015;

(**1**) S.I. 2015/2006 (N.I. 1).
(**2**) 1992 c. 8.
(**3**) S.I. 1995/2705 (N.I. 15).
(**4**) S.I. 1998/1506 (N.I. 10).
(**5**) 2007 c. 2 (N.I.).
(**6**) S.R. 2010 No. 312.

"the 2016 Transitional Regulations" means the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(**7**);

"the amending provisions" means the provisions referred to in Article 6(1)(a) to (c);

"Appeal Tribunal" has the same meaning as in Article 39 of the 1998 Order;

"appointed day" means the day appointed for the coming into force of the amending provisions in accordance with Article 6(3);

"claimant"—

(a) in relation to an employment and support allowance, has the same meaning as in Part 1 of the 2007 Act, save as mentioned in Article 7(1) of this Order;

(b) in relation to a jobseeker's allowance, has the same meaning as in the 1995 Order (as it applies apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker's allowance), save as mentioned in Article 7(1) of this Order;

(c) in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order(**8**);

"the Claims and Payments Regulations 1987" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**9**);

"the Claims and Payments Regulations 2016" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(**10**);

"Commissioner" means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of 2 or more of the Commissioners constituted under Article 16(7) of the 1998 Order;

"contribution-based jobseeker's allowance" means a contribution-based allowance under the 1995 Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance;

"contributory employment and support allowance" means a contributory allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance;

"conversion decision" has the meaning given by the 2010 Transitional Regulations;

"the Department" means the Department for Communities;

"employment and support allowance" means an employment and support allowance under Part 1 of the 2007 Act;

"the ESA Regulations 2008" means the Employment and Support Allowance Regulations (Northern Ireland) 2008(**11**);

"the ESA Regulations 2016" means the Employment and Support Allowance Regulations (Northern Ireland) 2016(**12**);

"housing benefit" means housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**13**);

"income-based jobseeker's allowance" means an income-based jobseeker's allowance under the 1995 Order;

(**7**) S.R. 2016 No. 226.
(**8**) *See* Article 46.
(**9**) S.R. 1987 No. 465.
(**10**) S.R. 2016 No. 220.
(**11**) S.R. 2008 No. 280.
(**12**) S.R. 2016 No. 219.
(**13**) 1992 c. 7.

"income-related employment and support allowance" means an income-related allowance under Part 1 of the 2007 Act;

"income support" means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"List of the No. 1 Relevant Districts" means the List of the No. 1 Relevant Districts issued by the Department on 25th September 2017(**14**);

"jobseeker's allowance" means a jobseeker's allowance under the 1995 Order;

"joint claimants", in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order(**15**);

"the JSA Regulations 1996" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**16**);

"the JSA Regulations 2016" means the Jobseeker's Allowance Regulations (Northern Ireland) 2016(**17**);

"new style ESA" means an employment and support allowance under Part 1 of the 2007 Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance and "new style ESA award" shall be construed accordingly;

"new style JSA" means a jobseeker's allowance under the 1995 Order as amended by the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance and "new style JSA award" shall be construed accordingly;

"No. 1 relevant districts" means the postcodes specified in the table in the List of the No. 1 Relevant Districts;

"old style ESA" means an employment and support allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance and "old style ESA award" shall be construed accordingly;

"old style JSA" means a jobseeker's allowance under the 1995 Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker's allowance and "old style JSA award" shall be construed accordingly;

"single claimant", in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order;

"tax credit" (including "child tax credit" and "working tax credit") has the same meaning as in the Tax Credits Act 2002(**18**).

(2) For the purposes of this Order, the Claims and Payments Regulations 2016 apply for the purposes of deciding—

(a) whether a claim for universal credit is made; and

(b) the date on which such a claim is made.

(**14**) *See* the Explanatory Note for details of the internet publishing and availability of the List of the No 1 Relevant Districts; a copy is also being published in the libraries of both Houses of Parliament.
(**15**) *See* Article 46.
(**16**) S.R. 1996 No. 198.
(**17**) S.R. 2016 No. 218.
(**18**) 2002 c. 21.

Provisions coming into force on 27th September 2017

3.—(1) The day appointed for the coming into force of the provisions of the 2015 Order referred to in paragraph (2) is 27th September 2017.

