

Welfare Reform Act 2007

CHAPTER 5

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An Act to make provision about social security; to amend the Vaccine Damage Payments Act 1979; and for connected purposes. [3rd May 2007]

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

Entitlement

1.—(1) An allowance, to be known as an employment and support allowance, shall be payable in accordance with the provisions of this Part.

S. 1(2), (3)(f) & (3A) reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at page 14.3231.

Employment and
support allowance

(2) Subject to the provisions of this Part, a claimant is entitled to an employment and support allowance if he satisfies the basic conditions and [1...]

(a) the first and the second conditions set out in [1...] Schedule 1 (conditions relating to national insurance) or the third condition set out in [1...] that Schedule (condition relating to youth), [1...]

(2) Subject to the provisions of this Part, a claimant is entitled to an employment and support allowance if he satisfies the basic conditions and either—

(a) the first and the second conditions set out in Part 1 of Schedule 1 (conditions relating to national insurance) or the third condition set out in that Part of that Schedule (condition relating to youth), or

(b) the conditions set out in Part 2 of that Schedule (conditions relating to financial position).

(3) The basic conditions are that the claimant—

(a) has limited capability for work,

[²(aa) has accepted a claimant commitment]

(b) is at least 16 years old,

(c) has not reached pensionable age,

(d) is in Great Britain, [³and]

(e) is not entitled to income support, and

(f) is not entitled to a jobseeker's allowance [1...].

(f) is not entitled to a jobseeker's allowance (and is not a member of a couple who are entitled to a joint-claim jobseeker's allowance).

[⁴(3A) After the coming into force of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in [1...] Schedule 1 (youth).]

[⁴(3A) After the coming into force of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth).]

(4) For the purposes of this Part, a person has limited capability for work if—

(a) his capability for work is limited by his physical or mental condition, and

(b) the limitation is such that it is not reasonable to require him to work.

(5) An employment and support allowance is payable in respect of a week.

¹ Words omitted in s. 1(2), (2)(a), (2)(b) & (3)(f) (see art. 4 of S.I. 2013/983 for when to apply) by Sch. 3 of S.I. 2013/983.

² S. 1(3)(aa) inserted (see art. 7 of S.I. 2013/983 for when to apply) by art. 54(2) of the Welfare Reform Act 2012 (c. 5).

³ Words inserted in s. 1(3)(d) (29.4.13) by para. 23 of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

⁴ S. 1(3A) inserted (20.3.12) by the Welfare Reform Act 2012 (c. 5), Ss. 51(1), 52(2) & 53.

(6) In subsection (3)–

[¹...]

Defns. in s. 1(6) & (7) reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at page 14.3231.

“joint-claim jobseeker’s allowance” means a jobseeker’s allowance entitlement to which arises by virtue of section 1(2B) of the Jobseekers Act 1995 (c. 18);

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26).

(7) [¹...]

(7) In this Part–

“contributory allowance” means an employment and support allowance entitlement to which is based on subsection (2)(a) [¹(and see section 1B(2))];

“income-related allowance” means an employment and support allowance entitlement to which is based on subsection (2)(b).

See Sch. 1, para. 2(a) & (b) at page 13.9419 & Sch. 2, para. 2(a) & (b) at pages 13.9421 & 13.9422 of S.I. 2010/1907 for details of modifications to s. 1(2), (3)(e) & (7) in certain situations as from 1.10.10.

[²1A.—(1) The period for which a person is entitled to [³an employment and support allowance] by virtue of the first and second conditions set out in [¹...] Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by reference (under the second condition set out in [¹...] Schedule 1) to the same two tax years.

Duration of [¹...]
allowance

S. 1A(1) & (3)(a) are reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at 14.3231.

[¹1A.—(1)The period for which a person is entitled to a contributory allowance by virtue of the first and second conditions set out in Part 1 of Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by reference (under the second condition set out in Part 1 of Schedule 1) to the same two tax years.

Duration of contributory
allowance

(2) In subsection (1) the “relevant maximum number of days” is–

(a) 365 days, or

(b) if the Secretary of State by order specifies a greater number of days, that number of days.

(3) The fact that a person’s entitlement to [⁴an employment and support allowance] has ceased as a result of subsection (1) does not prevent his being entitled to a further such allowance if–

(a) he satisfies the first and second conditions set out in [⁵...] Schedule 1, and

(a) he satisfies the first and second conditions set out in Part 1 of Schedule 1, and

(b) the two tax years by reference to which he satisfies the second condition include at least one year which is later than the second of the two years by reference to which (under the second condition) his previous entitlement was established.

(4) The period for which a person is entitled to [⁴an employment and support allowance] by virtue of the third condition set out in [⁵...] of Schedule 1 (youth) shall not exceed–

¹ Defn. of “joint-claim” in (6), “contributory allowance”, “income-related allowance”, (7) & words in heading to & 1A(1) repealed (see art. 4 of S.I. 2013/983 for when to apply) by Sch. 3 of S.I. 2013/983.

² S. 1A inserted (20.3.12) by the Welfare Reform Act 2012 (c. 5), s. 51(1).

³ Words substituted in s. 1A(1) (29.4.13) by paras. 26(a) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

⁴ Words substituted (29.4.13) by para. 26(a) & (b) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

⁵ Words in s. 1A(3)(a) & (4) repealed (see art. 4(1) for dates) by Sch. 3 of S.I. 2013/983.

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Ss. 1A-2

S. 1A(4) is reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at 14.3231.

(4) The period for which a person is entitled to a contributory allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth) shall not exceed—

- (a) 365 days, or
- (b) if the Secretary of State by order specifies a greater number of days, that number of days.

(5) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to [an employment and support allowance], the following are not to be counted—

- (a) days in which the person is a member of the support group,
- (b) days not falling within paragraph (a) in respect of which the person is entitled to the support component referred to in section 2(1)(b), and
- (c) days in the assessment phase, where the days immediately following that phase fall within paragraph (a) or (b).

(6) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to [an employment and support allowance], days occurring before the coming into force of this section are to be counted (as well as those occurring afterwards).]

Further entitlement after time-limiting

[²1B.—(1) Where a person's entitlement to [an employment and support allowance] has ceased as a result of section 1A (1) or (4) but—

- (a) the person has not at any subsequent time ceased to have (or to be treated as having) limited capability for work,
- (b) the person satisfies the basic conditions, and
- (c) the person has (or is treated as having) limited capability for work-related activity,

the claimant is entitled to an employment and support allowance by virtue of this section.

(2) [³...]

(2) An employment and support allowance entitlement to which is based on this section is to be regarded as a contributory allowance for the purposes of this Part.]

Amount of [⁴...]
allowance

2.—(1) [⁴The amount payable by way of an employment and support allowance] in respect of a claimant shall be calculated by—

- (a) taking such amount as may be prescribed,
- (b) if in his case the conditions of entitlement to the support component or the work-related activity component are satisfied, adding the amount of that component, and
- (c) making prescribed deductions in respect of any payments to which section 3 applies.

(2) The conditions of entitlement to the support component are—

- (a) that the assessment phase has ended,
- (b) that the claimant has limited capability for work-related activity, and
- (c) that such other conditions as may be prescribed are satisfied.

(3) The conditions of entitlement to the work-related activity component are—

- (a) that the assessment phase has ended,
- (b) that the claimant does not have limited capability for work-related activity, and

¹ S. 1B inserted (1.5.12) by the Welfare Reform Act 2012 (c. 5), s. 52(1).

² Words substituted (29.4.13) by para. 26(a) & (b) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

³ S. 1B(2) repealed (see art. 4(1) for dates) by Sch. 3 of S.I. 2013/983.

⁴ Words in s. 2(1) substituted (29.4.13) by para. 24 of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

- (c) that such other conditions as may be prescribed are satisfied.

See S.I. 2010/1907, Sch. 1 para. 3 at page 13.9419 & Sch. 2, para. 3(a) & (b) at page 13.9422 for details of modifications to s. 2(1)(a), (2)(a) & (3) as from 1.10.10.

- (4) Regulations may—

- (a) prescribe circumstances in which paragraph (a) of subsection (2) or (3) is not to apply;
- (b) prescribe circumstances in which entitlement under subsection (2) or (3) is to be backdated;
- (c) make provision about the amount of the component under subsection (2) or (3).

- (5) For the purposes of this Part, a person has limited capability for work-related activity if—

- (a) his capability for work-related activity is limited by his physical or mental condition, and
- (b) the limitation is such that it is not reasonable to require him to undertake such activity.

- 3.—(1)** This section applies to payments of the following kinds which are payable to the claimant—

Deductions from [1...] allowance: supplementary

- (a) pension payments,
- (b) PPF periodic payments, and
- (c) payments of a prescribed description made to a person who is a member of, or has been appointed to, a prescribed body carrying out public or local functions.

- (2) Regulations may—

- (a) disapply section 2(1)(c), so far as relating to pension payments or PPF periodic payments, in relation to persons of a prescribed description;
- (b) provide for pension payments or PPF periodic payments of a prescribed description to be treated for the purposes of that provision as not being payments to which this section applies;
- (c) provide for sums of a prescribed description to be treated for the purposes of this section as payable to persons as pension payments or PPF periodic payments (including, in particular, sums in relation to which there is a deferred right of receipt);
- (d) make provision for the method of determining how payments to which this section applies are, for the purposes of section 2, to be related to periods for which a person is entitled to [2an employment and support allowance].

- (3) In this section—

“pension payment” means—

- (a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme,
- (b) a payment of a prescribed description made under an insurance policy providing benefits in connection with physical or mental illness or disability, and
- (c) such other payments as may be prescribed;

¹ Words repealed (see art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 of the Welfare Reform Act 2012 (c. 5).

² Words substituted in s. 3(2)(d) (29.4.13) by para. 26(c) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

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Ss. 3-4

“PPF periodic payment” means—

- (a) any periodic compensation payment made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 (c. 35) or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (the pension compensation provisions), and
- (b) any periodic payment made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.).

(4) For the purposes of subsection (3), “occupational pension scheme”, “personal pension scheme” and “public service pension scheme” each have the meaning given by section 1 of the Pension Schemes Act 1993 (c. 48), except that “personal pension scheme” includes—

- (a) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 (c. 1), and
- (b) a substituted contract within the meaning of section 622(3) of that Act, which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004 (c. 12).

S. 4-6 reproduced as it remains in force in certain circumstances. See art. 4 for details of when to apply at page 14.3231.

Amount of income-related allowance
Amount of income-related allowance

4.—(1) [¹...]

4.—(1) In the case of an income-related allowance, the amount payable in respect of a claimant shall be—

- (a) if he has no income, the applicable amount;
- (b) if he has an income, the amount by which the applicable amount exceeds his income.

(2) Subject to subsection (3), the applicable amount for the purposes of subsection (1) shall be calculated by—

- (a) taking such amount, or the aggregate of such amounts, as may be prescribed, and
- (b) if in the claimant's case the conditions of entitlement to the support component or the work-related activity component are satisfied, adding the amount of that component.

(3) Regulations may provide that, in prescribed cases, the applicable amount for the purposes of subsection (1) shall be nil.

(4) The conditions of entitlement to the support component are—

- (a) that the assessment phase has ended,
- (b) that the claimant has limited capability for work-related activity, and
- (c) that such other conditions as may be prescribed are satisfied.

(5) The conditions of entitlement to the work-related activity component are—

- (a) that the assessment phase has ended,
- (b) that the claimant does not have limited capability for work-related activity, and
- (c) that such other conditions as may be prescribed are satisfied.

See S.I. 2010/1907, Sch. 1, para. 4 at page 13.9419 & Sch. 2, para. 4 at page 13.9422 for details of modifications to s. 4 in certain situations as from 1.10.10.

(6) Regulations may—

- (a) prescribe circumstances in which paragraph (a) of subsection (4) or (5) is not to apply;

¹ S. 4-6 repealed (See art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 of the Welfare Reform Act 2012 (c. 5).

- (b) prescribe circumstances in which entitlement under subsection (4) or (5) is to be backdated;
- (c) make provision about the amount of the component under subsection (4) or (5).
- 5.—(1) This section applies to claims for an employment and support allowance by a person who—
- Advance award of income-related allowance
- (a) would be entitled to an income-related allowance, but for the fact that he does not satisfy the condition in paragraph 6(1)(a) of Schedule 1,
- (b) would satisfy that condition if he were entitled to the component mentioned in section 4(4) or (5), and
- (c) is not entitled to a contributory allowance.
- (2) In relation to claims to which this section applies, section 5(1) of the Administration Act (regulations about claims for benefit) shall have effect as if—
- (a) in paragraph (d) (power to permit an award on a claim for benefit for a future period to be made subject to the condition that the claimant satisfies the requirements for entitlement when the benefit becomes payable under the award), there were inserted at the end “and to such other conditions as may be prescribed”, and
- (b) in paragraph (e) (power to provide for such an award to be revised or superseded under the Social Security Act 1998 (c. 14) if any of those requirements are found not to have been satisfied), for “any of those requirements” there were substituted “any of the conditions to which the award is made subject”.
- (3) Regulations may, in relation to claims to which this section applies, make provision enabling an award to be made on terms such that the time at which benefit becomes payable under the award is later than the start of the period for which the award is made.
- See Sch. 1, para. 5 of S.I. 2010/1907 at page 13.9419 for details of modifications to s. 5 in certain situations as from 1.10.10.*
- 6.—(1) This section applies where a claimant is entitled to both a contributory allowance and an income-related allowance.
- Amount payable where claimant entitled to both forms of allowance
- (2) If the claimant has no income, the amount payable by way of an employment and support allowance shall be the greater of—
- (a) his personal rate, and
- (b) the applicable amount.
- (3) If the claimant has an income, the amount payable by way of an employment and support allowance shall be the greater of—
- (a) his personal rate, and
- (b) the amount by which the applicable amount exceeds his income.
- (4) Where the amount payable to the claimant by way of an employment and support allowance does not exceed his personal rate, the allowance shall be treated as attributable to the claimant’s entitlement to a contributory allowance.
- (5) Where the amount payable to the claimant by way of an employment and support allowance exceeds his personal rate, the allowance shall be taken to consist of two elements, namely—
- (a) an amount equal to his personal rate, and
- (b) an amount equal to the excess.
- (6) The element mentioned in subsection (5)(a) shall be treated as attributable to the claimant’s entitlement to a contributory allowance.
- (7) The element mentioned in subsection (5)(b) shall be treated as attributable to the claimant’s entitlement to an income-related allowance.
- (8) In this section—
- “applicable amount” means the amount which, in the claimant’s case, is the applicable amount for the purposes of section 4(1);
- “personal rate” means the amount calculated in accordance with section 2(1).

WELFARE REFORM ACT 2007 (c. 5)

Ss. 7-8

Exclusion of payments below prescribed minimum

7. Except in such circumstances as regulations may provide, an employment and support allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

Assessments relating to entitlement

Limited capability for work

8.—(1) For the purposes of this Part, whether a person's capability for work is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to work shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

- (a) provide for determination on the basis of an assessment of the person concerned;
- (b) define the assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
- (c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision—

- (a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;
- (b) as to the manner in which that information or evidence is to be provided;
- (c) for a person in relation to whom it falls to be determined whether he has limited capability for work to be called to attend for such medical examination as the regulations may require.

(4) Regulations under subsection (1) may include provision—

- (a) for a person to be treated as not having limited capability for work if he fails without good cause—
 - (i) to provide information or evidence which he is required under such regulations to provide,
 - (ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or
 - (iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;
- (b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;
- (c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

(5) Regulations may provide that, in prescribed circumstances, a person in relation to whom it falls to be determined whether he has limited capability for work, shall, if prescribed conditions are met, be treated as having limited capability for work until such time as—

- (a) it has been determined whether he has limited capability for work, or
- (b) he falls in accordance with regulations under this section to be treated as not having limited capability for work.

