STATUTORY RULES OF NORTHERN IRELAND

2008 No. 286

SOCIAL SECURITY

The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008

Made - - - - 4th July 2008

Coming into operation in accordance with regulation 1

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) Regulations (Northern Ireland) 2008 and shall come into operation—

(a) for the purposes of this regulation, regulations 13(1) to (12) and (14) to (20) and 22 on 27th July 2008; and

(b) for all other purposes on 27th October 2008.

Amendment of the Social Security Contributions and Benefits Act

2.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) is amended in accordance with paragraphs (2) and (3).

(2) In section 44A(**3**) (deemed earnings factors)—

(a) in subsection (2)(d)—

(i) after "incapacity benefit" insert "or qualifying employment and support allowance", and

(ii) in sub-paragraph (i) after "Schedule 3" add "or, as the case may be, paragraph 1 of Schedule 1 to the Welfare Reform Act (Northern Ireland) 2007".

(b) after subsection (6) add—

(**1**) 2007 c. 2 (N.I.)
(**2**) 1992 c. 7
(**3**) Section 44A was inserted by section 29(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and amended by paragraph 30 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19), paragraph 31 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and Article 2(2)(a)(i) of S.R. 2002 No. 321

"(7) In subsection (2)(d) "qualifying employment and support allowance" means contributory employment and support allowance where—

(a) that allowance was payable for a continuous period of 52 weeks;

(b) that allowance included the support component under section 2(2) of the Welfare Reform Act (Northern Ireland) 2007; or

(c) in the case of—

(i) a man born between 6th April 1944 and 5th April 1947, or

(ii) a woman born between 6th April 1949 and 5th April 1951,

that allowance was payable for a continuous period of 13 weeks immediately following a period throughout which statutory sick pay was payable.".

(3) In paragraph 2 of Schedule 11(**4**) (circumstances in which periods of entitlement to statutory sick pay do not arise) after sub-paragraph (d) insert—

"(dd) in the period of 85 days ending immediately before the relevant date the employee had at least one day on which he was entitled to an employment and support allowance (or would have been so entitled had he satisfied the requirements in section 1(2) of the Welfare Reform Act (Northern Ireland) 2007).".

Amendment of the Social Security (Recovery of Benefits) Order

3.—(1) The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**5**) is amended in accordance with paragraphs (2) and (3).

(2) In Article 2(2)(**6**) (interpretation) in the definition of "benefit" after "a jobseeker's allowance" insert ", an employment and support allowance".

(3) In Schedule 2 (calculation of compensation payment), in column (2) of paragraph 1, after the entry "Disablement pension payable under section 103 of the Contributions and Benefits Act" insert "Employment and support allowance".

Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations

4.—(1) The Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975(**7**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the Industrial Injuries Act" insert—

""the Welfare Reform Act" means the Welfare Reform Act (Northern Ireland) 2007;", and

(b) after the definition of "appropriate weekly rate" insert—

""contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act;".

(**4**) Paragraph 2 was amended by paragraph 42(2) of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), paragraph 1(a) of Schedule 2 to S.R. 2002 No. 298 and paragraph 1(9) of Schedule 1 to S.R. 2006 No. 261

(**5**) S.I. 1997/1183 (N.I. 12)

(**6**) Article 2(2) was amended by paragraph 119 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(**7**) S.R. 1975 No. 19; relevant amending Regulations are S.R. 1978 No. 102, S.R. 1989 No. 193, S.R. 1995 No. 150, S.R. 1996 No. 289 and S.R. 2005 No. 536

(3) In regulation 3(**8**) (modifications, in relation to widows, of provisions with respect to unemployment and short-term incapacity benefit, maternity allowance and Category A retirement pension)—

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

(b) in paragraph (1)—

(i) in sub-paragraph (a) after "Schedule 3 to the Act" add "or, in relation to contributory employment and support allowance, she shall be deemed to have satisfied the first condition referred to in paragraph 1(1) of Schedule 1 to the Welfare Reform Act", and

(ii) in sub-paragraph (b) after "Schedule 3 to the Act" insert "or, in relation to contributory employment and support allowance, she shall be deemed to have satisfied the second condition referred to in paragraph 2(1) of Schedule 1 to the Welfare Reform Act"; and

(c) in paragraph (5) after "short-term incapacity benefit", in each place where it occurs, insert ", contributory employment and support allowance".

