

Status: Point in time view as at 27/09/2017.

Changes to legislation: Welfare Reform Act (Northern Ireland) 2007, SCHEDULE 2 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 22.

EMPLOYMENT AND SUPPORT ALLOWANCE: SUPPLEMENTARY PROVISIONS

Limited capability for work

- 1** Regulations may make provision—
- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work;
 - (b) for the question of whether a person has limited capability for work to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work;
 - (c) for the question of whether a person has limited capability for work to be determined afresh in prescribed circumstances.

Commencement Information

- II** Sch. 2 para. 1 wholly in operation at 27.10.2008; Sch. 2 para. 1 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 1 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

Waiting days

- 2** Except in prescribed circumstances, a person is not entitled to an employment and support allowance in respect of a prescribed number of days at the beginning of a period of limited capability for work.

Modifications etc. (not altering text)

- C1** Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by [The Employment and Support Allowance Regulations \(Northern Ireland\) 2016 \(S.R. 2016/219\)](#), regs. 1(2), **85(2)**
- C2** Sch. 2 para. 2 excluded (27.9.2017 and further specified dates for specified purposes) by [The Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance \(Decisions and Appeals\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/221\)](#), regs. 1(1)(b), **47(6)**

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Commencement Information

- I2** Sch. 2 para. 2 wholly in operation at 27.10.2008; Sch. 2 para. 2 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 2 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](#)

Periods of less than a week

- 3** Regulations may make provision in relation to—
- (a) entitlement to an employment and support allowance, or
 - (b) the amount payable by way of such an allowance,

in respect of any period of less than a week.

Commencement Information

- I3** Sch. 2 para. 3 wholly in operation at 27.10.2008; Sch. 2 para. 3 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 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](#)

Linking periods

4.—(1) Regulations may provide for circumstances in which a period of limited capability for work which is separated from another period of limited capability for work by not more than a prescribed length of time is to be treated for the purposes of this Part as a continuation of the earlier period.

(2) Regulations may provide, in relation to periods which are linked by virtue of regulations under sub-paragraph (1), that a condition which was satisfied in relation to the earlier period is to be treated for the purposes of this Part as satisfied in relation to the later period.

Commencement Information

- I4** Sch. 2 para. 4 wholly in operation at 27.10.2008; Sch. 2 para. 4 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 4 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](#)

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[^{F1}Exemption

Textual Amendments

- F1** Sch. 2 para. 4A and cross-heading inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **60(6)**; S.R. 2016/215, art. 2(3)(b)

4A. Regulations may prescribe circumstances in which a person may be entitled to employment and support allowance without having accepted a claimant commitment.]

Presence in Northern Ireland

5 Regulations may make provision for the purposes of this Part as to the circumstances in which a person is to be treated as being, or not being, in Northern Ireland.

Commencement Information

- I5** Sch. 2 para. 5 wholly in operation at 27.10.2008; Sch. 2 para. 5 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 5 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](#)

[^{F2}Contributory allowance:] entitlement in case of absence from Northern Ireland

Textual Amendments

- F2** Words in Sch. 2 para. 6 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

6 Regulations may provide that in prescribed circumstances a claimant who is not in Northern Ireland may nevertheless be entitled to [^{F3}an employment and support allowance] .

Textual Amendments

- F3** Words in Sch. 2 para. 6 substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215,

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art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

Commencement Information

- I6** Sch. 2 para. 6 wholly in operation at 27.10.2008; Sch. 2 para. 6 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 6 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

[^{F4}Contributory allowance:] modification in relation to employment on ships etc.

Textual Amendments

- F4** Words in Sch. 2 para. 7 heading repealed (27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

7.—(1) Regulations may modify any provision of this Part, so far as relating to a contributory allowance, in its application to any person who is, has been, or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft, or
 - (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances.
- (2) Regulations under this paragraph may, in particular, provide—
- (a) for any provision of this Part to apply even though it would not otherwise apply;
 - (b) for any such provision not to apply even though it would otherwise apply;
 - (c) for the taking of evidence, in a country or territory outside Northern Ireland, by a consular official or other prescribed person;
 - (d) for enabling the whole, or any part, of [^{F5}an employment and support allowance] to be paid to such of the claimant's dependants as may be prescribed.

Textual Amendments

- F5** Words in Sch. 2 para. 7(2)(d) substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes, 15.11.2017 and 13.12.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 3 para. 21(g)**; S.R. 2016/215, art. 2(2)(c)(vi); S.R. 2017/190, art. 6 (with arts. 7, 8, 10-25, Sch. 3); S.R. 2017/216, art. 4 (with art. 5)

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Commencement Information

- I7** Sch. 2 para. 7 wholly in operation at 27.10.2008; Sch. 2 para. 7 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 7 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](#)

Income-related allowance: entitlement in case of absence from Northern Ireland

8.—^{F6}(1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Northern Ireland continues to be entitled to such an allowance after ceasing to be in Northern Ireland.

(2) Regulations may modify any provision of this Part, so far as relating to an income-related allowance, in its application to a person who is entitled to such an allowance by virtue of regulations under sub-paragraph (1).

(3) Regulations under sub-paragraph (2) may, in particular, provide—

- (a) for any provision of this Part to apply even though it would not otherwise apply;
- (b) for any such provision not to apply even though it would otherwise apply.]