(6) The prescribed conditions referred to in subsection (5) may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question does not have, or is to be treated as not having, limited capability for work.

9.—(1) For the purposes of this Part, whether a person’s capability for work-related activity is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to undertake such activity shall be determined in accordance with regulations.

Limited capability for work-related activity

- (2) Regulations under subsection (1) shall—
- (a) provide for determination on the basis of an assessment of the person concerned;
 - (b) define the assessment by reference to such matters as the regulations may provide;
 - (c) make provision as to the manner of carrying out the assessment.
- (3) Regulations under subsection (1) may, in particular, make provision—
- (a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;
 - (b) as to the manner in which that information or evidence is to be provided;
 - (c) for a person in relation to whom it falls to be determined whether he has limited capability for work-related activity to be called to attend for such medical examination as the regulations may require.
- (4) Regulations under subsection (1) may include provision—
- (a) for a person to be treated as not having limited capability for work-related activity if he fails without good cause—
 - (i) to provide information or evidence which he is required under such regulations to provide,
 - (ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or
 - (iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;
 - (b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;
 - (c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

10. The Secretary of State shall lay before Parliament an independent report on the operation of the assessments under sections 8 and 9 annually for the first five years after those sections come into force.

Report

[¹*Work-related requirements*]

11.—(1) The following provisions of this Part provide for the Secretary of State to impose work-related requirements with which persons entitled to an employment and support allowance must comply for the purposes of this Part.

Work-related requirements

- (2) In this Part “work-related requirement” means—
- (a) a work-focused interview requirement (see section 11B);
 - (b) a work preparation requirement (see section 11C).

(3) The work-related requirements which may be imposed on a person depend on which of the following groups the person falls into—

- (a) persons subject to no work-related requirements (see section 11D);
- (b) persons subject to work-focused interview requirement only (see section 11E);

¹ S. 11-16 substituted (See art. 7 of S.I. 2013/983 for when to apply) by the Welfare Reform Act 2012 (c. 5), s. 57(2).

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Ss. 11-11C

- (c) persons subject to work-focused interview and work preparation requirements (see section 11F).

Claimant commitment

11A.—(1) A claimant commitment is a record of the responsibilities of a person entitled to an employment and support allowance in relation to the award of the allowance.

(2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.

(3) A claimant commitment is to be in such form as the Secretary of State thinks fit.

(4) A claimant commitment is to include—

- (a) a record of the requirements that the person must comply with under this Part (or such of them as the Secretary of State considers it appropriate to include),
- (b) any prescribed information, and
- (c) any other information the Secretary of State considers it appropriate to include.

(5) For the purposes of this Part a person accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

Work-focused interview requirement

11B.—(1) In this Part a “work-focused interview requirement” is a requirement that a person participate in one or more work-focused interviews as specified by the Secretary of State.

(2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.

(3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Secretary of State that the person will obtain paid work (or more paid work or better-paid work).

(4) The Secretary of State may specify how, when and where a work-focused interview is to take place.

Work preparation requirement

11C.—(1) In this Part a “work preparation requirement” is a requirement that a person take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the person will obtain paid work (or more paid work or better-paid work).

(2) The Secretary of State may under subsection (1) specify the time to be devoted to any particular action.

(3) Action which may be specified under subsection (1) includes in particular—

- (a) attending a skills assessment;
- (b) improving personal presentation;
- (c) participating in training;
- (d) participating in an employment programme;
- (e) undertaking work experience or a work placement;
- (f) developing a business plan;
- (g) any action prescribed for the purpose in subsection (1).

(4) The action which may be specified under subsection (1) includes taking part in a work-focused health-related assessment.

(5) In subsection (4) “work-focused health-related assessment” means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing—

- (a) the extent to which the person’s capability for work may be improved by taking steps in relation to their physical or mental condition, and
- (b) such other matters relating to their physical or mental condition and the likelihood of their obtaining or remaining in work or being able to do so as may be prescribed.

(6) In subsection (5) “health care professional” means—

- (a) a registered medical practitioner,
- (b) a registered nurse,
- (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or
- (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

11D.—(1) The Secretary of State may not impose any work-related requirement on a person falling within this section.

Persons subject to no work-related requirements

(2) A person falls within this section if—

- (a) the person has limited capability for work and work-related activity,
- (b) the person has regular and substantial caring responsibilities for a severely disabled person,
- (c) the person is a single person responsible for a child under the age of 1,
- (d) the person is of a prescribed description.

(3) Where a person falls within this section, any work-related requirement previously applying to the person ceases to have effect.

(4) In this section—

“regular and substantial caring responsibilities” has such meaning as may be prescribed;

“severely disabled” has such meaning as may be prescribed.

11E.—(1) A person falls within this section if—

- (a) the person is a single person responsible for a child who is aged at least 1 and is under a prescribed age (which may not be less than 3), or
- (b) the person is of a prescribed description.

Persons subject to work-focused interview requirement only

(2) The Secretary of State may, subject to this Part, impose a work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

(3) The Secretary of State may not impose a work preparation requirement on a person falling within this section (and, where a person falls within this section, a work preparation requirement previously applying to the person ceases to have effect).

11F.—(1) A person who does not fall within section 11D or 11E falls within this section.

Persons subject to work preparation and work-focused interview requirement

(2) The Secretary of State may, subject to this Part, impose a work preparation requirement or work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

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Ss. 11G-11H

Connected requirements

11G.—(1) The Secretary of State may require a person entitled to an employment and support allowance to participate in an interview for any purpose relating to—

- (a) the imposition of a work-related requirement on the person;
- (b) verifying the person’s compliance with a work-related requirement;
- (c) assisting the person to comply with a work-related requirement.

(2) The Secretary of State may specify how, when and where such an interview is to take place.

(3) The Secretary of State may, for the purpose of verifying a person’s compliance with a work-related requirement, require the person to—

- (a) provide to the Secretary of State information and evidence specified by the Secretary of State in a manner so specified;
- (b) confirm compliance in a manner so specified.

(4) The Secretary of State may require a person to report to the Secretary of State any specified changes in their circumstances which are relevant to—

- (a) the imposition of work-related requirements on the person;
- (b) the person’s compliance with a work-related requirement.

Imposition of requirements

11H.—(1) Regulations may make provision—

- (a) where the Secretary of State may impose a requirement under this Part, as to when the requirement must or must not be imposed;
- (b) where the Secretary of State may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;
- (c) where the Secretary of State may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.

(2) Where the Secretary of State may impose a work-focused interview requirement, or specify a particular action under section 11C(1), the Secretary of State must have regard to such matters as may be prescribed.

(3) Where the Secretary of State may impose a requirement under this Part, or specify any action to be taken in relation to such a requirement, the Secretary of State may revoke or change what has been imposed or specified.

(4) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Secretary of State may determine.

(5) Regulations must make provision to secure that, in prescribed circumstances, where a person has recently been a victim of domestic violence—

- (a) a requirement imposed on that person under this Part ceases to have effect for a period of 13 weeks, and
- (b) the Secretary of State may not impose any other requirement on that person during that period.

(6) For the purposes of subsection (5)—

- (a) “domestic violence” has such meaning as may be prescribed;
- (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (5) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
- (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

Ss. 11I-11K

11I. Regulations may make provision as to circumstances in which a person is to be treated as having— Compliance with requirements

- (a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Secretary of State in relation to such a requirement.

11J.—(1) The amount of an award of an employment and support allowance is to be reduced in accordance with this section in the event of a failure by a person which is sanctionable under this section. Sanctions

(2) It is a failure sanctionable under this section if a person—

- (a) fails for no good reason to comply with a work-related requirement;
- (b) fails for no good reason to comply with a requirement under section 11G.

(3) Regulations are to specify—

- (a) the amount of a reduction under this section, and
- (b) the period for which such a reduction has effect.

(4) Regulations under subsection (3)(b) may provide that a reduction under this section in relation to any failure is to have effect for—

- (a) a period continuing until the person meets a compliance condition specified by the Secretary of State,
- (b) a fixed period not exceeding 26 weeks which is—
 - (i) specified in the regulations, or
 - (ii) determined in any case by the Secretary of State, or
- (c) a combination of both.

(5) In subsection (4)(a) “compliance condition” means—

- (a) a condition that the failure ceases, or
- (b) a condition relating to future compliance with a work-related requirement or a requirement under section 11G.

(6) A compliance condition specified under subsection (4)(a) may be—

- (a) revoked or varied by the Secretary of State;
- (b) notified to the person in such manner as the Secretary of State may determine.

(7) A period fixed under subsection (4)(b) may in particular depend on either or both the following—

- (a) the number of failures by the person sanctionable under this section;
- (b) the period between such failures.

(8) Regulations may provide—

- (a) for cases in which no reduction is to be made under this section;
- (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
- (c) for the termination or suspension of a reduction under this section.

11K.—(1) The functions of the Secretary of State under sections 11 to 11I may be exercised by, or by the employees of, such person as the Secretary of State may authorise for the purpose (an “authorised person”). Delegation and contracting out

(2) An authorisation given by virtue of this section may authorise the exercise of a function—

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Ss. 11K-11

- (a) wholly or to a limited extent;
- (b) generally or in particular cases or areas;
- (c) unconditionally or subject to conditions.

(3) An authorisation under this section—

- (a) may specify its duration;
- (b) may be varied or revoked at any time by the Secretary of State;
- (c) does not prevent the Secretary of State or another person from exercising the function to which the authorisation relates.

(4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State or (as the case may be) an officer of the Secretary of State.

(5) Subsection (4) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

- (a) the authorisation of an authorised person is revoked, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).]

Ss. 11-16 are reproduced below as they are maintained in force in certain circumstances. See art. 7 of S.I. 2013/983 for details at page 14.3231.

Conditionality

Work-focused health-related assessments

11.—(1) Regulations may make provision for or in connection with imposing on a person who is—

- (a) entitled to an employment and support allowance, and
- (b) not a member of the support group,

a requirement to take part in one or more work-focused health-related assessments as a condition of continuing to be entitled to the full amount payable to him in respect of the allowance apart from the regulations.

(2) Regulations under this section may, in particular, make provision—

- (a) prescribing circumstances in which such a person is subject to a requirement to take part in one or more work-focused health-related assessments;
- (b) for notifying such a person of any such requirement;
- (c) prescribing the work-focused health-related assessments in which a person who is subject to such a requirement is required to take part;
- (d) for the determination, and notification, of the time and place of any such assessment;
- (e) prescribing circumstances in which a person attending such an assessment is to be regarded as having, or not having, taken part in it;
- (f) for securing that the appropriate consequence follows if a person who is required under the regulations to take part in a work-focused health-related assessment—
 - (i) fails to take part in the assessment, and

- (ii) does not, within a prescribed period, show that he had good cause for that failure;
 - (g) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;
 - (h) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.
- (3) For the purposes of subsection (2)(f), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with regulations.
- (4) Regulations under subsection (3) may, in particular, make provision for determining—
- (a) the amount by which an allowance is to be reduced,
 - (b) when the reduction is to start, and
 - (c) how long it is to continue,
- and may include provision prescribing circumstances in which the amount of the reduction is to be nil.
- (5) Regulations under this section shall include provision for a requirement to take part in one or more work-focused health-related assessments to cease to have effect if the person subject to the requirement becomes a member of the support group.
- (6) Regulations under this section may include provision—
- (a) that in such circumstances as the regulations may prescribe a requirement to take part in a work-focused health-related assessment that would otherwise apply to a person by virtue of such regulations is not to apply, or is to be treated as not having applied;
 - (b) that in such circumstances as the regulations may prescribe such a requirement is not to apply until a prescribed time;
 - (c) that in such circumstances as the regulations may prescribe the time and place of a work-focused health-related assessment in which a person is required by regulations under this section to take part may be redetermined.
- (7) In this section, “work-focused health-related assessment” means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing—
- (a) the extent to which a person still has capability for work,
 - (b) the extent to which his capability for work may be improved by the taking of steps in relation to his physical or mental condition, and
 - (c) such other matters relating to his physical or mental condition and the likelihood of his obtaining or remaining in work or being able to do so, as may be prescribed.
- (8) In subsection (7), “health care professional” means—
- (a) a registered medical practitioner,
 - (b) a registered nurse,
 - (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999 (c. 8), or
 - (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17) as may be prescribed.

12.—(1) Regulations may make provision for or in connection with imposing on a person who is—

Work-focused interviews

- (a) entitled to an employment and support allowance, and

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- (b) not a member of the support group, [¹or a lone parent of a child under the age of one.]

a requirement to take part in one or more work-focused interviews as a condition of continuing to be entitled to the full amount payable to him in respect of the allowance apart from the regulations.

(2) Regulations under this section may, in particular, make provision—

- (a) prescribing circumstances in which such a person is subject to a requirement to take part in one or more work-focused interviews;
- (b) for notifying such a person of any such requirement;
- (c) prescribing the work-focused interviews in which a person who is subject to such a requirement is required to take part;
- (d) for determining, in relation to work-focused interviews under the regulations, when and how the interview is to be conducted and, if it is to be conducted face to face, where it is to take place;
- (e) for notifying persons who are required under the regulations to take part in a work-focused interview of what is determined in respect of the matters mentioned in paragraph (d);
- (f) prescribing circumstances in which a person who is a party to a work-focused interview under the regulations is to be regarded as having, or not having, taken part in it;
- (g) for securing that the appropriate consequence follows if a person who is required under the regulations to take part in a work-focused interview—
 - (i) fails to take part in the interview, and
 - (ii) does not, within a prescribed period, show that he had good cause for that failure;
- (h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;
- (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(3) For the purposes of subsection (2)(g), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with regulations.

(4) Regulations under subsection (3) may, in particular, make provision for determining—

- (a) the amount by which an allowance is to be reduced,
- (b) when the reduction is to start, and
- (c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

(5) Regulations under this section shall include provision for a requirement to take part in one or more work-focused interviews to cease to have effect if the person subject to the requirement becomes a member of the support group.

(6) Regulations under this section may include provision—

- (a) that in such circumstances as the regulations may prescribe a requirement to take part in a work-focused interview that would otherwise apply to a person by virtue of such regulations is not to apply, or is to be treated as not having applied;
- (b) that in such circumstances as the regulations may prescribe such a requirement is not to apply until a prescribed time;

¹ Words in s. 12(1)(b) inserted (31.10.11) by the Welfare Reform Act 2009 (c. 24) s. 3(3).

- (c) that in such circumstances as the regulations may prescribe matters mentioned in subsection (2)(d) may be redetermined.

(7) In this section, “work-focused interview” means an interview by the Secretary of State conducted for such purposes connected with getting the person interviewed into work, or keeping him in work, as may be prescribed.

13.—(1) Regulations may make provision for or in connection with imposing on a person who is subject to a requirement imposed under section 12(1) a requirement to undertake work-related activity in accordance with regulations as a condition of continuing to be entitled to the full amount payable to him in respect of an employment and support allowance apart from the regulations.

Work-related activity

(2) Regulations under this section may, in particular, make provision—

- (a) prescribing circumstances in which such a person is subject to a requirement to undertake work-related activity in accordance with regulations;
- (b) for notifying such a person of any such requirement;
- (c) prescribing the time or times at which a person who is subject to such a requirement is required to undertake work-related activity and the amount of work-related activity he is required at any time to undertake;
- (d) prescribing circumstances in which a person who is subject to such a requirement is, or is not, to be regarded as undertaking work-related activity;
- (e) for securing that the appropriate consequence follows if a person who is subject to such a requirement—
 - (i) fails to comply with the regulations, and
 - (ii) does not, within a prescribed period, show that he had good cause for that failure;
- (f) prescribing the evidence which a person who is subject to such a requirement needs to provide in order to show that he has complied with the regulations;
- (g) prescribing matters which are, or are not, to be taken into account in determining whether a person has complied with the regulations;
- (h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;
- (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(3) For the purposes of subsection (2)(e), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in question in respect of an employment and support allowance is to be reduced in accordance with regulations.