Amendment of the Social Security (Airmen's Benefits) Regulations

5.—(1) The Social Security (Airmen's Benefits) Regulations (Northern Ireland) 1975(**9**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of "the Act" insert—

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

(3) In regulation 2(**10**) (removal of disqualification in the case of airmen for receiving benefit while absent from Northern Ireland)—

(a) in paragraph (1)—

(i) after "of the Act" insert "or section 18(1) of the Welfare Reform Act", and

(ii) after "incapacity benefit" insert ", employment and support allowance"; and

(b) in paragraph (2)—

(i) after "incapacity benefit" insert ", employment and support allowance", and

(ii) after "incapable of work" insert "or to have limited capability for work as defined in section 1(4) of the Welfare Reform Act".

(4) In regulation 3(**11**) (application of the Act and regulations) for ", and the Jobseekers (Northern Ireland) Order 1995 and regulations made thereunder" substitute ", the Jobseekers (Northern Ireland) Order 1995 and regulations made thereunder and Part 1 of the Welfare Reform Act and regulations made under it".

Amendment of the Social Security (Mariners' Benefits) Regulations

6.—(1) The Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975(**12**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(**8**) Regulation 3 was amended by regulation 3 of S.R. 1978 No. 102, regulation 2(3) of S.R. 1989 No. 193, regulation 2 of S.R. 1995 No. 150, regulation 2 of S.R. 1996 No. 289 and paragraph 1 of Schedule 3 to S.R. 2005 No. 536
(**9**) S.R. 1975 No. 101; relevant amending Regulations are S.R. 1984 No. 317, S.R. 1995 No. 150 and S.R. 1996 No. 289
(**10**) Regulation 2 was amended by regulation 13 of S.R. 1984 No. 317 and regulation 3 of S.R. 1995 No. 150
(**11**) Regulation 3 was amended by regulation 3 of S.R. 1996 No. 289
(**12**) S.R. 1975 No. 108; relevant amending Regulations are S.R. 1984 No. 317, S.R. 1995 No. 150 and S.R. 1996 Nos. 198 and 289

(i) after the definition of "the Act" insert—

""the Welfare Reform Act" means the Welfare Reform Act (Northern Ireland) 2007;", and

(ii) after the definition of "British ship" insert—

""contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act;".

(3) In regulation 4(**13**) (removal of disqualification for receiving benefit by reason of absence from Northern Ireland)—

(a) after "of the Act" insert "or section 18(1) of the Welfare Reform Act"; and

(b) after "incapacity benefit", in both places where it occurs, insert ", contributory employment and support allowance".

(4) In regulation 5(**14**) (evidence of unemployment or incapacity)—

(a) in the heading for "or incapacity" substitute ", incapacity for work or limited capability for work"; and

(b) after "incapacity benefit" insert ", contributory employment and support allowance".

(5) In regulation 6(**15**) (special provisions relating to days of unemployment or incapacity for work in the case of mariners and share fishermen employed on board any ships or vessels)—

(a) in the heading for "or incapacity for work" substitute ", incapacity for work or limited capability for work"; and

(b) in paragraph (2)—

(i) after "incapacity benefit" insert ", contributory employment and support allowance", and

(ii) after "incapable of work" insert "or to have limited capability for work as defined in section 1(4) of the Welfare Reform Act".