Textual Amendments

- F6** [Sch. 2 para. 8](#) repealed (27.9.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), [art. 2\(2\)](#), [Sch. 12 Pt. 1](#); [S.R. 2017/190](#), [art. 6](#), [Sch. 2](#) (with [arts. 7, 8, 10-25](#), [Sch. 3](#))

Commencement Information

- I8** Sch. 2 para. 8 wholly in operation at 27.10.2008; Sch. 2 para. 8 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 8(1) 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](#); Sch. 2 para. 8 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](#)

Limited capability for work-related activity

9 Regulations may make provision—

- (a) for a person to be treated in prescribed circumstances as having, or as not having, limited capability for work-related activity;
- (b) for the question of whether a person has limited capability for work-related activity to be determined notwithstanding that he is for the time being treated by virtue of regulations under sub-paragraph (a) as having limited capability for work-related activity;

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- (c) for the question of whether a person has limited capability for work-related activity to be determined afresh in prescribed circumstances.

Commencement Information

- I9** Sch. 2 para. 9 wholly in operation at 27.10.2008; Sch. 2 para. 9 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 9 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

Effect of work

10 Regulations may prescribe circumstances in which a person is to be treated as not entitled to an employment and support allowance because of his doing work.

Commencement Information

- I10** Sch. 2 para. 10 wholly in operation at 27.10.2008; Sch. 2 para. 10 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 10 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

[^{F7}**10ZA.** Regulations may for any purpose of this Part provide for—

- (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;
- (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.]

Textual Amendments

- F7** Sch. 2 para. 10ZA inserted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [63\(6\)\(b\)](#); S.R. 2016/215, art. 2(3)(b)

[^{F8}Good [^{F9}reason] for failure to comply with certain regulations

Textual Amendments

- F8** Sch. 2 para. 10A and preceding cross-heading inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), [ss. 24\(2\)](#), 36(1)(i)
- F9** Word in Sch. 2 para. 10A heading substituted (2.5.2016 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [63\(6\)\(a\)](#); S.R. 2016/215, art. 2(3)(b)

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10A.—(1) This paragraph applies to any regulations made under [^{F10}paragraph 10ZA] that prescribe matters to be taken into account in determining whether a person has [^{F11}a good reason] for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.]

Textual Amendments

- F10** Words in Sch. 2 para. 10A(1) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(c)(i)**; S.R. 2016/215, art. 2(3)(b)
- F11** Words in Sch. 2 para. 10A(1) substituted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(6)(c)(ii)**; S.R. 2016/215, art. 2(3)(b)

[^{F12}Responsibility for children

Textual Amendments

- F12** Sch. 2 para. 10B and cross-heading inserted (2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **63(7)**; S.R. 2016/215, art. 2(3)(b)

10B. Regulations may for any purpose of this Part specify circumstances in which a person is or is not responsible for a child.]

Treatment of allowance as “benefit”

11 Regulations may provide for—

- (a) an employment and support allowance,
- (b) [^{F13}a contributory allowance, or]
- (c) [^{F13}an income-related allowance.]

to be treated, for prescribed purposes of the Contributions and Benefits Act, as a benefit, or a benefit of a prescribed description.

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Textual Amendments

- F13** Sch. 2 para. 11(b)(c) repealed (27.9.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3)

Attribution of reductions in cases where allowance taken to consist of two elements

12 [^{F14}Where an employment and support allowance is taken by virtue of section 6(5) to consist of two elements, any reduction in the amount payable in respect of the allowance which falls to be made by virtue of—

- (a) section 11,
- (b) section 12,
- (c) section 13, or
- (d) section 2AA of the Administration Act (full entitlement to certain benefits conditional on work-focused interview for partner),

shall be treated as reducing such of those elements by such amount as may be prescribed.]

Textual Amendments

- F14** Sch. 2 para. 12 repealed (27.9.2017 for specified purposes) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 12 Pt. 1**; S.R. 2017/190, art. 6, Sch. 2 (with arts. 7, 8, 10-25, Sch. 3)

Commencement Information

- I11** Sch. 2 para. 12 wholly in operation at 27.10.2008; Sch. 2 para. 12 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 12 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)(e)**, **Sch. Pt. 1**

Treatment of information supplied as information relating to social security

13 Information supplied in pursuance of regulations under any of sections 8 to [^{F15}11K] shall be taken for all purposes to be information relating to social security.

Textual Amendments

- F15** Word in Sch. 2 para. 13 substituted (2.5.2016 for specified purposes, 27.9.2017 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation) by [The Welfare Reform \(Northern](#)

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Ireland) Order 2015 (S.I. 2015/2006), **arts. 2(2)**, 63(8); S.R. 2016/215, **art. 2(3)(b)**; S.R. 2017/190, **art. 9** (with arts. 10-25)

Advance claims

14 This Part shall have effect with prescribed modifications in relation to cases where a claim to an employment and support allowance is by virtue of regulations under section 5(1)(c) of the Administration Act (advance claims) made, or treated as if made, for a period wholly or partly after the date on which it is made.

Commencement Information

I12 Sch. 2 para. 14 wholly in operation at 27.10.2008; Sch. 2 para. 14 not in operation at Royal Assent see s. 60(1); Sch. 2 para. 14 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**

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