(4) Regulations under subsection (3) may, in particular, make provision for determining—

- (a) the amount by which an allowance is to be reduced,
- (b) when the reduction is to start, and
- (c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

(5) Regulations under this section shall include provision for a requirement to undertake work-related activity in accordance with regulations to cease to have effect if the person subject to the requirement becomes a member of the support group.

(6) Regulations under this section may include provision that in such circumstances as the regulations may provide a person's obligation under the regulations to undertake work-related activity at a particular time is not to apply, or is to be treated as not having applied.

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Ss. 13-15A

Action plans in connection with work-focused interviews

(7) In this Part, "work-related activity", in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so.

[¹(8) The reference to activity in subsection (7) includes work experience or a work placement.]

14.—(1) The Secretary of State shall in prescribed circumstances provide a person subject to a requirement imposed under section 12(1) with a document prepared for such purposes as may be prescribed (in this section referred to as an action plan).

(2) Regulations may make provision about—

- (a) the form of action plans;
- (b) the content of action plans;
- (c) the review and updating of action plans.

(3) Regulations under this section may, in particular, make provision for action plans which are provided to a person who is subject under section 13 to a requirement to undertake work-related activity to contain particulars of activity which, if undertaken, would enable the requirement to be met.

(4) Regulations may make provision for reconsideration of an action plan at the request of the person to whom the plan is provided and may, in particular, make provision about—

- (a) the circumstances in which reconsideration may be requested;
- (b) the period within which any reconsideration must take place;
- (c) the matters to which regard must be had when deciding on reconsideration whether the plan should be changed;
- (d) notification of the decision on reconsideration;
- (e) the giving of directions for the purpose of giving effect to the decision on reconsideration.

Directions about work-related activity

15.—[²(1) In prescribed circumstances, the Secretary of State may by direction given to a person subject to a requirement imposed under section 13(1) provide that the activity specified in the direction is—

- (a) to be the only activity which, in the person's case, is to be regarded as being work-related activity; or
- (b) to be regarded, in the person's case, as not being work-related activity.

(1A) But a direction under subsection (1) may not specify medical or surgical treatment as the only activity which, in any person's case, is to be regarded as being work-related activity.

(2) A direction under subsection (1) given to any person—

- (a) must be reasonable, having regard to the person's circumstances;
- (b) must be given to the person by being included in an action plan provided to the person under section 14; and
- (c) may be varied or revoked by a subsequent direction under subsection (1).]

(3) Where a direction under subsection (1) varies or revokes a previous direction, it may provide for the variation or revocation to have effect from a time before the giving of the direction.

Persons dependent on drugs etc.

Persons dependent on drugs etc.

[³15A.—(1) Schedule 1A makes provision for or in connection with imposing requirements on persons in cases where—

- (a) they are dependent on, or have a propensity to misuse, any drug, and
- (b) any such dependency or propensity is a factor affecting their prospects of obtaining or remaining in work.

Contracting out

¹ S. 13(8) inserted (3.12.12) by the Welfare Reform Act 2012 (c. 5), s. 55.

² S. 15(1) & (2) substituted with s. 15(1), (1A) & (2) (10.2.10) by the Welfare Reform Act 2009 (c. 24), s. 10.

³ S. 15A, s. 16(1)(d)-(f) and words in s. 16(2)(a) & (3)(a) inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 3, paras. 6 & 8(2)(a)-(c).

(2) That Schedule also contains a power for its provisions to apply in relation to alcohol.]

16.—(1) The following functions of the Secretary of State may be exercised by, or by employees of, such person (if any) as the Secretary of State may authorise for the purpose, namely—

- (a) conducting interviews under section 12;
- (b) providing documents under section 14;
- (c) giving, varying or revoking directions under section 15.
- [¹(d) asking questions under paragraph 1 of Schedule 1A;
- (e) making decisions under paragraph 2 or 3 of that Schedule;
- (f) exercising any functions in relation to rehabilitation plans under paragraph 5 and 6 of that Schedule.]

(2) Regulations may provide for any of the following functions of the Secretary of State to be exercisable by, or by employees of, such person (if any) as the Secretary of State may authorise for the purpose—

- (a) any function under regulations under any of sections 11 to 15, [¹or Schedule 1A] except the making of a decision to which subsection (3) applies (an “excluded decision”);
- (b) the function under section 9(1) of the Social Security Act 1998 (c. 14) (revision of decisions), so far as relating to decisions, except excluded decisions, that relate to any matter arising under such regulations;
- (c) the function under section 10(1) of that Act (superseding of decisions), so far as relating to decisions, except excluded decisions, of the Secretary of State that relate to any matter arising under such regulations;
- (d) any function under Chapter 2 of Part 1 of that Act (social security decisions), except section 25(2) and (3) (decisions involving issues that arise on appeal in other cases), which relates to the exercise of any of the functions falling within paragraphs (a) to (c).

(3) This subsection applies to the following decisions—

- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 11, 12 or 13 [¹or Schedule 1A];
- (b) a decision about whether a person had good cause for failure to comply with such a requirement;
- (c) a decision about reduction of an employment and support allowance in consequence of failure to comply with such a requirement.

(4) Regulations under subsection (2) may provide that a function to which that subsection applies may be exercised—

- (a) either wholly or to such extent as the regulations may provide,
- (b) either generally or in such cases or areas as the regulations may provide, and
- (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

(5) An authorisation given by virtue of subsection (1), or by virtue of regulations under subsection (2), may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases or areas as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

¹ S. 16(1)(d)-(f) and words in s. 16(2)(a) & (3)(a) inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 3, paras. 6 & 8(2)(a)-(c).

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(6) In the case of an authorisation given by virtue of regulations under subsection (2), subsection (5) is subject to the provisions of the regulations.

(7) An authorisation given by virtue of subsection (1), or by virtue of regulations under subsection (2)–

- (a) may specify its duration,
- (b) may be revoked at any time by the Secretary of State, and
- (c) shall not prevent the Secretary of State or any other person from exercising the function to which the authorisation relates.

(8) Where a person is authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State.

(9) Subsection (8) shall not apply–

- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of his).

(10) Any decision which a person authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), makes in exercise of the function shall have effect as a decision of the Secretary of State under section 8 of the Social Security Act 1998 (c. 14).

(11) Where–

- (a) a person is authorised to exercise any function by virtue of subsection (1), or by virtue of regulations under subsection (2), and
- (b) the authorisation is revoked at a time when a relevant contract is subsisting,

the authorised person shall be entitled to treat the relevant contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).

(12) In subsection (11), the reference to a relevant contract is to so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function.

(13) In this section, references to functions of the Secretary of State under–

- (a) an enactment contained in, or in regulations under, this Part, or
- (b) an enactment contained in Chapter 2 of Part 1 of the Social Security Act 1998,

include a reference to any function which the Secretary of State has by virtue of the application in relation to that enactment of section 8(1)(c) of that Act (decisions under certain enactments to be made by the Secretary of State).

S. 16A is reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details at page 14.3231.

[¹Hardship payments

16A.—(1) [²...]

16A.—(1) Regulations may make provision for the making of payments (“hardship payments”) by way of an employment and support allowance to a person where–

- (a) the amount otherwise payable to the person in respect of an employment and support allowance is reduced

¹ S. 16A inserted (26.11.12) by the Welfare Reform Act 2012 (c. 5), s. 56.

² S. 16A repealed (see art. 7(1) of S.I. 2013/983 for dates) by Pt. 5 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

by virtue of regulations under section 11(3), 12(3) or 13(3), and

(b) the person is or will be in hardship.

(2) Regulations under this section may in particular make provision as to—

(a) circumstances in which a person is to be treated as being or not being in hardship;

(b) matters to be taken into account in determining whether a person is or will be in hardship;

(c) requirements or conditions to be met by a person in order to receive hardship payments;

(d) the amount or rate of hardship payments;

(e) the period for which hardship payments may be made.]

Income and capital:
general

Miscellaneous

17.—(1) In relation to a claim for an employment and support allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.

(2) A person's income in respect of a week shall be calculated in accordance with prescribed rules, which may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(3) Circumstances may be prescribed in which—

(a) a person is to be treated as possessing capital or income which he does not possess;

(b) capital or income which a person does possess is to be disregarded;

(c) income is to be treated as capital;

(d) capital is to be treated as income.

(4) Regulations may provide that a person's capital shall be deemed for the purposes of this Part to yield him an income at a prescribed rate.

18.—(1) Regulations may provide for a person to be disqualified for receiving an employment and support allowance, or treated for such purposes as the regulations may provide as not having limited capability for work, if—

Disqualification

(a) he has become someone who has limited capability for work through his own misconduct,

(b) he remains someone who has limited capability for work through his failure without good cause to follow medical advice, or

(c) he fails without good cause to observe any prescribed rules of behaviour.

(2) Regulations under subsection (1) shall provide for any such disqualification, or treatment, to be for such period not exceeding 6 weeks as may be determined in accordance with Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14).

(3) Regulations may prescribe for the purposes of subsection (1)—

(a) matters which are, or are not, to be taken into account in determining whether a person has good cause for any act or omission;

(b) circumstances in which a person is, or is not, to be regarded as having good cause for any act or omission.

(4) Except where regulations otherwise provide, a person shall be disqualified for receiving [an employment and support allowance] for any period during which he is—

(a) absent from Great Britain, or

(b) undergoing imprisonment or detention in legal custody.

19.—(1) Any regulations to which this subsection applies may be made so as to have effect for a specified period not exceeding [236 months].

Pilot schemes

¹ Words substituted in s. 18(4) (29.4.13) by para. 26(d) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

² Words substituted in s. 19(1) (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 28(2).

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Ss. 19-20

- (2) Subject to subsection (3), subsection (1) applies to—
- (a) regulations which are made under any provision of this Part, other than sections 3, 8 and 9;
 - (b) regulations which are made under the Administration Act, so far as they relate to an employment and support allowance.
- (3) Subsection (1) only applies to regulations if they are made with a view to ascertaining whether their provisions will or will be likely to—
- (a) encourage persons to obtain or remain in work, or
 - (b) make it more likely that persons will obtain or remain in work or be able to do so.
- (4) Regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as a “pilot scheme”.
- (5) A pilot scheme may provide that its provisions are to apply only in relation to—
- (a) one or more specified areas;
 - (b) one or more specified classes of person;
 - (c) persons selected—
 - (i) by reference to prescribed criteria, or
 - (ii) on a sampling basis.
- (6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (7) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.

Relationship with
statutory payments

- 20.—**(1) A person is not entitled to an employment and support allowance in respect of a day if, for the purposes of statutory sick pay, that day—
- (a) is a day of incapacity for work in relation to a contract of service, and
 - (b) falls within a period of entitlement (whether or not it is a qualifying day).
- (2) Except as regulations may provide, a woman who is entitled to statutory maternity pay is not entitled to [¹an employment and support allowance] in respect of a day that falls within the maternity pay period.
- (3) Regulations may provide that—
- (a) an amount equal to a woman’s statutory maternity pay for a period shall be deducted from [¹an employment and support allowance] in respect of the same period,
 - (b) a woman shall only be entitled to [¹an employment and support allowance] if there is a balance after the deduction, and
 - (c) if there is such a balance, a woman shall be entitled to [¹an employment and support allowance] at a weekly rate equal to it.
- (4) Except as regulations may provide, a person who is entitled to statutory adoption pay is not entitled to [¹an employment and support allowance] in respect of a day that falls within the adoption pay period.
- (5) Regulations may provide that—
- (a) an amount equal to a person’s statutory adoption pay for a period shall be deducted from [¹an employment and support allowance] in respect of the same period,

¹ Words substituted in s. 20(2), (3)(a)-(c), (4) & (5)(a) (29.4.13) by para. 26(e) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

- (b) a person shall only be entitled to a contributory allowance if there is a balance after the deduction, and
- (c) if there is such a balance, a person shall be entitled to [¹an employment and support allowance] at a weekly rate equal to it.

(6) Except as regulations may provide, a person who is entitled to [²statutory shared parental pay] is not entitled to [¹an employment and support allowance] in respect of [²a day that falls within a period in respect of which statutory shared parental pay is payable].

(7) Regulations may provide that—

- (a) an amount equal to a person's [²statutory shared parental pay for a period] shall be deducted from [¹an employment and support allowance] in respect of the same period,
- (b) a person shall only be entitled to [¹an employment and support allowance] if there is a balance after the deduction, and
- (c) if there is such a balance, a person shall be entitled to [¹an employment and support allowance] at a weekly rate equal to it.

S. 20(6) & (7) is reproduced as it remains in force in certain circumstances. See art. 9(2) of S.I. 2014/1640 for when to apply.

(6) Except as regulations may provide, a person who is entitled to additional statutory paternity pay is not entitled to [¹an employment and support allowance] in respect of a day that falls within the additional paternity pay period.

(7) Regulations may provide that—

- (a) an amount equal to a person's additional statutory paternity pay for a period shall be deducted from [¹an employment and support allowance] in respect of the same period,
- (b) a person shall only be entitled to [¹an employment and support allowance] if there is a balance after the deduction, and
- (c) if there is such a balance, a person shall be entitled to [¹an employment and support allowance] at a weekly rate equal to it.

(8) In this section—

“the additional paternity pay period” has the meaning given in section 171ZEE(2) of the Contributions and Benefits Act;

“the adoption pay period” has the meaning given in section 171ZN(2) of that Act;

“the maternity pay period” has the meaning given in section 165(1) of that Act.

21. Regulations may provide for a person who would be entitled to an employment and support allowance but for the operation of any provision of, or made under, this Part, the Administration Act or Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14) (social security decisions and appeals) to be treated as if entitled to the allowance for the purposes of any rights or obligations (whether his own or another's) which depend on his entitlement, other than the right to payment of it.

Deemed entitlement for other purposes

22. Schedule 2 (which contains further provisions in relation to an employment and support allowance) has effect.

Supplementary provisions

S. 23 reproduced as it remains in force in certain circumstances. See art. 4 of S.I. 2013/983 for details of when to apply at page 14.3231.

23.—(1) [³...]

¹ Words substituted in s. 20(5)(c), (6) & (7)(a)-(c) (29.4.13) by para. 26(e) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

² Words in s. 20(6) & (7)(a) substituted (30.6.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 73(1)-(3). (See art. 9(2) of S.I. 2014/1640 for when to apply in certain circumstances).

³ S. 23 repealed (See art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

WELFARE REFORM ACT 2007 (c. 5)

Ss. 23-24

Recovery of sums in respect of maintenance

23.—(1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-related allowance has been made to that person's spouse or civil partner.

(2) The reference in subsection (1) to a recovery order is to an order requiring the person against whom it is made to make payments to the Secretary of State or to such other person or persons as the court may determine.

(3) Regulations under subsection (1) may include—

- (a) provision as to the matters to which the court is, or is not, to have regard in determining any application under the regulations;
- (b) provision as to the enforcement of orders under the regulations;
- (c) provision for the transfer by the Secretary of State of the right to receive payments under, and to exercise rights in relation to, orders under the regulations.

(4) In this section, "the court" means—

- (a) in relation to England and Wales, a magistrates' court;
- (b) in relation to Scotland, the sheriff.

General

Interpretation of Part 1

24.—(1) In this Part—

["child" means a person under the age of 16;]

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

Defns. "contributory allowance" & "income-related allowance" reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at page 14.3231.

