STATUTORY RULES OF NORTHERN IRELAND

2008 No. 412

SOCIAL SECURITY

The Employment and Support Allowance (Consequential Provisions No. 2) Regulations (Northern Ireland) 2008

Made - - - -	*6th October 2008*
Coming into operation	*27th October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 25(2) and 28(2) of the Welfare Reform Act (Northern Ireland) 2007(**1**).

Citation and commencement

1. These Regulations may be cited as the Employment and Support Allowance (Consequential Provisions No. 2) Regulations (Northern Ireland) 2008 and shall come into operation on 27th October 2008.

Amendment of the Legal Aid, Advice and Assistance Order

2.—(1) The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**2**) is amended in accordance with paragraphs (2) to (4).

(2) In Article 3(1)(b)(**3**) (persons eligible for advice and assistance) for the words from "or an income-based jobseeker's allowance" to the end substitute ", an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).".

(3) In Article 7(2)(**4**) (contributions from persons receiving advice or assistance) for "or an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995)" substitute ", an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance)".

(**1**) 2007 c. 2
(**2**) S.I. 1981/228 (N.I. 8)
(**3**) Article 3(1)(b) was amended by paragraph 36(1)(a) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and paragraph 5 of Schedule 3 to the Tax Credits Act 2002 (c. 21)
(**4**) Article 7(2) was amended by paragraph 36(1)(b) of Schedule 9 to the Social Security (Northern Ireland) Order 1986, paragraph 6 of Schedule 3 to the Tax Credits Act 2002 and regulation 4 of S.R. 2008 No. 107

(4) In Article 14(5)(**5**) (assessment of disposable capital and income and of maximum contribution) for the words from "or an income-based jobseeker's allowance" to the end substitute ", an income-based jobseeker's allowance (payable under the Jobseekers (Northern Ireland) Order 1995) or an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).".

Amendment of the Employment Rights Order

3. In Article 122 of the Employment Rights (Northern Ireland) Order 1996(**6**) (short-term incapacity benefit and industrial injury benefit)—

(a) in the heading after "short-term incapacity benefit" insert ", contributory employment and support allowance"; and

(b) in paragraph (1)(b) after "short-term incapacity benefit" insert ", contributory employment and support allowance".

Amendment of the Legal Aid (Assessment of Resources) Regulations

4.—(1) The Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1981(**7**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of "income-based jobseeker's allowance"(**8**) insert—

> ""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);".

(3) In paragraph 5 of Schedule 1(**9**) (rules for computing disposable income) for "or of income-based jobseeker's allowance" substitute ", income-based jobseeker's allowance or income-related employment and support allowance" and for "or income-based jobseeker's allowance" substitute ", income-based jobseeker's allowance or income-related employment and support allowance".

(4) In paragraph 6A of Schedule 2(**10**) (rules for computing disposable capital) for "or income-based jobseeker's allowance" substitute ", income-based jobseeker's allowance or income-related employment and support allowance".

Amendment of the Legal Advice and Assistance Regulations

5.—(1) The Legal Advice and Assistance Regulations (Northern Ireland) 1981(**11**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 3 (interpretation) after the definition "income-based jobseeker's allowance"(**12**) insert—

> ""income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);"

(**5**) Article 14(5) was amended by paragraph 36(1)(c) of Schedule 9 to the Social Security (Northern Ireland) Order 1986 and paragraph 7 of Schedule 3 to the Tax Credits Act 2002
(**6**) S.I. 1996/1919 (N.I. 16)
(**7**) S.R. 1981 No. 189; relevant amending Regulations are S.R. 1988 No. 85, S.R. 1996 No. 410 and S.R. 2005 No. 501
(**8**) The definition of "income-based jobseeker's allowance" was inserted by regulation 3(a) of S.R. 1996 No. 410
(**9**) Paragraph 5 was substituted by regulation 3(b) of S.R. 1996 No. 410 and amended by regulation 6 of S.R. 2005 No. 501
(**10**) Paragraph 6A was inserted by regulation 4 of S.R. 1988 No. 85 and amended by regulation 3(a) of S.R. 1992 No. 108, regulation 4(a) of S.R. 1993 No. 122 and regulation 3(d) of S.R. 1996 No. 410
(**11**) S.R. 1981 No. 366; relevant amending Regulations are S.R. 1988 No. 87, S.R. 1989 No. 469, S.R. 1996 No. 411 and S.R. 2003 No. 94
(**12**) The definition of "income-based jobseeker's allowance" was inserted by regulation 2(a) of S.R. 1996 No. 411

(3) In regulation 5(2)(b)(**13**) (applications for advice and assistance) for "or income-based jobseeker's allowance," substitute ", income-based jobseeker's allowance or income-related employment and support allowance".

(4) In regulation 6(2)(b)(**14**) (attendance on behalf of a client) for "or income-based jobseeker's allowance" substitute ", income-based jobseeker's allowance or income-related employment and support allowance".

(5) In regulation 7(2)(**15**) (determination of disposable income and disposable capital and maximum contribution) for "or income-based jobseeker's allowance" substitute ", income-based jobseeker's allowance or income-related employment and support allowance".

(6) In paragraph (e) of Schedule 4(**16**) (exceptions to charge on property recovered or preserved) after "income-based jobseeker's allowance," insert "income-related employment and support allowance,".

Amendment of the Adoption Allowance Regulations

6.—(1) The Adoption Allowance Regulations (Northern Ireland) 1996(**17**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of "disability living allowance" insert—

""employment and support allowance" means employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007;".

(3) In regulation 6(5)(c) (review, variation and termination of allowances) for "or jobseeker's allowance" substitute ", jobseeker's allowance or employment and support allowance".

Amendment of the National Minimum Wage Regulations

7. In regulation 12(11)(b)(i) of the National Minimum Wage Regulations 1999(**18**) (workers who do not qualify for the national minimum wage) after "Welfare Reform Act 2007" insert "or, as the case may be, Part 1 of the Welfare Reform Act (Northern Ireland) 2007".

Amendment of the Education (Student Loans) (Repayment) Regulations

8. In regulation 15(5) of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000(**19**) (time for and amount of repayments)—

(a) omit "and" after sub-paragraph (g); and

(b) after sub-paragraph (h) add—

"and

(i) employment and support allowance payable under Part 1 of the Welfare Reform Act (Northern Ireland) 2007.".

(**13**) Regulation 5(2) was substituted by regulation 3 of S.R. 1988 No. 87 and amended by regulation 3(b) of S.R. 1989 No. 469 and regulation 3(ii) of S.R. 2003 No. 94
(**14**) Regulation 6(2) was substituted by regulation 4 of S.R 1988 No. 87 and amended by regulation 3(iii) of S.R. 2003 No. 94
(**15**) Regulation 7(2) was substituted by regulation 5 of S.R. 1988 No. 87 and amended by regulation 3(iv) of S.R. 2003 No. 94
(**16**) Paragraph (e) was substituted by regulation 8(1) of S.R. 1988 No. 87 and amended by regulation 2(d) of S.R. 1996 No. 411 and regulation 4 of S.R. 2003 No. 94
(**17**) S.R. 1996 No. 438
(**18**) S.I. 1999/584; regulation 12 was amended by regulation 3 of S.I. 2008/1879
(**19**) S.R. 2000 No. 121; regulation 15(5) was amended by regulation 5(b) of S.R. 2004 No. 478