STATUTORY RULES OF NORTHERN IRELAND

2016 No. 175

HOUSING
RATES
SOCIAL SECURITY

The Employment and Support Allowance (Duration of Contributory Allowance) (Consequential Amendments) Regulations (Northern Ireland) 2016

Made - - - -	*17th March 2016*
Laid before Parliament	*22nd March 2016*
Coming into operation	*28th November 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 22(5), 121(1), 122(1)(a) and (d), 123(1)(d), 131(1), 133(1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 6(5) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**), Articles 2(2), 10(1)(a) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**3**), and sections 2(3)(b), 17(1) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**4**) and sections 2(4)(a), 4(2)(a), 6(a), 24(1), 25(2) and 28(2) of, and paragraph 2 of Schedule 2 and paragraphs 1(1) and 7(1) and 2(f) of Schedule 4 to, the Welfare Reform Act (Northern Ireland) 2007(**5**).

These powers are exercisable by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(**6**).

(**1**) 1992 c. 7; section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and paragraph 3(3)(b) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c.2 (N.I.)). Sections 121(1) and 133(1) are cited for the meaning they give to 'prescribed'. Section 123(1)(d) was substituted by paragraph 13(4) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995. Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21).

(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 S.R. 1999 No. 671.

(**3**) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002 (c. 21). Article 2(2) is cited for the meaning given to 'prescribed'. These powers were vested in the Department for Social Development by Article 8(b) of S.R. 1999 No. 481.

(**4**) 2002 c. 14 (N.I.). Section 17(1) cited for the meaning of 'prescribed'.

(**5**) 2007 c. 2 (N.I.); Section 24(1) cited for the meaning given to 'prescribed'; paragraph 7(2)(f) of Schedule 4 was inserted by Article 57(4) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1))

(**6**) S.I. 2015/2006 (N.I. 1)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance (Duration of Contributory Allowance) (Consequential Amendments) Regulations (Northern Ireland) 2016 and shall come into operation on 28th November 2016.

(2) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Security (Credits) Regulations

2. After regulation 8B(2)(a)(iv) of the Social Security (Credits) Regulations (Northern Ireland) 1975(**8**) (credits for incapacity for work or limited capability for work) insert—

"(iva) would have been a day of limited capability for work for the purposes of Part 1 of the Welfare Reform Act where the person concerned would have been entitled to an employment and support allowance but for the application of section 1A of that Act (duration of contributory allowance)(**9**); or".

Amendment of the Income Support Regulations

3.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**10**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 13(3)(b)(iv)(**11**) (circumstances in which persons in relevant education are to be entitled to income support) after "support component" insert "or who would be entitled to an employment and support allowance including a work-related activity component but for the application of section 1A of the Welfare Reform Act (duration of contributory allowance)".

(3) For paragraph 1(3)(d) of Schedule 3(**12**) (housing costs) substitute—

"(d) who—

(i) is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components), or

(ii) would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of that Act (duration of contributory allowance).".

Amendment of the Jobseeker's Allowance Regulations

4. For paragraph 1(3)(e) of Schedule 2 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**13**) (housing costs) substitute—

"(e) who—

(i) is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components), or

(**7**) 1954 c. 33 (N.I.).
(**8**) S.R. 1975 No. 113. Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and paragraph 2(a) was substituted by regulation (2)(2)(a) of S.R. 2010 No. 109.
(**9**) Section 1A was inserted by Article 57(1) of the Welfare Reform (Northern Ireland) Order 2015.
(**10**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1995 No. 301, S.R. 2012 No. 121, S.R. 2008 No. 286,
(**11**) Regulation 13(3)(b)(iv) was added by regulation 12(b) of S.R. 2012 No. 121.
(**12**) Schedule 3 was substituted by regulation 2 of, and Schedule 1 to, S.R. 1995 No. 301. Paragraph 1(3)(d) was added by regulation 12(11)(a)(i) of S.R. 2008 No. 286.
(**13**) S.R. 1996 No. 198. Paragraph 1(3)(e) of Schedule 2 was added by regulation 19(25)(a)(i)(bb) of S.R. 2008 No. 286.

(ii) would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of that Act (duration of contributory allowance).".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

5. After regulation 3(5I) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**14**) (revision of decisions) insert—

"(5J) Where—

(a) a decision to terminate a person's entitlement to a contributory employment and support allowance is made because of section 1A of the Welfare Reform Act (duration of contributory allowance); and

(b) it is subsequently determined, in relation to the period of entitlement before that decision, that the person had or is treated as having had limited capability for work-related activity,

the decision to terminate that entitlement may be revised.".