[...²]

"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) section 27 of the Social Security Act 1998 (c. 14) (restrictions on entitlement in certain cases of error);

[...²]

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

"income support" means income support under section 124 of the Contributions and Benefits Act;

"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 Secretary of State;

¹ Defn. for "child" inserted (see art. 7(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), s. 57(4)(a).

² Defns. for "contributory allowance" & "income-related allowance" repealed (see art. 4(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), Pt. 1 of Sch. 14.

[¹“single person” means an individual who is not a member of a couple (within the meaning of Part 1 of the Welfare Reform Act 2012);]

“week” means a period of 7 days beginning with a Sunday or such other period of 7 days as may be prescribed;

[¹“work” has such meaning as maybe prescribed;

“work-focused interview requirement” has the meaning given by section 11B;

“work preparation requirement” has the meaning given by section 11C;]

The defn. “work-related activity” is reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details at page 14.3231.

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

[¹“work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;]

(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.

S. 24(3A) & (3B) is reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details of when to apply at page 14.3231.

(3A)-(3B) [...²]

[³(3A) For the purposes of this Part, a person is a lone parent if the person—

- (a) is not a member of a couple (within the meaning given by section 137(1) of the Contributions and Benefits Act), and
- (b) is responsible for, and a member of the same household as, a person under the age of 16.

(3B) For the purposes of subsection (3A)(b) regulations may make provision—

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household].

(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.

25.—(1) Any power under this Part to make regulations [⁴or an order] shall be exercisable by statutory instrument.

Regulations [⁴and Orders]

(2) Any such power may be exercised—

- (a) in relation to all cases to which it extends,
- (b) in relation to those cases subject to specified exceptions, or
- (c) in relation to any specified cases or classes of case.

¹ Defns. for “single person”, “work”, “work-focused”..., “work preparation”, “work-related requirement” inserted & “work-related act” substituted (see art. 7(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), s. 57(4)(a) & (b).

² S. 24(3A) & (3B) repealed (see art. 7(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), Pt. 5 of Sch. 14.

³ S. 24(3A) & (3B) inserted (31.10.11) by the Welfare Reform Act 2009 (c. 24), s. 3(5).

⁴ Words inserted in heading to & subsec. (1) of S. 25 (20.3.12) by the Welfare Reform Act 2012 (c. 5), s. 51(2).

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Ss. 25-26

(3) Any such power may be exercised so as to make, as respects the cases in relation to which it is exercised—

- (a) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
- (b) the same provision for all cases in relation to which it is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Part;
- (c) any such provision either unconditionally or subject to any specified condition.

(4) Where any such power 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.

(5) Any such power includes power—

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

(6) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 [¹to 11J] [²or Schedule 1A] may make provision which applies only in relation to an area or areas specified in the regulations.

S. 25(6) is reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details of when to apply at page 14.3231.

(6) Without prejudice to the generality of the provisions of this section, regulations under any of sections 11 to 15 [³or Schedule 1A] may make provision which applies only in relation to an area or areas specified in the regulations.

(7) 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.

Parliamentary control

26.—(1) None of the following regulations shall be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament—

- (a) regulations under section 2(2)(c) or (3)(c) [...⁴];
- [⁵(aa) the first regulations under section 11D(2)(d) or 115;]

S. 26(1)(b) is reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details at page 14.3231.

(b) [...⁶]

(b) the first regulations under section 13;

(c) regulations which by virtue of section 19(1) are to have effect for a limited period

[⁷(d) regulations under any paragraph of Schedule 1A.]

(2) A statutory instrument that—

- (a) contains regulations made under this Part, and
- (b) is not subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

¹ Words in s. 25(6) substituted (see art. 7(1) of S.I. 2013/983 for dates) by s. 57(5) of the Welfare Reform Act 2012 (c. 5).

² Words in s. 25(6) inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 3, para. 8(3).

³ Words in s. 25(6) inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 3, para. 8(3).

⁴ Words in s. 26(1)(a) repealed (see art. 4(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), Pt. 1 of Sch. 14.

⁵ S. 26(1)(aa) inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 57(6).

⁶ S. 26(1)(b) repealed (see art. 7(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5), Pt. 1 of Sch. 14.

⁷ S. 26(1)(d) inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 3, para. 8(4).

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[¹(3) A statutory instrument containing an order under section 1A shall be subject to annulment resolution of either House of Parliament.]

27.—(1) There shall be paid out of the National Insurance Fund [²any sums payable by way of employment and support allowance].

Financial provisions relating to Part 1

(2) There shall be paid out of money provided by Parliament—

(a) [...³]

S. 27(2)(a) is reproduced as it remains in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at page 14.3231.

(a) so much of any sums payable by way of employment and support allowance as is attributable to entitlement to an income-related allowance, and

(b) any administrative expenses of the Secretary of State or the Commissioners for Her Majesty’s Revenue and Customs in carrying this Part into effect.

(3) The Secretary of State shall pay into the National Insurance Fund sums estimated by him to be equivalent in amount to sums recovered by him in connection with payments of [²employment and support].

(4) [...³]

S. 27(4)(a) is reproduced as it remains in force in certain circumstances. See art. 4 of S.I. 2013/983 for details at page 14.3231.

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

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

Consequential amendments relating to Part 1

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

(a) an Act passed on or before the last day of the Session in which this Act is passed, or

(b) an instrument made under an Act before the passing of this Act.

(3) In subsection (2), “Act” includes an Act of the Scottish Parliament.

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

Transition relating to Part 1

PART 2

HOUSING BENEFIT AND COUNCIL TAX BENEFIT

S. 30-34 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

[...⁴]

30.—(1)amends 1992 (c. 4), see Annex 1, Page 13.251

Local housing allowance

(2).....amends 1992 (c. 4), see Annex 1, Page 13.251

¹ S. 26(3) inserted (20.3.12) by the Welfare Reform Act 2012 (c. 5), s. 51(3).

² Words substituted in s. 27(1) & (3) (29.4.13) by the Welfare Reform Act 2012 (c. 5), para. 25(2) & (3) of Sch. 3.

³ S. 27(2)(a) & (4) repealed (see art. 4(1) of S.I. 2013/983 for dates) by the Welfare Reform Act 2012 (c. 5, Pt. 1 of Sch. 14).

⁴ S. 30-34 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 1.

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Ss. 30-32

Loss of housing benefit following eviction for anti-social behaviour, etc.

Housing benefit and council tax benefit for persons taking up employment

(3).....amends 2000 (c. 19), see Annex 1, Page 13.251

31.—(1) & (2).....amends 1992 (c. 4), see Annex 1, Page 13.251

(3) The preceding provisions of this section have no effect after 31st December 2010.

(4) The Secretary of State may by order made by statutory instrument make such provision as he thinks necessary or expedient in consequence of the operation of subsection (3) for the purpose of securing that, with effect from 1st January 2011, housing benefit to which a person who is a former occupier (within the meaning of section 130B of the Contributions and Benefits Act) is entitled is not subject to any restriction as mentioned in subsection (4) of that section.

32.—(1) Subsection (2) applies if a person is entitled to housing benefit or council tax benefit (by virtue of the general conditions of entitlement) and—

- (a) he is also entitled to a prescribed benefit or his partner is entitled to such a benefit,
- (b) he or his partner ceases to be entitled to the prescribed benefit in prescribed circumstances, and
- (c) the prescribed conditions are satisfied.

(2) That person is entitled to housing benefit or council tax benefit in accordance with this section for a prescribed period.

(3) Subsection (2) applies whether or not the person would be entitled to housing benefit or council tax benefit by virtue of the general conditions of entitlement for the whole or any part of the prescribed period.

(4) A person who is entitled to housing benefit or council tax benefit by virtue of subsection (2) must be treated for all purposes—

- (a) as having made a claim for that benefit, and
- (b) as having complied with any requirement under or by virtue of any enactment in connection with the making of such a claim.

(5) Housing benefit or council tax benefit to which a person is entitled by virtue of subsection (2) is to be funded and administered by the appropriate authority.

(6) Subsection (5) applies whether or not, for the whole or any part of the prescribed period—

- (a) for the purposes of establishing an entitlement to housing benefit, the person occupies as his home a dwelling in the area of the authority;
- (b) for the purposes of establishing an entitlement to council tax benefit, the person is a resident of a dwelling in the area of the authority.

(7) The amount of housing benefit or council tax benefit payable in respect of a person who is entitled to the benefit by virtue of subsection (2) is to be determined in accordance with regulations made for the purposes of this section.

(8) If an amount of housing benefit or council tax benefit is, by virtue of subsection (2), payable in respect of a person by the appropriate authority for any period, no other amount of housing benefit or council tax benefit is (by virtue of the general conditions of entitlement) payable by that authority in respect of that person for the same period.

(9) Regulations may make provision in connection with the effect of a person's entitlement to housing benefit or council tax benefit by virtue of subsection (2) on an award of such benefit by virtue of the general conditions of entitlement in respect of that person or his partner.

(10) Regulations may provide that where—

- (a) an amount of housing benefit or council tax benefit is, by virtue of subsection (2), payable in respect of a person by the appropriate authority for the whole or any part of a prescribed period, and

- (b) an amount of housing benefit or council tax benefit is (by virtue of the general conditions of entitlement) payable by a local authority which is not that appropriate authority in respect of that person for the whole or any part of that period,

the amount of the benefit payable by the local authority mentioned in paragraph (b) is to be reduced by an amount determined in such manner as is prescribed.

(11) An amount determined for the purposes of subsection (10) may have the effect of reducing the amount mentioned in paragraph (b) of that subsection to nil.

(12) Regulations may make provision as to circumstances in which—

- (a) subsection (8) does not apply;
- (b) entitlement to housing benefit or council tax benefit of a partner of the person mentioned in subsection (10) is to be treated as the entitlement of that person;
- (c) benefit is not to be reduced as mentioned in subsection (10).

(13) For the purposes of subsection (1) a person must be treated as entitled to housing benefit or council tax benefit by virtue of the general conditions of entitlement if—

- (a) he is not so entitled to that benefit at the time he or his partner ceases to be entitled to the prescribed benefit as mentioned in subsection (1)(b), and
- (b) his entitlement to housing benefit or council tax benefit (as the case may be) ceased during the prescribed period before that time.

33.—(1) The administration provisions apply in relation to housing benefit or council tax benefit to which a person is entitled by virtue of subsection (2) of section 32 subject to—

Section 32: supplemental

- (a) subsections (4), (5) and (6) of that section;
- (b) any prescribed modifications of those provisions which the Secretary of State thinks are necessary or expedient in connection with such housing benefit or council tax benefit.

(2) Modifications under subsection (1)(b) may, in particular, provide that housing benefit or council tax benefit to which a person is entitled by virtue of section 32(2) must or may take the form of a payment by the appropriate authority to another local authority in prescribed circumstances.

(3) In this section the administration provisions are—

- (a) the Administration Act;
- (b) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made in pursuance of that Act.

(4) The power to make regulations under this section or section 32 is exercisable by the Secretary of State by statutory instrument.

(5) A statutory instrument containing regulations under this section or section 32 is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Section 175(3) to (7) of the Contributions and Benefits Act (supplemental provision as to regulations) applies in relation to regulations under this section and section 32 above as it applies in relation to regulations under that Act.

(7) In section 170 of the Administration Act (Social Security Advisory Committee), in subsection (5)—

- (a) in the definition of “the relevant enactments”, after paragraph (ai) insert—
“ (aj) Sections 32 and 33 of the Welfare Reform Act 2007;”;
- (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ai) insert—
“ (aj) any provisions in Northern Ireland which correspond to sections 32 and 33 of the Welfare

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S. 33-36

Reform Act 2007;”

(8) For the purposes of any enactment other than a relevant enactment—

- (a) entitlement to housing benefit by virtue of section 32(2) above is to be treated as entitlement under section 130 of the Contributions and Benefits Act;
- (b) entitlement to council tax benefit by virtue of section 32(2) above is to be treated as entitlement under section 131 of that Act.

(9) In subsection (8), the relevant enactments are—

- (a) the administration provisions, and
- (b) Part 7 of the Contributions and Benefits Act, except sections 123 and 134(2) and (4).

Sections 32 and 33:
interpretation

34.—(1) This section has effect for the interpretation of sections 32 and 33.

(2) The general conditions of entitlement are the conditions governing entitlement to housing benefit or council tax benefit provided for by Part 7 of the Contributions and Benefits Act.

(3) The appropriate authority—

- (a) in relation to housing benefit is the local authority or housing authority which, immediately before the person concerned ceased to be entitled to the prescribed benefit, funded and administered the housing benefit to which he was entitled;
- (b) in relation to council tax benefit is the billing authority or, in Scotland, local authority which, immediately before the person concerned ceased to be entitled to the prescribed benefit, funded and administered the council tax benefit to which he was entitled.

(4) The following expressions have the same meaning as in the Administration Act—

- (a) billing authority;
- (b) housing authority;
- (c) local authority.

(5) Partner, in relation to a person, is a person who is a member of the same couple (within the meaning of Part 7 of the Contributions and Benefits Act) as that person.

(6) Prescribed means prescribed by regulations.

Information relating to
housing benefit

35.—(1) Section 5 of the Administration Act (regulations about claims and benefits) is amended as follows.

(2) amends 1992 (c. 5), See Annex 1, Page 13.251

(3) amends 1992 (c. 5), See Annex 1, Page 13.251

Supply of information by
rent officers

36 amends 1992 (c. 5), See Annex 1, Page 13.251

“Rent officers and housing benefit

S. 37-39 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

[...¹]

37. In section 134 of the Administration Act (arrangements for housing benefit), for subsection (2) substitute—
- “ (2) Housing benefit is to be paid in such manner as is prescribed, and regulations may, in particular, provide for—
- (a) a payment or payments by the authority administering the benefit to the person entitled to it (E), to some other person on E’s behalf or in respect of a liability which E has,
 - (b) a reduction in the amount of any payments which E is liable to make to the authority by way of rent, or
 - (c) such a payment or payments and such a reduction.
- (2A) In any enactment or instrument (whenever passed or made) “pay” in relation to housing benefit includes discharge in any manner prescribed under subsection (2) above.
- (2B) Subsection (2) above does not affect any power under section 5 above to make provision in relation to the payment of benefit.”
- 38.—(1) In section 13A of the Local Government Act 1999 (c. 27) (reports of inspections by Auditor General for Wales), after subsection (4) insert—
- “ (4A) If a report relates to any extent to the administration of housing benefit or council tax benefit and the Auditor General for Wales thinks fit to do so, he shall as soon as reasonably practicable send a copy of the report to the Secretary of State.”
- (2) In section 29 of that Act (modifications for Wales), after subsection (2) insert—
- “ (2A) Subsection (1)(a) does not apply to section 13A(4A).”
- 39.—(1) Section 139D of the Administration Act (power to give directions) is amended in accordance with subsections (2) to (8) below.
- (2) In subsection (1) (reports that trigger the section), for paragraph (c) substitute—
- “ (c) a copy of a report under section 102(1)(b) or (c) of the Local Government (Scotland) Act 1973 which to any extent relates to the administration of benefit has been sent to a local authority and the Secretary of State under section 102(2) of that Act;”
- (3) In subsection (1), after paragraph (c) insert—
- “ (ca) a copy of a report which has been sent to a local authority under section 13A(3) of the Local Government Act 1999 and to the Secretary of State under section 13A(4A) of that Act;”
- (4) In subsection (2) for “invite” substitute “require”.
- (5) After subsection (2) insert—
- “ (2A) A requirement under subsection (2) above may specify—
- (a) any information or description of information to be provided;
 - (b) the form and manner in which the information is to be provided.
- (2B) The authority must respond to a requirement under subsection (2) above before the end of such period (not less than one month after the day on which the requirement is made) as the Secretary of State specifies in the requirement.
- (2C) The Secretary of State may extend the period specified under subsection (2B) above.”
- (6) For subsection (3) substitute—
- “ (3) After considering—

Payment of housing benefit

Duty to send inspection reports to the Secretary of State

Directions by Secretary of State

¹ S. 37-39 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 1.