Amendment of the Social Security (Credits) Regulations

7.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**16**) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "the Jobseekers Order"(**17**) insert—

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

(b) in the definition of "benefit"(**18**) after "an income-based jobseeker's allowance" add "and includes a contributory employment and support allowance but not an income-related employment and support allowance";

(c) after the definition of "contribution-based jobseeker's allowance"(**19**) insert—

(**13**) Regulation 4 was amended by regulation 14(2) of S.R. 1984 No. 317, regulation 4(2) of S.R. 1995 No. 150 and regulation 4(2) of S.R. 1996 No. 289

(**14**) Regulation 5 was amended by regulation 14(3) of S.R. 1984 No. 317, regulation 4(3) of S.R. 1995 No. 150 and regulation 4(3) of S.R. 1996 No. 289

(**15**) Regulation 6 was amended by regulation 14(4) of S.R. 1984 No. 317, regulation 4(4) of S.R. 1995 No. 150 and regulation 165(4) of S.R. 1996 No. 198

(**16**) S.R. 1975 No. 113; relevant amending Regulations are S.R. 1989 No. 368, S.R. 1995 No. 150, S.R. 1996 No. 430, S.R. 2001 No. 108, S.R. 2002 No. 80, S.R. 2005 No. 536 and S.R. 2007 No. 306

(**17**) The definition of "the Jobseekers Order" was inserted by regulation 2(2)(b) of S.R. 1996 No. 430

(**18**) The definition of "benefit" was inserted by regulation 2(2)(b) of S.R. 1996 No. 430

(**19**) The definition of "contribution-based jobseeker's allowance" was inserted by regulation 2(2)(b) of S.R. 1996 No. 430

""contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act;";

(d) after the definition of "income-based jobseeker's allowance"(**20**) insert—

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

(e) in the definition of "reckonable year"(**21**)—

(i) omit "or" after paragraph (a),

(ii) after paragraph (b) add—

"or

(c) in relation to a contributory employment and support allowance, the condition specified in paragraph 2(1) of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance).";

(f) in the definition of "relevant benefit year"(**22**)—

(i) omit "or" after paragraph (a), and

(ii) after paragraph (b) add—

"or

(c) in relation to a contributory employment and support allowance, in paragraph 3(1)(f) of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance);".

(3) In regulation 3(1)(**23**) (general provisions relating to the crediting of contributions and earnings)—

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

(b) after sub-paragraph (b) add—

"or

(c) in relation to a contributory employment and support allowance, the condition specified in paragraph 2(1) of Schedule 1 to the Welfare Reform Act,".

(4) In regulation 8(1)(**24**) (credits on termination of full-time education, training or apprenticeship) for "or short-term incapacity benefit" substitute ", short-term incapacity benefit or a contributory employment and support allowance".

(5) In regulation 8A(2)(c)(**25**) (credits for unemployment) after "incapable of work" insert "or had limited capability for work".

(6) In regulation 8B(**26**) (credits for incapacity for work)—

(a) in the heading after "incapacity for work" add "or limited capability for work"; and

(b) in paragraph (2)—

(i) omit "or" after sub-paragraph (a), and

(ii) after sub-paragraph (a) insert—

(**20**) The definition of "income-based jobseeker's allowance" was inserted by regulation 2(2)(c) of S.R. 1996 No. 430
(**21**) The definition of "reckonable year" was substituted by regulation 2(2)(d) of S.R. 1996 No. 430 and amended by regulation 2(2) of S.R. 2007 No. 306
(**22**) The definition of "relevant benefit year" was substituted by regulation 2(2)(e) of S.R. 1996 No. 430
(**23**) Regulation 3(1) was substituted by regulation 2(3) of S.R. 1996 No. 430 and amended by regulation 3(3) of S.R. 2001 No. 108
(**24**) Regulation 8(1) was substituted by regulation 3 of S.R. 1989 No. 368 and amended by regulation 6(3) of S.R. 1995 No. 150 and regulation 2(5) of S.R. 1996 No. 430
(**25**) Regulation 8A was inserted by regulation 2(6) of S.R. 1996 No. 430 and paragraph (2) was amended by regulation 2(4) of S.R. 2002 No. 80
(**26**) Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430