

Status: Point in time view as at 27/10/2008.

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2007 CHAPTER 2

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

General

Interpretation, etc. of Part 1

24.—(1) In this Part—

“claimant” means a person who has claimed an employment and support allowance;

“contributory allowance” has the meaning given by section 1(7);

“employment” and “employed” have the meanings prescribed for the purposes of this Part;

“entitled”, in relation to an employment and support allowance, is to be construed in accordance with—

- (a) the provisions of this Act,
- (b) section 1 of the Administration Act (entitlement dependent on making of claim), and
- (c) Article 27 of the 1998 Order (restrictions on entitlement in certain cases of error);

“income-related allowance” has the meaning given by section 1(7);

“income support” means income support under section 123 of the Contributions and Benefits Act;

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“limited capability for work” shall be construed in accordance with section 1(4);

“limited capability for work-related activity” shall be construed in accordance with section 2(5);

“period of limited capability for work” has the meaning prescribed for the purposes of this Part;

“prescribed” means specified in, or determined in accordance with, regulations;

“regulations” means regulations made by the Department;

“week” means a period of seven days beginning with a Sunday or such other period of seven days as may be prescribed;

“work-related activity” has the meaning given by section 13(7).

(2) For the purposes of this Part, the assessment phase, in relation to a claimant, is the period—

- (a) beginning, subject to subsection (3), with the first day of the period for which he is entitled to an employment and support allowance, and
- (b) ending with such day as may be prescribed.

(3) Regulations may prescribe circumstances in which the assessment phase is to begin with such day as may be prescribed.

(4) For the purposes of this Part, a person is a member of the support group if he is a person in respect of whom it is determined that he has, or is to be treated as having, limited capability for work-related activity.

(5) In relation to this Part, for the purposes of Chapter 2 of Part 2 of the 1998 Order, a decision made by the Department for Employment and Learning shall be treated as if it were a decision of the Department (and accordingly, may be revised by the Department for Employment and Learning under Article 10 of that Order, or superseded by a decision made by it under Article 11 of that Order, as the case may be).

(6) Information which is held—

- (a) by the Department may be supplied to the Department for Employment and Learning; or
- (b) by the Department for Employment and Learning may be supplied to the Department,

for the purposes of their functions under this Part.

Commencement Information

- II** S. 24 wholly in operation at 27.10.2008; s. 24 not in operation at Royal Assent see s. 60(1); s. 24(1) in operation for certain purposes at 1.7.2008 and 27.10.2008 by [S.R. 2008/276](#), [art.](#)

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2(2)(c), Sch. Pt. 1; s. 24(2)(b)(3) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.10.2008 by **S.R. 2008/276, art. 2(2)(c)**, Sch. Pt. 1; s. 24 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

Regulations

25.—(1) Where any power under this Part to make regulations is expressed to be exercisable for alternative purposes, it may be exercised in relation to the same case for all or any of those purposes.

(2) Any power under this Part to make regulations includes power—

- (a) to make such incidental, supplementary, consequential or transitional provision or savings as appear to the Department to be expedient;
- (b) to provide for a person to exercise a discretion in dealing with any matter.

(3) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 to 15 may make provision which applies only in relation to an area or areas specified in the regulations.

(4) The fact that a power to make regulations is conferred by this Part is not to be taken to prejudice the extent of any other power to make regulations so conferred.

Commencement Information

- I2** S. 25 wholly in operation at 27.10.2008; s. 25 not in operation at Royal Assent see s. 60(1); s. 25(1)(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by **S.R. 2008/276, art. 2(2)(a)**; s. 25 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

Assembly control

26.—(1) Subject to the following provisions of this section, any regulations made under this Part are subject to negative resolution.

(2) Regulations to which this subsection applies—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the regulations, but (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.

(3) Subsection (2) applies to—

- (a) regulations under section 2(2)(c) or (3)(c) or 4(4)(c) or (5)(c);
- (b) the first regulations under section 13;

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- (c) regulations which by virtue of section 19(1) are to have effect for a limited period.
- (4) This subsection applies to any regulations made under this Part which—
- (a) but for subsection (5), would be subject to negative resolution, and
- (b) are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.
- (5) Any regulations to which subsection (4) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (6) In this section “the confirmatory procedure” means the procedure described in subsection (2).

Commencement Information

- I3** S. 26 wholly in operation at 27.10.2008; s. 26 not in operation at Royal Assent see s. 60(1); s. 26(1) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(a\)](#); s. 26 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](#)

Financial provisions relating to Part 1

27.—(1) There shall be paid out of the Northern Ireland National Insurance Fund so much of any sums payable by way of employment and support allowance as is attributable to entitlement to a contributory allowance.

(2) The Department shall pay into the Northern Ireland National Insurance Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments of contributory allowance.

(3) The Department shall pay into the Consolidated Fund sums estimated by it to be equivalent in amount to sums recovered by it in connection with payments made by way of income-related allowance.

Consequential amendments relating to Part 1

28.—(1) Schedule 3 (which makes amendments consequential on this Part) has effect.

(2) Regulations may make provision consequential on this Part amending, repealing or revoking any statutory provision.

Commencement Information

- I4** S. 28 partly in operation; s. 28 not in operation at Royal Assent see s. 60(1); s. 28(1) in operation for certain purposes at 1.7.2008 and 27.7.2008 by [S.R. 2008/276, art. 2\(2\)\(a\)](#); s. 28(2) in operation for certain purposes at 1.7.2008 and wholly in operation at 27.7.2008 by

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S.R. 2008/276, **art. 2(2)(a)**; s. 28(1) in operation for certain purposes at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**; s. 28(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. 28 (except s. 28(1) for certain purposes) 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

Transition relating to Part 1

29 Schedule 4 (which makes provision with respect to transition in relation to this Part) has effect.

Commencement Information

- I5** S. 29 partly in operation; s. 29 not in operation at Royal Assent see s. 60(1); s. 29 in operation for certain purposes at 1.7.2008 and 27.7.2008 by S.R. 2008/276, **art. 2(2)(a)**; s. 29 in operation for certain purposes at 27.7.2008 by S.R. 2008/276, **art. 2(2)(b)**; s. 29 in operation for certain purposes at 27.10.2008 by S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2; s. 29 in operation for certain purposes at 9.9.2010 by S.R. 2010/308, **art. 2**

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