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- (a) the report,
- (b) any proposals made by the authority in response to it, and
- (c) any other information he thinks is relevant,

the Secretary of State may give directions to the authority under subsection (3A) or (3B) or both.

(3A) Directions under this subsection are directions as to—

- (a) standards which the authority is to attain in the prevention and detection of fraud relating to benefit or otherwise in the administration of benefit;
- (b) the time within which the standards are to be attained.

(3B) Directions under this subsection are directions to take such action as the Secretary of State thinks necessary or expedient for the purpose of improving the authority's exercise of its functions—

- (a) in relation to the prevention and detection of fraud relating to benefit;
- (b) otherwise in relation to the administration of benefit.

(3C) A direction under subsection (3B) may specify the time within which anything is to be done."

(7) In subsection (4), for "subsection (3)" substitute "subsection (3A)".

(8) After subsection (4) insert—

"(4A) If the Secretary of State proposes to give a direction under this section he must give the authority to which the direction is to be addressed an opportunity to make representations about the proposed direction.

(4B) The Secretary of State may specify a period within which representations mentioned in subsection (4A) above must be made.

(4C) The Secretary of State may extend a period specified under subsection (4B) above.

(4D) Subsections (4A) to (4C) do not apply if the Secretary of State thinks that it is necessary for a direction to be given as a matter of urgency.

(4E) If the Secretary of State acts under subsection (4D) he must give in writing to the authority to which the direction is addressed his reasons for doing so."

(9) After section 139D of that Act insert—

"139DA Directions: variation and revocation

(1) The Secretary of State may at any time in accordance with this section vary or revoke a direction under section 139D above.

(2) A direction may be varied or revoked only if the Secretary of State thinks it is necessary to do so—

- (a) in consequence of representations made by the authority to which the direction is addressed,
- (b) to rectify an omission or error, or
- (c) in consequence of a material change in circumstances.

(3) The Secretary of State must not vary a direction unless he first—

- (a) sends a copy of the proposed variation to the authority concerned,
- (b) gives the authority his reasons for making the variation, and
- (c) gives the authority an opportunity to make representations about the proposed variation.

(4) The Secretary of State may specify a period of not less than one month within which representations mentioned in subsection (3)(c) above must be made.

(5) The Secretary of State may extend a period specified under subsection (4) above."

40. Schedule 5 (which makes miscellaneous minor amendments and amendments consequential on this Part) has effect.

PART 3

SOCIAL SECURITY ADMINISTRATION: GENERAL

Sharing of social security information

41. amends 1992 (c. 5), see Annex 1, page 13.251

S. 41(2)(a)-(d) & (3) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

[...¹]

These sections have been revoked by s. 133(6) of the Welfare Reform Act 2012 (c. 5) but remain in force for transitional purposes.

42.—(1) Information falling within subsection (3) may be supplied by the person who holds it to a person falling within subsection (4) for purposes connected with the application of grant paid under a relevant enactment towards expenditure incurred by the recipient of the grant—

Information relating to certain benefits

- (a) in providing, or contributing to the provision of, welfare services, or
- (b) in connection with such welfare services.

(2) Information falling within subsection (3) which is held for a prescribed purpose by a person falling within any of paragraphs (c) to (h) of subsection (4) may be—

- (a) used by that person for another prescribed purpose;
- (b) provided to another such person for use in relation to the same or another prescribed purpose.

(3) The information is any information which is held by a person falling within subsection (4) relating to—

- (a) income support;
- (b) income-based jobseeker's allowance;
- (c) income-related employment and support allowance;
- (d) state pension credit;
- (e) housing benefit;
- (f) welfare services.

(4) The persons are—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) an authority administering housing benefit;
- (d) a person authorised to exercise any function of such an authority relating to housing benefit;
- (e) a person providing to such an authority services relating to housing benefit;
- (f) a local authority to which any grant is or will be paid as mentioned in subsection (1);
- (g) a person authorised to exercise any function of such an authority relating to the grant;
- (h) a person providing to such an authority services relating to any such function.

(5) Information which is supplied under subsection (1) to an authority or other person falling within subsection (4)(f), (g) or (h) may be supplied by the authority or person to a person who provides qualifying welfare services for purposes connected with the provision of those services.

(6) A person provides qualifying welfare services if—

- (a) he provides welfare services,
- (b) a local authority contribute or will contribute to the expenditure incurred by him in providing those services, and

¹ S. 41(2)(a)-(d) & (3) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 1.

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(c) that contribution is or will be derived (in whole or in part) from any grant which is or will be paid to the authority as mentioned in subsection (1).

(7) A relevant enactment is an enactment specified by order made by the Secretary of State; and the power to make an order under this subsection is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In subsection (2) a prescribed purpose is a purpose relating to housing benefit or welfare services which is prescribed by regulations made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(9) The power to make an order or regulations under this section includes power—

- (a) to make different provision for different purposes;
- (b) to make such incidental, supplementary, consequential, transitional or saving provision as the Secretary of State thinks necessary or expedient.

(10) In this section—

“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995 (c. 18);

“income-related employment and support allowance” means an income-related allowance under Part 1;

“local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;

“welfare services” includes services which provide support, assistance, advice or counselling to individuals with particular needs.

(11) In the Local Government Act 2000 (c. 22), sections 94 (disclosure of information) and 95 (unauthorised disclosure of information) are omitted.

- 43.—(1) A person to whom subsection (2) applies is guilty of an offence if he discloses without lawful authority any information—
- (a) which comes to him by virtue of section 42(1), (2) or (5), and
 - (b) which relates to a particular person.
- (2) This subsection applies to—
- (a) a person mentioned in section 42(4)(f) to (h);
 - (b) a person who provides qualifying welfare services (within the meaning of section 42(6));
 - (c) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person mentioned in paragraph (a) or (b);
 - (d) a person who is or has been an employee of a person mentioned in paragraph (a) or (b).
- (3) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (4) It is not an offence under this section—
- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
 - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
 - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) A disclosure is made with lawful authority if it is so made for the purposes of section 123 of the Administration Act.
- (7) This section does not affect that section.
- (8) Until the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (3)(b) to 12 months must be taken to be a reference to 6 months.

Unlawful disclosure of certain information

Overpayment recovery

44. amends 1992 (c. 5), see Annex 1, page 13.251

45 outside the scope of this work, see Annex 1, page 13.251

WELFARE REFORM ACT 2007 (c. 5)

Ss. 46-47

Benefit fraud

Local authority powers to investigate benefit fraud

46.—(1) Section 110A of the Administration Act (authorisation of investigations by authorities administering housing benefit or council tax benefit) is amended as follows.

(2) In subsection (1) for “any one or more of the purposes mentioned in subsection (2) below” substitute “a relevant purpose”.

(3) After subsection (1) insert—

“(1A) Each of the following is a relevant purpose—

- (a) a purpose mentioned in subsection (2) below;
- (b) a purpose mentioned in section 109A(2)(a), (c) or (d).

(1B) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not proceed under this section for a purpose mentioned in section 109A(2)(a), (c) or (d) unless any such condition is satisfied.

(1C) An authorisation made for a purpose mentioned in section 109A(2)(a), (c) or (d)—

- (a) is subject to such restrictions as may be prescribed;
- (b) is not valid in such circumstances as may be prescribed.”

(4) In subsection (2) for “Those purposes” substitute “The purposes in this subsection”.

(5) In subsection (8), after paragraph (c) insert—

“but paragraphs (a) and (b) above do not apply in any case where the relevant purpose is as mentioned in subsection (1A)(b) above.”

Local authority powers to prosecute benefit fraud

47. After section 116 of the Administration Act (legal proceedings) insert—

“116A Local authority powers to prosecute benefit fraud

(1) This section applies if an authority administering housing benefit or council tax benefit has power to bring proceedings for a benefit offence relating to that benefit.

(2) The authority may bring proceedings for a benefit offence relating to any other relevant social security benefit unless—

- (a) the proceedings relate to any benefit or circumstances or any description of benefit or circumstances which the Secretary of State prescribes for the purposes of this paragraph, or
- (b) the Secretary of State has directed that the authority must not bring the proceedings,

and a direction under paragraph (b) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.

(3) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not bring proceedings under this section unless any such condition is satisfied.

(4) The Secretary of State may continue proceedings which have been brought by an authority under this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—

- (a) he makes provision under subsection (2)(a), such that the authority would no longer be entitled to bring the proceedings under this section,
- (b) he gives a direction under subsection (2)(b) in relation to the proceedings, or
- (c) a condition prescribed under subsection (3) ceases to be satisfied in relation to the proceedings.

(5) In the exercise of its power under subsection (2), a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—

- (a) in determining whether the proceedings should be instituted;
- (b) in determining what charges should be preferred;
- (c) in considering what representations to make to a magistrates’ court about mode of trial;
- (d) in determining whether to discontinue proceedings.

(6) An authority must not bring proceedings for a benefit offence which does not relate to housing benefit or council tax benefit otherwise than in accordance with this section.

(7) In subsection (2), “relevant social security benefit” has the same meaning as in section 121DA below.

(8) This section does not apply to Scotland.”

48. amends 1992 (c. 4), see Annex 1, page 13.251

S. 48(1)-(3) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

[...¹]

49.—(1) In section 7 of the Social Security Fraud Act 2001 (c. 11) (loss of benefit for commission of benefit offences) in subsection (1)(b) (period within which later offence must be committed), for “three years” substitute “five years”.

Loss of benefit for commission of benefit offences

(2) The amendment made by subsection (1) shall be disregarded insofar as the application of section 7(1)(b) of that Act involves considering whether an offence committed before the day on which this section comes into force was committed within the relevant period.

PART 4

MISCELLANEOUS

Benefits for bereaved persons

50. In section 37(2) of the Contributions and Benefits Act (which links entitlement to widowed mother’s allowance on the ground of being entitled to child benefit to whether one of the conditions specified in section 77(5) of the Act is satisfied), the words from “one of the conditions” to “person and” are omitted.

Widowed mother’s allowance

51. In section 39A(3) of the Contributions and Benefits Act (which links entitlement to widowed parent’s allowance on the ground of being entitled to child benefit to whether one of the conditions specified in section 77(5) of the Act is satisfied), the words from “one of the conditions” to “person and” are omitted.

Widowed parent’s allowance

Disability living allowance: age conditions

52. & 53. amends 1992 (c. 4), see Annex 1, page 13.251

Social fund

54. amends 1992 (c. 4), see Annex 1, page 13.251

¹ S. 48(1)-(3) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 1.

WELFARE REFORM ACT 2007 (c. 5)

Ss. 55-57

55. amends 1992 (c. 5), see Annex 1, page 13.251

Vaccine Damage Payments Act 1979

Overseas vaccinations

56.—(1) Section 2 of the Vaccine Damage Payments Act 1979 (c. 17) (conditions of entitlement) is amended as follows.

(2) For subsection (5) substitute—

“(5A) The Secretary of State may by order made by statutory instrument provide that, in such circumstances as may be specified in the order, the condition in subsection (1)(a)(i) need not be fulfilled in the case of vaccinations of persons of a description so specified which are given under arrangements made by or on behalf of—

- (a) Her Majesty’s forces,
- (b) a government department so specified, or
- (c) any other body so specified.

(5B) Orders under subsection (5A) may make different provision in relation to different cases.”

(3) In subsection (6), for “that subsection” substitute “this section”.

Appeals to appeal tribunal in Northern Ireland

57. —(1) The Vaccine Damage Payments Act 1979 is amended as follows.

(2) In section 4 (appeals to appeal tribunals), in subsection (1) (right of appeal), for “an appeal tribunal” substitute “an appropriate appeal tribunal” and after that subsection insert—

“(1A) In subsection (1) the reference to an appropriate appeal tribunal is—

- (a) if the claimant’s address is in Northern Ireland, to an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998;
- (b) if it is not, to an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998.”

(3) In that section, after subsection (3) insert—

“(3A) In relation to appeals under subsection (1) to an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998, the Department of Social Development in Northern Ireland may by regulations—

- (a) make provision as to the manner in which, and the time within which, appeals are to be brought;
- (b) make such provision with respect to proceedings before appeal tribunals as the Department considers appropriate.

(3B) Regulations under subsection (3A) may in particular make any provision of a kind mentioned in Schedule 4 to the Social Security (Northern Ireland) Order 1998.”

(4) In section 7A (correction of errors and setting aside of decisions), after subsection (1) insert—

“(1A) The Department for Social Development in Northern Ireland may by regulations make provision with respect to—

- (a) the correction of accidental errors in any decision or record of a decision under section 4 of this Act of an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998; and
- (b) the setting aside of any such decision in a case where it appears

just to set the decision aside on the ground that—

- (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the appeal tribunal which gave the decision; or*
- (ii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings."*

(5) In section 12 (financial provisions), after subsection (3) insert—

"(3A) The Department for Social Development in Northern Ireland shall pay such travelling and other allowances as the Department may determine—

- (a) to persons required under section 4 to attend before tribunals constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998; and*
- (b) in circumstances where the Department considers it appropriate, to any person who accompanies a disabled person to such a tribunal."*

Compensation for pneumoconiosis etc.

58. & 59. *amend 1979 (c. 41), see Annex 1, page 13.251*

Other

60. *amends 1992 (c. 4), see Annex 1, page 13.251*

61. *outside the scope of this work, see Annex 1, page 13.251*

62 *amends 1998 (c. 14), see Annex 1, page 13.251*

63. Schedule 7 (which makes miscellaneous minor amendments and amendments consequential on this Part) has effect.

Minor and consequential amendments relating to Part 4

PART 5

GENERAL

64.—(1) This section applies to an Order in Council under paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) (legislation for Northern Ireland during suspension of devolved government) which contains a statement that it is made only for purposes corresponding to those of this Act.

Northern Ireland

(2) Such an Order—

- (a) is not subject to paragraph 2 of that Schedule (affirmative resolution of both Houses of parliament), but
- (b) is subject to annulment in pursuance of a resolution of either House of Parliament.

65. In this Act—

“Administration Act” means the Social Security Administration Act 1992 (c. 5);

General interpretation

“Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (c. 4).

WELFARE REFORM ACT 2007 (c. 5)

Ss. 66-69

Financial provisions:
general

- 66.**—(1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State in consequence of Parts 2 to 4 of this Act, and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other enactment.

Repeals

67. The enactments specified in Schedule 8 are hereby repealed to the extent specified.

Transition

68.—(1) The Secretary of State may by order made by statutory instrument make in connection with the coming into force of any provision of this Act, except Part 1, such transitional provision or savings as he considers necessary or expedient.

- (2) The power under subsection (1) includes power to make—
- (a) different provision for different cases or areas;
 - (b) incidental, supplementary and consequential provision.

Extent

69.—(1) Subject to the following provisions, this Act extends to England and Wales and Scotland only.

- (2) The following provisions extend to England and Wales only—

These sections have been revoked by s. 132(6) of the Welfare Reform Act 2012 (c. 5) but remain in force for transitional purposes.