Amendment of the State Pension Credit Regulations

6. In paragraph 1(2)(b)(iv) of Schedule 2 to the State Pension Credit Regulations (Northern Ireland) 2003(**15**) (housing costs) after "(components)" insert "or would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of that Act (duration of contributory allowance)".

Amendment of the Housing Benefit Regulations

7.—(1) In Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006(**16**) (applicable amounts) after "converted employment and support allowance" where it appears in the paragraphs mentioned in paragraph (2), insert ", or would be entitled but for the application of section 1A of the Welfare Reform Act (duration of contributory allowance)".

(2) The paragraphs are—

(a) 1A(b)(**17**) (personal allowances);

(b) 21A(**18**) (the components); and

(c) 27(1)(a)(**19**) (transitional addition).

Amendment of the Employment and Support Allowance Regulations

8.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(**20**) are amended in accordance with paragraphs (2) to (4).

(**14**) S.R. 1999 No. 162; paragraph (5H) was inserted, with paragraph (5G), by regulation 12(b) of S.R. 2011 No. 357. Paragraph (5I) was inserted by regulation 3 of S.R. 2015/138.
(**15**) S.R. 2003 No. 28; paragraph 1(2)(b)(iv) was added by regulation 30(8)(a)(i) of S.R. 2008 No. 286.
(**16**) S.R. 2006 No. 405.
(**17**) Paragraph 1A was substituted by paragraph 1(5)(a) of Schedule 4 to S.R. 2010 No. 312.
(**18**) Paragraph 21A was inserted by paragraph 1(5)(b) of Schedule 4 to S.R. 2010 No. 312.
(**19**) Paragraph 27(1)(a) was added by paragraph 1(5)(c) of Schedule 4 to S.R. 2010 No. 312.
(**20**) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2008 Nos.413 and 478; S.R. 2010 Nos. 200 and 312 and S.R. 2012 No. 160.

(2) After regulation 7(1)(c)(**21**) (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply) add—

"; or

(d) the claimant is entitled to an employment and support allowance by virtue of section 1B of the Act(**22**)(further entitlement after time-limiting).".

(3) In regulation 144(**23**) (waiting days) after paragraph 2(d)(**24**) add—

"; or

(e) the claimant is entitled to an employment and support allowance by virtue of section 1B of the Act (further entitlement after time-limiting).".

(4) For paragraph 1(3)(a) of Schedule 6 (housing costs) substitute—

"(a) (i) in respect of whom the main phase employment and support allowance is payable to the claimant or to a person living with the claimant; or

(ii) where they are the claimant or a person living with the claimant, in respect of whom there would be entitlement to an employment and support allowance including a work-related activity component under section 2(3) of the Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of the Act (duration of contributory allowance);".

Amendment of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations

9.—(1) The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(**25**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 7(qualifying for conversion)—

(a) in paragraph (1) for "paragraph (2)" substitute "paragraphs (2) and (3)"; and

(b) after paragraph (2) add—

"(3) Where P would be entitled to an award of an employment and support allowance under the Act but for the application of section 1A of that Act (duration of contributory allowance) and it had been determined in respect of the entitlement that had ceased that P—

(a) had limited capability for work; or

(b) was to be treated as having limited capability for work, other than by virtue of regulation 30 of the Employment and Support Allowance Regulations,

in relation to the conversion of P's existing award, P is to be taken as having satisfied the condition set out in section 1(3)(a) of the Act (limited capability for work).".

(3) In regulation 21 (termination of transitional addition)—

(a) in paragraph 1(b) after "(3)" insert ", (3A)";

(b) after paragraph (3) insert—

(**21**) Regulation 7 was amended by regulation 12 of S.R. 2008 No. 478; regulation 9(6)(a) of S.R. 2010 No. 200 and regulation 2(3) of S. R. 2012 No. 160.
(**22**) Section 1B was inserted by Article 58(1) of the Welfare Reform (Northern Ireland) Order 2015.
(**23**) Regulation 144 was amended by regulation 3(25) of S.R. 2008 No. 413 and regulation 25(3) of S.R. 2010 No. 312.
(**24**) Paragraph 2(d) was added by regulation 3(25)(c) of S.R. 2008 No. 413.
(**25**) S.R. 2010 No. 312; relevant amending Regulation is S.R. 2010 No. 347.