(2) The provisions referred to are—

(a) Article 50(2) and Article 50(1) in so far as it relates to Article 50(2) (claimant commitment for jobseeker's allowance);

(b) Article 51 (interviews) for all remaining purposes;

(c) Article 52 (sanctions) for all remaining purposes;

(d) Article 61 (work experience);

(e) Article 109 (recovery of benefit payments) for all remaining purposes;

(f) Article 134 (rate relief schemes);

(g) paragraph 1 of Schedule 7 (jobseeker's allowance in interim period: consequential amendments), in so far as it relates to the provisions specified in sub-paragraph (h);

(h) paragraphs 2, 3, 4, 6 to 9, 10(4) (and 10(1) in so far as it relates to 10(4)), 12 and 15(2)(c) (and 15(1) in so far as it relates to 15(2)(c)) of Schedule 7;

(i) paragraph 3 of Schedule 8 (social fund discretionary payments: consequential amendments) for all remaining purposes;

(j) Part 3 of Schedule 12 (repeals) save for the provisions in relation to Articles 2(2) and 22(4) and (6) of the 1995 Order; and

(k) in relation to Part 10 of Schedule 12, the repeals of—

(i) section 69(10A); and

(ii) subject to paragraph (3), section 69(11)(aa) and (ac).

(3) Despite paragraph (2)(k)(ii), the benefits referred to in section 69(11)(aa) and (ac) of the 1992 Act remain benefits to which section 69 of the 1992 Act applies to the extent that they relate respectively to an old style JSA award and an old style ESA award.

Day appointed for the coming into force of the universal credit provisions in Part 2 of the 2015 Order

4.—(1) The day appointed for the coming into force of the provisions of the 2015 Order referred to in paragraph (2) is 27th September 2017.

(2) The provisions referred to are—

(a) Article 34 (concurrent exercise of certain functions by Department of Education and Learning);

(b) Article 35 (delegation and contracting out);

(c) Article 43 (capability for work or work-related activity) for all remaining purposes;

(d) Article 44 (information);

(e) Article 45 (couples) for all remaining purposes;

(f) Article 46 (interpretation of Part 2) for all remaining purposes;

(g) the following paragraphs of Schedule 2 to the 2015 Order (universal credit : amendments) and Article 37 of the 2015 Order (supplementary and consequential amendments) in so far as they are not already in force—

(i) paragraphs 1, 2, 28, 29, 31 to 33, 43, 44 and 54;

(ii) paragraphs 4, 8, 10 to 19, 21 and 23 to 27 and paragraph 3 in so far as it relates to those paragraphs; and

(iii) paragraphs 35, 36, 38, 40, 41(2) and 41(1) in so far as it relates to 41(2) and paragraph 34 in so far as it relates to those paragraphs and sub-paragraphs.

(3) The day appointed for the coming into force of the provisions of the 2015 Order listed in Schedule 1, in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (4), and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (5).

(4) The claims referred to are—

(a) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where, on the date on which the claim is made, the claimant resides in the No. 1 relevant districts;

(b) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where—

(i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in the No. 1 relevant districts and the claimant does not reside in those districts on the date on which the claim is made;

(ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in those districts and one or both of them does not or do not reside in those districts on the date on which the claim is made,

and after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Department discovers that incorrect information has been given regarding such residence.

(5) The day appointed in relation to the case of a claim referred to in paragraph (4), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(6) For the purposes of paragraph (5), where the time for making a claim for universal credit is extended under regulation 25(2) of the Claims and Payments Regulations 2016, the reference to the first day of the period in respect of which the claim is made or treated as made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made or treated as made.

Incorrect information regarding residence in the No. 1 relevant districts

5.—(1) This Article applies where a claim for universal credit is made and it is subsequently discovered that the single claimant or either or both of two joint claimants gave incorrect information regarding his or her (or their) residing in the No. 1 relevant districts and the condition referred to in paragraph (2) is met.

(2) The condition referred to is that, on the date on which the claim was made, the claimant did not reside in the No. 1 relevant districts (unless paragraph (3) applies);

(3) This paragraph applies where the claimant resided in an area apart from the No. 1 relevant districts with respect to which the provisions of the 2015 Order referred to in Schedule 1 were in force in relation to a claim for universal credit (and a determination had not been made under regulation 2A of the 2016 Transitional Regulations(**19**), preventing a claim for universal credit being made with respect to the area or category of case in question).

(**19**) Regulation 2A was inserted by regulation 12(2) of S.R. 2017 No. 116.