- (a) sections 42(1) to (10) and 43, and
 - (b) paragraphs 6, 11(2) and 16 of Schedule 3.
- (3) Paragraphs 1, 2, 4, 11(3), 14 and 22 of Schedule 3 extend to Scotland only.
- (4) The following provisions also extend to Northern Ireland—
- (a) sections 33(7), 49, 56, 57, 61, 64, 65, 68, this section and sections 70 and 71,
 - (b) paragraph 15 of Schedule 2, and sections 22 and 24 to 26 so far as relating thereto,
 - (c) paragraphs 5, 10(1) and (28), 17(1) and (2), 19, 23(1) to (3) and (6) to (8) and 24 of Schedule 3, and section 28 so far as relating thereto,
 - (d) paragraph 1 of Schedule 7, and section 63 so far as relating thereto, and
 - (e) Schedule 8, so far as relating to the Vaccine Damage Payments Act 1979 (c. 17), the Income and Corporation Taxes Act 1988 (c. 1), the Disability (Grants) Act 1993 (c. 14), section 2 of the Social Security Act 1998 (c. 14) and the Income Tax (Earnings and Pensions) Act 2003 (c. 1), and section 67 so far as relating thereto.
- (5) The following provisions extend to Northern Ireland only—
- (a) section 45, and
 - (b) Schedule 8, so far as relating to the Social Security Administration (Northern Ireland) Act 1992 (c. 8), and section 67 so far as relating thereto.
- (6) The following provisions also extend to the Isle of Man—
- (a) sections 56 and 57, section 68, this section and sections 70 and 71,
 - (b) paragraph 1 of Schedule 7, and section 63 so far as relating thereto, and
 - (c) Schedule 8, so far as relating to the Vaccine Damage Payments Act 1979, and section 67 so far as relating thereto.

70.—(1) The following provisions shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed— Commencement

- (a) sections 41(2) and (3), 44, 45, 54, 55, 59, 61(1)(b) and (2) to (6) and 62,
- (b) paragraphs 1 to 4, 10, 11 and 14 of Schedule 5, and section 40 so far as relating thereto,
- (c) paragraphs 2(1) and (3), 3 and 4 of Schedule 7, and section 63 so far as relating thereto, and
- (d) Schedule 8, so far as relating to—
 - (i) section 3(5) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (c. 41),
 - (ii) section 140(1A) of the Contributions and Benefits Act,
 - (iii) sections 71(5), 71ZA(2), 134(8)(a) and 168(3)(d) of the Administration Act,
 - (iv) section 69(5) of the Social Security Administration (Northern Ireland) Act 1992,
 - (v) Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c. 39),
 - (vi) section 38(7)(a) of, and paragraph 81(2) of Schedule 7 to, the Social Security Act 1998 (c. 14), and
 - (vii) paragraph 65 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), and section 67 so far as relating thereto.

(2) The remaining provisions of this Act, except—

- (a) this section,
- (b) sections 64, 65, 66, 68, 69 and 71, and
- (c) paragraph 8 of Schedule 5, and section 40 so far as relating thereto,

shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes.

71. This Act may be cited as the Welfare Reform Act 2007.

Short title

SCHEDULES

SCHEDULE 1

SECTION 1

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

PART 1

[...¹]

Conditions relating to national insurance

See Sch. 1, para. 33(a) of S.I. 2010/1907 at page 13.9416 for details of modifications to Sch. 1, paras. 1-5 as from 1.10.10.

- 1.—(1) The first condition is that—
- (a) the claimant has actually paid Class 1 or Class 2 contributions in respect of one of the last [¹two] complete tax years (“the base tax year”) before the beginning of the relevant benefit year,
 - (b) those contributions must have been paid before the relevant benefit week, and
 - [²(c) the claimant’s earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year’s lower earnings limit multiplied by 26.]
- [³(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of—
- (a) the claimant’s relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or related as paid; and
 - (b) the claimant’s earnings factors derived from Class 2 contributions.
- (3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant’s relevant earnings for the base tax year.
- (3A) Regulations under sub-paragraph (3) may, in particular, make provision—
- (a) for making that determination by reference to the amount of a person’s earnings for periods comprised in the base tax year;
 - (b) for determining the amount of a person’s earnings for any such period by—
 - (i) first determining the amount of earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and
 - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year’s lower earnings limit (or the prescribed equivalent).]
- (4) Regulations may—
- (a) provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of [⁴persons—
 - (i) who] have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time [⁴, or

¹ Heading to Part 1 repealed (see art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 to Welfare Reform Act 2012 (c. 5).

² In Sch. 1, word in para. 1(1)(a) & para. 1(1)(c) substituted (1.11.10) by the Welfare Reform Act 2009 (c. 24), s. 13(2) & (3).

³ In Sch. 1, para. 1(2) & (3) substituted & (3A) inserted ((1.10.10) for the purposes only of conferring power to make regulations (1.11.10) for all other purposes) by the Welfare Reform Act 2009 (c. 24), s. 13(4).

⁴ Words substituted & inserted in para. 1(4)(a) (29.11.11) by the Welfare Reform Act 2009 (c. 24), s. 13(5)(a) & (b).

- (ii) who satisfy other prescribed conditions];
- (b) with a view to securing any relaxation of the requirements of that condition in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.

(5) In sub-paragraph (4), “benefit” means—

[¹(za) universal credit,]

- (a) any benefit within the meaning of section 122(1) of the Contributions and Benefits Act,
- (b) any benefit under Parts 7 to 12 of that Act,
- (c) credits under regulations under section 22(5) of that Act,

[²(ca) credits under section 23A of that Act,]

- (d) [¹an employment and support allowance], and
- (e) working tax credit.

2.—(1) The second condition is that—

- (a) the claimant has in respect of the last two complete tax years before the beginning of the relevant benefit year either paid or been credited with Class 1 or Class 2 contributions or been credited with earnings, and
- (b) the earnings factor derived as mentioned in sub-paragraph (2) must be not less in each of those years than the year’s lower earnings limit multiplied by 50.

(2) The earnings factor referred to in sub-paragraph (1)(b) is the aggregate of the claimant’s earnings factors derived—

- (a) from so much of his earnings as did not exceed the upper earnings limit for the year and upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited, and
- (b) from Class 2 contributions.

(3) Where primary Class 1 contributions have been paid or treated as paid on any part of a person’s earnings, sub-paragraph (2)(a) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit for the year.

3.—(1) For the purposes of paragraphs 1 and 2—

- (a) “benefit year” means a period which is a benefit year for the purposes of Part 2 of the Contributions and Benefits Act or such other period as may be prescribed for the purposes of this Part of this Schedule;
- (b) “Class 1 contributions”, “Class 2 contributions” and “primary Class 1 contributions” have the same meaning as in the Contributions and Benefits Act (see section 1 of that Act);
- (c) “earnings” shall be construed in accordance with sections 3, 4 and 112 of that Act;
- (d) “earnings factor” shall be construed in accordance with sections 22 and 23 of that Act;
- (e) “lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of that Act and references to the lower or upper earnings limit of a tax year are to whatever is (or was) the limit in force for that year under that section;

¹ Words in para. 1(5)(d) substituted & para. 1(5)(za) inserted (29.4.13) by para. 65 of Sch. 2 & para. 26(f) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

² Para. 1(5)(ca) inserted (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 11.

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See reg. 14 of S.I. 2013/379 for details of modifications to this section in certain situations

- (f) “relevant benefit year” is the benefit year which includes the beginning of the period of limited capability for work which includes the relevant benefit week;
- (g) “tax year” means the 12 months beginning with 6th April in any year.

(2) Regulations may provide for sub-paragraph (1)(f) to have effect in prescribed circumstances with prescribed modifications in the case of—

- (a) a person who has previously ceased to be entitled to [¹an employment and support allowance];
- (b) a person who has made a claim for an employment and support allowance in connection with which he failed to satisfy one or both of the conditions in paragraphs 1 and 2.

Condition relating to youth

4.—(1) The third condition is that—

- (a) the claimant was under 20 or, in prescribed cases, 25 when the relevant period of limited capability for work began,
- (b) he is not receiving full-time education,
- (c) he satisfies such conditions as may be prescribed with respect to residence or presence in Great Britain (or both), and
- (d) there has been a day in the relevant period of limited capability for work—
 - (i) which was a day on which he was aged at least 16, and
 - (ii) which was preceded by a period of 196 consecutive days throughout which he had limited capability for work.

¹ Words in para. 3(2)(a) substituted (29.4.13) by para. 26(f) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

(2) In sub-paragraph (1), “relevant period of limited capability for work” means the period of limited capability for work which includes the relevant benefit week.

(3) Regulations may prescribe circumstances in which sub-paragraph (1)(a) does not apply in the case of a person who has previously ceased to be entitled to an employment and support allowance to which he was entitled by virtue of satisfying the condition set out in sub-paragraph (1).

(4) Regulations may make provision about when, for the purposes of sub-paragraph (1)(b), a person is, or is not, to be treated as receiving full-time education.

“*Relevant benefit week*”

5. In this Part of this Schedule, “relevant benefit week” means the week in relation to which the question of entitlement to an employment and support allowance is being considered.

*Part 2 of Sch. 1 reproduced as it remains in force in certain circumstances.
See art. 4 of S.I. 2013/983 for details of when to apply at page 14.3231.*

[...¹]

PART 2

INCOME-RELATED ALLOWANCE

- 6.—(1) The conditions are that the claimant—
- (a) has an income which does not exceed the applicable amount or has no income;
 - (b) does not have capital which, or a prescribed part of which, exceeds the prescribed amount;
 - (c) is not entitled to state pension credit;
 - (d) is not a member of a couple the other member of which is entitled to an income-related allowance, state pension credit, income support or an income-based jobseeker’s allowance;
 - (e) is not engaged in remunerative work;
 - (f) is not a member of a couple the other member of which is engaged in remunerative work;
 - (g) is not receiving education.

See Sch. 1, para. 6(b) of S.I. 2010/1907 at page 13.9419 for details of modifications to para. 6 of Sch. 1 as from 1.10.10.

(2) Where the claimant is a member of a couple, the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purpose of this paragraph as income and capital of the claimant.

(3) Regulations may prescribe circumstances in which, for the purposes of sub-paragraph (1)(e) and (f)—

- (a) a person who is not engaged in remunerative work is to be treated as engaged in remunerative work, or
- (b) a person who is engaged in remunerative work is to be treated as not engaged in remunerative work.

(4) Regulations may—

- (a) make provision about when, for the purposes of sub-paragraph (1)(g), a person is, or is not, to be treated as receiving education;
- (b) prescribe circumstances in which sub-paragraph (1)(g) does not apply.

(5) In this paragraph—

“applicable amount” means the amount which, in the claimant’s case, is the applicable amount for the purposes of section 4(1);

“couple” means—

¹ Pt. 2 repealed (See art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

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- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other, but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other, but are living together as if they were civil partners otherwise than in prescribed circumstances;

"education" has such meaning as may be prescribed;
"income-based jobseeker's allowance" has the same meaning as in the Jobseekers Act 1995 (c. 18);
"remunerative work" has such meaning as may be prescribed.

(6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

(7) Regulations may make provision for the preceding provisions of this paragraph to have effect with prescribed modifications in a case where—

- (a) the claimant is a husband or wife by virtue of a marriage entered into under a law which permits polygamy,
- (b) either party to the marriage has for the time being any spouse additional to the other party, and
- (c) the claimant, the other party to the marriage and the additional spouse are members of the same household.

(8) Regulations may make provision for the purposes of this paragraph as to circumstances in which people are to be treated as being or not being members of the same household.

[¹Schedule 1A

PERSONS DEPENDENT ON DRUGS ETC.

Requirements imposed in relation to use of drugs

1.—(1) Regulations may make provision for or in connection with imposing on a person who is—

- (a) entitled to an employment and support allowance, and
- (b) not a member of the support group,

a requirement to answer questions within sub-paragraph (2) as a condition of continuing to be entitled to the full amount payable to the person in respect of the allowance apart from the regulations.

(2) A question is within this sub-paragraph if it is asked for the purpose of ascertaining—

- (a) whether the person may be dependent on, or have a propensity to misuse, any drug, and
- (b) (if so) whether any such dependency or propensity may be a factor affecting the person's prospects of obtaining or remaining in work.

(3) Regulations under this paragraph may, in particular, make provision—

- (a) prescribing the questions which a person may be required to answer under the regulations (which may include questions relating to any use of the drug in question or any treatment connected with its use);
- (b) for notifying a person of any requirement to answer questions under the regulations;
- (c) for the determination, and notification, of the time and place at which a person is required to answer questions under the regulations.

¹ Sch. 1A inserted (12.11.09) by the Welfare Reform Act 2009, c. 24, Sch. 3, para. 7.

(4) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group.

2.—(1) Regulations may make provision for or in connection with imposing on a person who is subject to a requirement imposed under paragraph 1 a requirement to take part in—

- (a) a substance-related assessment, and
- (b) a subsequent interview (a “drugs interview”) with an approved person to discuss any matters arising out of that assessment,

as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations.

(2) For the purposes of this paragraph—
a “substance-related assessment” means an assessment by an approved person carried out for the purpose of assessing—

- (a) whether a person is dependent on, or has a propensity to misuse, any drug, and
- (b) (if so) whether the person’s dependency or propensity is such as requires and may be susceptible to treatment;

an “approved person” means a person having the necessary qualifications or experience who is approved by the Secretary of State for the purposes of this paragraph.

(3) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State has reasonable grounds for suspecting that—

- (a) the person may be dependent on, or have a propensity to misuse, any drug, and
- (b) any such dependency or propensity may be a factor affecting the person's prospects of obtaining or remaining in work.

(4) Regulations under this paragraph may, in particular, make provision—

- (a) for notifying a person of a requirement to take part in a substance-related assessment or a drugs interview;
- (b) for the determination, and notification, of the time and place of any substance-related assessment or drugs interview in which a person is required to take part.

(5) Regulations under this paragraph may, in particular, make provision for a requirement imposed on a person (“P”) under this paragraph to cease to have effect if—

- (a) P agrees to provide a sample, in accordance with instructions given by an approved person, for the purpose of ascertaining whether there is or has been any drug in P’s body, and
- (b) the sample provided indicates that no drug is or has been in P’s body.

(6) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group.

3.—(1) Regulations may make provision for or in connection with imposing on a person who—

- (a) is subject to a requirement imposed under paragraph 2, and
- (b) fails to comply with it without showing, within a prescribed period, good cause for the failure,

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a requirement to take part in one or more relevant tests as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations.

(2) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State is satisfied that the proposed test or tests will, or will be likely to, assist in determining whether the person is dependent on, or has a propensity to misuse, any drug.

(3) Regulations under this paragraph must include provision for informing a person of the consequence of failing to comply with a requirement to take part in a relevant test.

(4) Regulations under this paragraph may, in particular, make provision—

- (a) for notifying a person of a requirement to take part in a relevant test;
- (b) for the determination, and notification, of the time and place of any relevant test in which a person is required to take part.

(5) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group.

(6) For the purposes of this paragraph a person takes part in a relevant test if the person provides a permissible sample in accordance with instructions given by an approved person (within the meaning of paragraph 2) for the purpose of ascertaining whether there is or has been any drug in the person's body.

(7) In sub-paragraph (6) "permissible sample", in relation to any drug, means—

- (a) a sample of urine, or
- (b) such sample (other than an intimate sample) as may be prescribed in relation to that drug.

(8) In sub-paragraph (7)(b) "intimate sample" means—

- (a) a sample of blood, semen or any other tissue fluid or pubic hair;
- (b) a dental impression;
- (c) a swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth.

Paragraphs 1 to 3: supplementary

4.—(1) A person must comply with a requirement imposed by regulations under any of paragraphs 1 to 3 even if doing so might constitute evidence that the person has committed an offence.

(2) But in criminal proceedings in which a person is charged with an offence—

- (a) no evidence relating to any answer given, or anything else done, in pursuance of the regulations may be adduced by or on behalf of the prosecution, and
- (b) no question relating to those matters may be asked by or on behalf of the prosecution,

unless evidence relating to those matters is adduced, or a question relating to those matters is asked, in the proceedings by or on behalf of the person.

(3) Sub-paragraph (2) does not apply to—

- (a) an offence under section 112 of the Administration Act;
- (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath in England and Wales); or

- (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (corresponding provision for Scotland).

Voluntary and mandatory rehabilitation plans

5.—(1) Regulations may make provision for or in connection with securing that a person (“P”) who at any time complies with a voluntary rehabilitation plan is not required at that time—

- (a) to take part in a work-focused interview under section 12(1), or
 (b) to undertake work-related activity under section 13(1).

(2) Regulations under this paragraph may include provision for P not to be required to do the things mentioned in sub-paragraph (1)(a) or (b) only if the Secretary of State is satisfied that—

- (a) P is dependent on, or has a propensity to misuse, any drug, and
 (b) P’s dependency or propensity is a factor affecting P’s prospects of obtaining or remaining in work.

(3) For the purposes of this paragraph a “voluntary rehabilitation plan” is an agreement entered into by the Secretary of State and P under which P agrees to take one or more of the following steps.

(4) The steps are—

- (a) submitting to treatment by or under the direction of a person having the necessary qualifications or experience,
 (b) taking part in specified interviews, and specified assessments, at specified places and times, and
 (c) taking such other steps (if any) as may be specified,

with a view to the reduction or elimination of P’s dependency on, or propensity to misuse, the drug in question.

(5) The treatment may be—

- (a) treatment as a resident in a specified institution or place, or
 (b) treatment as a non-resident at a specified institution or place, and at specified intervals.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the maximum period for which a person may benefit from the provision made by the regulations;
 (b) about the form of voluntary rehabilitation plans (including provision as to their signing);
 (c) about the review, variation and revocation of voluntary rehabilitation plans;
 (d) for securing that a person who agrees to comply with a voluntary rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) An employment and support allowance may also be known as a “treatment allowance” at any time when it is payable to a person to whom this paragraph applies.

(8) In this paragraph “specified”, in relation to a voluntary rehabilitation plan, means specified in or determined in accordance with the plan.

6.—(1) Regulations may make provision for or in connection with imposing on a person a requirement to comply with a mandatory rehabilitation plan as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations.

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(2) Regulations under this paragraph must include provision for securing that a person is subject to the requirement mentioned in sub-paragraph (1) at any time only if—

- (a) the person has not at that time agreed to comply with a voluntary rehabilitation plan under paragraph 5, and
- (b) the Secretary of State is satisfied as mentioned in sub-paragraph (2) of that paragraph.

(3) For the purposes of this paragraph a “mandatory rehabilitation plan” is a document—

- (a) which is provided to the person by the Secretary of State, and
- (b) which contains one or more of the following requirements.

(4) The requirements are that the person—

- (a) must attend an educational programme at a specified place and at specified times,
- (b) must take part in specified interviews, and specified assessments, at specified places and times, and
- (c) must take such other steps (if any) as may be specified,

with a view to the reduction or elimination of the person’s dependency on, or propensity to misuse, the drug in question.

(5) Nothing may be specified in a mandatory rehabilitation plan which requires a person to submit to medical or surgical treatment.

(6) Regulations under this paragraph may, in particular, make provision—

- (a) as to the involvement of a person in determining the particular requirements to be contained in a mandatory rehabilitation plan with which the person is to be required to comply;
- (b) about the form of mandatory rehabilitation plans (including provision as to their signing);
- (c) about the review, variation and revocation of mandatory rehabilitation plans;
- (d) for securing that a person who is required to comply with a mandatory rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.

(7) Regulations under this paragraph must include provision for a requirement imposed on a person under this paragraph to cease to have effect if the person becomes a member of the support group.

(8) In this paragraph “specified”, in relation to a mandatory rehabilitation plan, means specified in or determined in accordance with the plan.

Sanctions

7.—(1) Regulations under paragraph 1, 2, 3 or 6 may, in particular, make provision—

- (a) for securing that the appropriate consequence follows if a person has failed to comply with any requirement imposed by any such regulations and the person does not show, within a prescribed period, good cause for the failure;
- (b) prescribing matters which are, or are not, to be taken into account in determining whether a person has good cause for any failure to comply with any such requirement;
- (c) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any failure to comply with any such requirement.

(2) The appropriate consequence for the purposes of sub-paragraph (1)(a) is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with the regulations.

(3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision for determining—

- (a) the amount by which an allowance is to be reduced,
- (b) when the reduction is to start, and
- (c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

Information

8.—(1) Regulations may make provision for or in connection with authorising the supply of information, other than excluded information, held by—

- (a) a police force,
- (b) the probation service, or
- (c) such other person as may be prescribed,

to a person within sub-paragraph (2) for use for the purposes of any provision of this Schedule.

(2) The persons within this sub-paragraph are—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) an approved person (within the meaning of paragraph 2).

(3) Information supplied under the regulations may not be supplied by the recipient to any other person unless—

- (a) it could be supplied to that person under the regulations;
- (b) it is supplied for the purposes of any civil or criminal proceedings; or
- (c) it is required to be supplied under any enactment.

(4) In sub-paragraph (1) “excluded information” means any information relating to or acquired as a result of—

- (a) the provision of medical or surgical treatment or care, or
- (b) the provision of services by a social worker,

other than information as to whether a person is having (or has had) treatment in respect of the person’s use of any drug.

(5) In sub-paragraph (1) “the probation service” means—

- (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services;
- (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968.

Interpretation

9. In this Schedule “drug” means such controlled drug (as defined by section 2 of the Misuse of Drugs Act 1971) as may be prescribed.

Power to extend provisions to alcohol

10.—(1) If regulations so provide and subject as follows, the preceding paragraphs of this Schedule are to apply in relation to alcohol as they apply in relation to drugs.

(2) Regulations under this paragraph may provide for a different definition of a “relevant test” to apply in relation to alcohol for the purposes of paragraph 3.]

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.

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.

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.

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.

[¹Exemption

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 Great Britain

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 Great Britain.

¹ Para. 4A of Sch. 2 inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 54(6).

Headings to para. 6 & 7 and para 8. reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details of when to apply at page 14.3231.

[...¹] *entitlement in case of absence from Great Britain*

6. Regulations may provide that in prescribed circumstances a claimant who is not in Great Britain may nevertheless be entitled to [²an employment and support allowance].

[...¹] *modification in relation to employment on ships etc.*

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,
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances, or
- (c) in prescribed employment in connection with continental shelf operations.

(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 Great Britain, by a consular official or other prescribed person;
- (d) for enabling the whole, or any part, of [²an employment and support allowance] to be paid to such of the claimant's dependants as may be prescribed.

(3) In this paragraph, “continental shelf operations” has the same meaning as in section 120 of the Contributions and Benefits Act.

[...¹]

Income-related allowance: entitlement in case of absence from Great Britain

8.—(1) Regulations may provide that in prescribed circumstances a claimant who is entitled to an income-related allowance immediately before ceasing to be in Great Britain continues to be entitled to such an allowance after ceasing to be in Great Britain.

(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.

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

¹ Words in heading to paras. 6 & 7 and para. 8 repealed (see art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

² Words in paras. 6 & 7(2)(d) substituted (29.4.13) by para. 26(g) of Sch. 3 to the Welfare Reform Act 2012 (c. 5).

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- by virtue of regulations under sub-paragraph (a) as having limited capability for work-related activity;
- (c) for the question of whether a person has limited capability for work-related activity to be determined afresh in prescribed circumstances.

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.

Treatment of allowance as “benefit”

11. Regulations may provide for—

- (a) an employment and support allowance,

Para. 11(b), (c) & 12 reproduced as they remain in force in certain circumstances. See art. 4 of S.I. 2013/983 for details of when to apply at page 14.3231.

[...¹]

- (b) a contributory allowance, or
(c) 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.

[...¹]

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

12. 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, [²ca Schedule 1A,] 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.

Treatment of information supplied as information relating to social security

13. Information supplied in pursuance of regulations under any of sections 8, 9 and 11 to [³11k] [¹, or under any paragraph of Schedule 1A other than paragraph 8,] shall be taken for all purposes to be information relating to social security.

Para. 13 of Sch. 2 reproduced as it remains in force in certain circumstances. See art. 7 of S.I. 2013/983 for details of when to apply at page 14.3231.

13. Information supplied in pursuance of regulations under any of sections 8, 9 and 11 to 13 [¹, or under any paragraph of Schedule 1A other than paragraph 8,] shall be taken for all purposes to be information relating to social security.

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.

¹ Paras. 11(b), (c) & 12 repealed (see art. 4(1) of S.I. 2013/983 for dates) by Pt. 1 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

² Para. 12(ca) & words in para. 13 inserted in Sch. 2 (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch 3, para. 8(5)(b) & (c).

³ Ref. to “13” in para. 13 substituted (see art. 7(1) of S.I. 2013/983 for dates) by s. 57(g) of the Welfare Reform Act 2012 (c. 5).

Members of the forces

15.—(1) Regulations may modify—

(a) any provision of this Part, or

(b) any corresponding provision made for Northern Ireland,

in its application to persons who are or have been members of Her Majesty's forces.

(2) For the purposes of this paragraph, Her Majesty's forces shall be taken to consist of prescribed establishments and organisations in which persons serve under the control of the Defence Council.

SCHEDULE 3

SECTION 28

CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

1. - 6. *outside the scope of this work, see annex 1, page 13.251*

Child Support Act 1991 (c. 48)

7.—(1) The Child Support Act 1991 is amended as follows.

(2) *In section 6 as amended by the Child Support, Pensions and Social Security Act 2000 (c. 19) (applications by those claiming or receiving benefit), in subsection (1), after "income-based jobseeker's allowance" insert ", an income-related employment and support allowance".*

(3) *In that section as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (applications by those receiving benefit), in subsection (1), after "income-based jobseeker's allowance" insert ", an income-related employment and support allowance".*

(4) *amends 1991 (c. 48), see Annex 1, page 13.251*

(5) *In that section as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (failure to comply with obligations imposed by section 6), in subsection (11), in the definition of "relevant benefit"; after "income-based jobseeker's allowance" insert ", an income-related employment and support allowance".*

(6) *In section 47(3)(b) (persons to be exempted from payment of fees), after "income-based jobseeker's allowance," insert "an income-related employment and support allowance,"*

(7) In section 54 (interpretation), after the definition of "income-based jobseeker's allowance" insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

(8) In Part 1 of Schedule 1 as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (calculation of child support maintenance), in paragraph 5(4) (parents who are to be taken to have no assessable calculable income), after "income-based jobseeker's allowance" insert “, an income-related employment and support allowance”.

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Criminal Justice Act 1991 (c. 53)

8. amends 1991 (c. 53), see Annex 1, page 13.251

Social Security Contributions and Benefits Act 1992 (c. 4)

9. amends 1992 (c. 4), see Annex 1, page 13.251

Social Security Administration Act 1992 (c. 5)

10. amends 1992 (c. 5), see Annex 1, page 13.251

Local Government Finance Act 1992 (c. 14)

11. amends 1992 (c. 14), see Annex 1, page 13.251

Jobseekers Act 1995 (c. 18)

12. amends 1995 (c. 18), see Annex 1, page 13.251

(2) [1...]

Pensions Act 1995 (c. 26)

13. amends 1995 (c. 26), see Annex 1, page 13.251

14. outside the scope of this work, see Annex 1, page 13.251

Employment Tribunals Act 1996 (c. 17)

15. amends 1996 (c. 17), see Annex 1, page 13.251

16. outside the scope of this work, see Annex 1 page 13.251

Social Security Act 1998 (c. 14)

17. amends 1998 (c. 14), see Annex 1, page 13.251

Welfare Reform and Pensions Act 1999 (c. 30)

18. amends 1999 (c. 30), see Annex 1, page 13.251

Immigration and Asylum Act 1999 (c. 33)

19. amends 1999 (c. 33), see Annex 1, page 13.251

Child Support, Pensions and Social Security Act 2000 (c. 19)

20. [1...]

21. - 22. outside the scope of this work, see Annex 1 page 13.251

Social Security Fraud Act 2001 (c. 11)

23. amends 2001 (c. 11), see Annex 1, page 13.251

(3) [1...]

24. outside the scope of this work, see Annex 1 page 13.251

¹ Paras. 12(20) & 23(3) repealed (on or after 22.3.10) & para. 23(3) (1.4.10) by the Welfare Reform Act 2009 (c. 24), Sch. 7, part 3. (See art. 2(3) & (4) of S.I. 2010/293 for when to apply in certain situations).

SCHEDULE 4

SECTION 29

TRANSITION RELATING TO PART 1

General power to provide for transition relating to Part 1

1.—(1) Regulations may make such provision as the Secretary of State considers necessary or expedient—

- (a) in connection with the coming into force of any provision of, or repeal relating to, this Part, or
- (b) otherwise for the purposes of, or in connection with, the transition to employment and support allowance.

(2) The following provisions of this Schedule are not to be taken as prejudicing the generality of sub-paragraph (1).

Pre-commencement claims

2. Regulations may—

- (a) make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made before the appointed day to be treated wholly or partly as a claim for an employment and support allowance;
- (b) make provision for the purpose of enabling claims for an employment and support allowance to be made before the appointed day for a period beginning on or after that day.

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*Post-commencement claims**3. Regulations may—*

- (a) *make provision excluding the making of a claim for incapacity benefit or severe disablement allowance on or after the appointed day;*
- (b) *make provision for a claim for incapacity benefit, income support or severe disablement allowance which is made on or after the appointed day to be treated in prescribed circumstances as a claim for an employment and support allowance;*
- (c) *make provision for a claim for an employment and support allowance to be treated wholly or partly as a claim for incapacity benefit, income support or severe disablement allowance;*
- (d) *make provision excluding the making of a claim for an employment and support allowance by a person who is entitled to an existing award.*

*Award of employment and support allowance for pre-commencement period**4. Regulations may—*

- (a) *make provision for an employment and support allowance of such a kind as the regulations may provide to be awarded in prescribed circumstances for a period before the appointed day;*
- (b) *make provision with respect to conditions of entitlement in relation to an award under sub-paragraph (a) and the amount payable by way of an allowance under such an award.*

Matching of awards of employment and support allowance

5.—(1) For the purposes of this paragraph, an award of an employment and support allowance is one that falls to be made on matching terms if—

- (a) *it is made in pursuance of a claim by a person who was previously entitled to an existing award, and*
- (b) *had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him (“the hypothetical award”) would have been made on the basis of the linking of periods of incapacity for work.*

(2) Regulations may—

- (a) *make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the hypothetical award;*
- (b) *make provision for the modification of matched awards for the purpose of securing that the person with the award is put in the position he would have been had he been made the hypothetical award which was then the subject of conversion under paragraph 7.*

(3) In sub-paragraph (2)(b), the reference to matched awards is to awards of an employment and support allowance that have been the subject of matching in pursuance of regulations under sub-paragraph (2)(a).

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Sch. 4

6.—(1) *For the purposes of this paragraph an award of an employment and support allowance is one which falls to be made on matching terms if—*

- (a) it is made in pursuance of a claim by a person who was previously entitled to an existing award,*
- (b) had he continued to be entitled to that award, it would have been the subject of conversion under paragraph 7 before the date of his claim for an employment and support allowance, and*
- (c) had it continued to be possible to make an award of incapacity benefit, income support on grounds of incapacity for work, or severe disablement allowance, the award which would have been made to him would have been made on the basis of the linking of periods of incapacity for work.*

(2) Regulations may make provision for the purpose of securing that an award of an employment and support allowance that falls to be made on matching terms is made on terms which match in whole or part the award that would have resulted from conversion under paragraph 7 had entitlement to the existing award continued.

Treatment of existing awards

7.—(1) Regulations may—

- (a) make provision for converting existing awards into awards of an employment and support allowance, and with respect to the terms of conversion;
- (b) make provision for the termination of existing awards in prescribed circumstances.

(2) Regulations under sub-paragraph (1)(a) may, in particular—

- (a) make provision for conversion of an existing award—
 - (i) on application, in accordance with the regulations, by the person entitled to the award, or
 - (ii) without application;
- (b) make provision about the conditions to be satisfied in relation to an application for conversion;
- (c) make provision about the timing of conversion;
- (d) provide for an existing award to have effect after conversion as an award of an employment and support allowance—
 - (i) of such a kind,
 - (ii) for such period,
 - (iii) of such an amount, and
 - (iv) subject to such conditions,as the regulations may provide;
- (e) make provision for determining in connection with conversion of an existing award whether a person has limited capability for work-related activity^[1];
- (f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.]

(3) Regulations under sub-paragraph (1)(a) may, in relation to existing awards which have been the subject of conversion under this paragraph, include provision about revision under section 9 of the Social Security Act 1998 (c. 14), or supersession under section 10 of that Act in respect of the period before conversion.

¹ Para. 7(2)(f) of Sch. 4 inserted (20.3.12) by the Welfare Reform Act 2012 (c. 5), S. 51(4).

Transitional allowances

8.—(1) Regulations may—

- (a) make provision for a person's continuing entitlement to an employment and support allowance awarded by virtue of regulations under paragraph 7 (a "transitional allowance") to be determined by reference to such provision as may be made by the regulations;
- (b) make provision for the review of an award of a transitional allowance;
- (c) make provision for the termination of an award of a transitional allowance;
- (d) make provision for this Part, or any other enactment relating to social security, to have effect with prescribed modifications in relation to a person with a transitional allowance;
- (e) make provision for the purpose of enabling a transitional allowance to be revised under section 9 of the Social Security Act 1998 (c. 14) or superseded under section 10 of that Act.

(2) In this paragraph "enactment" includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

9.—(1) Regulations may prescribe circumstances in which a person who is entitled to a transitional allowance immediately before reaching pensionable age is to be treated as having satisfied the condition in paragraph 5(2) of Schedule 3 to the Contributions and Benefits Act (first contribution condition for entitlement to state pension).

(2) In this paragraph, "pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26).

Post-commencement up-rating of incapacity benefit and severe disablement allowance

10. Regulations may provide for section 150 of the Administration Act (annual up-rating of benefits), so far as relating to—

- (a) incapacity benefit under section 30A of the Contributions and Benefits Act, or
- (b) severe disablement allowance,

to have effect with prescribed modifications in relation to tax years beginning on or after the appointed day.

Interpretation

11. In this Schedule—

"appointed day" means the day appointed for the coming into force of section 1;

"existing award" means—

- (a) an award of incapacity benefit,
- (b) an award of severe disablement allowance, and
- (c) an award of income support made to a person to whom regulation 6(4)(a) or 13(2)(b) or (bb) of, or paragraph 7(a) or (b), 10, 12 or 13 of Schedule 1B to, the Income Support (General) Regulations 1987 (S.I. 1987/1967) (persons incapable of work or disabled) applies;

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“incapacity benefit” (except in paragraph 10(a)) means–

- (a) incapacity benefit under section 30A, 40 or 41 of the Contributions and Benefits Act,
- (b) long-term incapacity benefit under regulation 11(4) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (S.I. 1995/310) (former sickness benefit), and
- (c) invalidity benefit which has effect by virtue of regulation 17(1) of those regulations as if it were long-term incapacity benefit;

“severe disablement allowance” means severe disablement allowance under section 68 of that Act (as it has effect by virtue of article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No. 9, and Transitional and Savings Provisions) Order 2000 (S.I. 2000/2958) (C. 89));

“transitional allowance” has the meaning given by paragraph 8(1)(a).

SCHEDULE 5

SECTION 40

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

1. amends 1992 (c. 4), see Annex 1, page 13.251

Social Security Administration Act 1992 (c. 5)

2. *The Administration Act is amended as follows.*

[...¹]

- 3.–10. amends 1992 (c. 5), see Annex 1, page 13.251

11. & 12. outside the scope of this work, see Annex 1 page 13.251

Child Support, Pensions and Social Security Act 2000 (c. 19)

Sch. 5, paras. 1, 3 to 9, 12 and 13 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

13. In Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals), in paragraph 1(2), after paragraph (b) insert–

- “(c) a decision of a relevant authority under or by virtue of section 75 or 76 of the Administration Act that an amount of housing benefit or council tax benefit is recoverable;”

14. outside the scope of this work, see Annex 1 page 13.251

SCHEDULE 6

SECTION 58

- amends 1979 (c. 41), see Annex 1, page 13.251

¹ Sch. 5, paras. 1, 3 to 9, 12 & 13 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 1.

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 4

Vaccine Damage Payments Act 1979 (c. 17)

1.—(1) *The Vaccine Damage Payments Act 1979 is amended as follows.*

(2) *In section 4(2) (power to make regulations about appeals), at the beginning insert “In relation to appeals under subsection (1) to an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998,”*

(3) *In section 4(3) (provision which may be made under the preceding subsection), for “The regulations” substitute “Regulations under subsection (2).”*

(4) *In section 7A (correction of errors and setting aside of decisions)–*

(a) [...¹]

(b) *in subsection (2) (nothing in subsection (1) to affect other powers), after “subsection (1)” insert “or (1A)”.*

(5) *In section 8 (regulations), in subsection (1) (references in the Act to regulations are to regulations made by the Secretary of State), after “provisions of this Act” insert “; except sections 4(3A) and (3B) and 7A(1A),”*

(6) *In that section, in subsection (3) (provision which may be contained in regulations made by the Secretary of State)–*

(a) *after paragraph (b) insert “and”;*

(b) *paragraph (d) (power to confer functions on appeal tribunals) ceases to have effect.*

(7) *In that section, at the end insert–*

“(4) Any power of the Department for Social Development in Northern Ireland to make regulations under this Act–

(a) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 which shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954; and

(b) includes power to make such incidental or supplementary provision as appears to the Department to be appropriate.”

(8) [...¹]

(9) [...¹]

2. amends 1992 (c. 4), see Annex 1, page 13.251

3. amends 1992 (c. 5), see Annex 1, page 13.251

4. amends 1998 (c. 14), see Annex 1, page 13.251

¹ Paras. 1(4)(a), (8) & (9) revoked (3.11.08) by S.I. 2008/2833, s. 228(o).

SCHEDULE 8

REPEALS

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--|--|
| Vaccine Damage Payments Act 1979 (c. 17) | Section 3A(6). In section 8(3), paragraph (d), and the word “and” immediately preceding it. |
| Pneumoconiosis etc. (Workers’ Compensation) Act 1979 (c. 41) | Section 3(5). |
| outside the scope of this work, see Annex 1 page 13.251 | |
| Criminal Justice Act 1991 (c. 53) | In section 24(4), in the definition of “income support”, the words “incapacity benefit or”. |
| Social Security Contributions and Benefits Act 1992 (c. 4) | In section 6A(3), the word Benefits “and” at the end of paragraph (c). Section 20(1)(b). In section 20(2)– (a) in the definition of “long-term benefit”, paragraph (a); (b) in the definition of “short-term benefit”, paragraph (b). In section 21(1)– (a) the words from “short-term incapacity benefit” to “subsection (5) of that section,”; (b) the words “or short-term or long-term incapacity benefit under section 40 or 41 below”. In section 21(2), in the table– (a) the heading “Short-term benefit”; (b) the entry relating to short-term incapacity benefit; (c) the heading “Other benefits”. |

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|---|---|
| Social Security Contributions and Benefits Act 1992 (c. 4)– cont. | <p>In section 21(4), the words “short-term benefit or”.</p> <p>In section 21(5A)(c), the words “2(4)(a) and (5)(a),”.</p> <p>Sections 30A to 30E.</p> <p>In section 37(2), the words from “one of the conditions” to “person and”.</p> <p>In section 39A(3), the words from “one of the conditions” to “person and”.</p> <p>Sections 40 to 42.</p> <p>In section 44(4), the words from “except that” to the end. Section 47.</p> <p>In section 61–</p> <ul style="list-style-type: none"> (a) in subsection (1), the words “under section 47(1) above or”; (b) subsection (2). <p>In section 61A(3), paragraph (d), and the word “and” immediately preceding it.</p> <p>Section 72(6).</p> <p>In section 73(5), the words “Subject to subsection (4) above,”.</p> <p>Section 84.</p> <p>Section 86A.</p> <p>Section 87.</p> <p>In section 89(1) and (1A), the words “; and in regulations under section 86A above,”</p> <p>Section 93.</p> <p>In section 124(1), the word “and” at the end of paragraph (f).</p> <p>Section 130(4).</p> <p>In section 140(1A), the words following paragraph (b).</p> <p>Section 150(1)(b).</p> |

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| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|---|--|
| <p>Social Security Administration Act 1992 (c. 5)</p> | <p>Section 171ZP(1) to (3).</p> <p>Sections 171A to 171G.</p> <p>In section 176(1)(a), the words “section 30DD(5)(b) or (c);”.</p> <p>In Schedule 3, paragraphs 2 and 5(6).</p> <p>In Schedule 4—</p> <p>(a) in Part 1, paragraphs 2 and 2A;</p> <p>(b) in Part 4, paragraphs 1A and 2.</p> <p>In Schedule 11, paragraph 2(d)(i).</p> <p>In Schedule 12, paragraphs 1, 3, 4, 5 and 6.</p> <p>In Schedule 13, paragraphs 1 and 2.</p> <p>Section 2A(2)(e) and (f).</p> <p>In section 2AA(2), paragraph (c) and the word “and” at the end of paragraph (d).</p> <p>Section 5(3).</p> <p>Section 71(5).</p> <p>In section 71ZA(2)—</p> <p>(a) in paragraph (a), the words “paragraph (a) of subsection (5) and”;</p> <p>(b) paragraph (b).</p> <p>In section 73(4), the word “or” at the end of paragraph (a).</p> <p>Section 130(1)(a) and (c).</p> <p>Section 132(1)(b) and (c).</p> <p>In section 134(8)(a), the words “or surviving civil partner’s”.</p> <p>In section 150, subsection (1)(aa) and, in subsection (3)(b), “(aa),”.</p> <p>In section 168(3)(d), the words from “to the same officer” to the end.</p> |

| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--|--|
| <i>outside the scope of this work, see Annex 1 page 13.251</i> | |
| Pension Schemes Act 1993 (c. 48) | Section 46(3). In Schedule 8, paragraph 39. |
| Social Security (Incapacity for Work) Act 1994 (c. 18) | Sections 1, 2(1) to (3), (5) and (6), 3, 5 to 7 and 13. In Schedule 1, paragraphs 2, 3(3), 8 to 10, 13, 24(2) and (4), 28, 33, 38(2) and (3), 44 and 55. |
| <i>outside the scope of this work, see Annex 1 page 13.251</i> | |
| Jobseekers Act 1995 (c. 18) | In Schedule 2, paragraphs 19(2), (3) and (5), 25, 26, 40(2) and 53(2). |
| Pensions Act 1995 (c. 26) | In Schedule 4, paragraphs 18(b) and 21(3) and (4). |
| <i>outside the scope of this work, see Annex 1 page 13.251</i> | |
| Social Security Act 1998 (c. 14) | In section 2(2), the word “or” at the end of paragraph (h). In section 28(3), the word “or” at the end of paragraph (e). Section 31(1). In section 38(7)(a), sub-paragraph (iii), and the word “and” immediately preceding it. Section 77. In Schedule 2, in paragraph 6(b), the word “or” at the end of paragraph (ii). In Schedule 3, in paragraph 3, the word “or” at the end of paragraph (e). In Schedule 7, paragraphs 73(3), 81(2) and 103(1). |
| Welfare Reform and Pensions Act 1999 (c. 30) | Sections 61 to 64. In section 72(3), the word “or” at the end of paragraph (b). In Schedule 8, paragraphs 20 to 25. |
| <i>outside the scope of this work, see Annex 1 page 13.251</i> | |

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| <i>Short title and chapter</i> | <i>Extent of repeal</i> |
|--|---|
| State Pension Credit Act 2002 (c. 16) | In Schedule 2, paragraphs 9(5)(b)(ii), 16(3), 18(3), 24(2) and 37(a). |
| National Insurance Contributions Act 2002 (c. 19) | In Schedule 1, paragraph 14(2). |
| <i>outside the scope of this work, see Annex 1 page 13.251</i> | |

ANNEX 1

LIST OF OMISSIONS

The following provisions have been omitted from the text for the reasons stated:—

- s. 30(1) insert s. 130A into S.S. Conts and Bens. Act 1992
- s. 30(2) repeals (7.4.08) s. 130(4) of the S.S. Conts and Bens. Act 1992
- s. 30(3) amends Schedule 7 of the Child Support, Pensions and Social Security Act 2000 (c. 19)
- s. 31(1) inserts ss. 130B - 130G into S.S. Conts and Bens. Act 1992
- s. 31(2) amends s. 176(1) of S.S. Conts. and Bens. Act 1992
- s. 35(2) amends s. 5 of the S.S. Admin. Act 1992
- s. 35(3) repeals (7.4.08) s. 5(3) of the S.S. Admin. Act 1992
- s. 36 inserts s. 122F into the S.S. Admin. Act 1992
- s. 41(1) inserts s. 7B into the S.S. Admin. Act 1992
- s. 41(2) amends s. 7A of S.S. Admin. Act 1992
- s. 41(3) amends Sch. 4 to S.S. Admin. Act 1992
- s. 44 amends s. 71 of S.S. Admin. Act 1992
- s. 45 amends Northern Ireland legislation
- s. 48 amends ss. 122C - 122E and s. 126A of the S.S. Admin. Act 1992
- s. 52 amends s. 72 of the S.S. Conts. and Bens. Act 1992
- s. 53 amends s. 73 of the S.S. Conts. and Bens. Act 1992
- s. 54 amends s. 140(1A) of S.S. Conts. and Bens. Act 1992
- s. 55 amends s. 168 of S.S. Admin. Act 1992
- ss. 58 & 59 amends Pneumoconiosis etc (Workers' Compensation) Act 1979
- s. 60(1) amends s. 67 of the S.S. Conts. and Bens. Act 1992
- s. 60(2) amends s. 72 of the S.S. Conts. and Bens. Act 1992
- s. 61 amends legislation not reproduced in these volumes
- s. 62 amends the S.S. Act 98
- Sch. 3
- paras. 1 - 6 amends legislation not reproduced in these volumes
- para. 7(4) amends s. 46 of the Child Support Act 1991
- para. 8 amends s. 24 of the Criminal Justice Act 1991

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- para. 9 amends ss. 6A, 22, 61A, 88, 89(1), 124, 150 and para. 5 of Sch. 3 of the S.S. Conts and Bens Act 1992
- para. 10 amends ss. 1, 2AA, 5, 15A, 71, 73, 74, 74A, 105, 121DA, 122ZA, 122B, 122C, 124, 125, 126, 130, 132, 150, 159B, 160A, 165, 166, 170, 179, 180, 187, 191 of the S.S. Admin Act 1992
- para. 11 amends Schedule 4 of the Local Government Finance Act 1992
- para. 12 amends ss 1, 3, 3A, 35 and Schedule 1 of the Jobseeker's Act 1995
- para. 13 amends Schedule 4 of the Pensions Act 1995
- para. 14 amends legislation not reproduced in these volumes
- para. 15 amends ss 16 & 17 of the Employment Tribunals Act 1996
- para. 16 amends legislation not reproduced in these volumes
- para. 17 amends ss. 2, 8, 11, 27, 28, 31 and Schedules 2 & 3 of the S.S. Act 1998
- para. 18 amends s. 72 of the Welfare Reform and Pensions Act 1999
- para. 19 amends s. 115 of the Immigration and Asylum Act 1999
- para. 20 amends ss. 62 & 65 of the Child Support, Pensions and Social Security Act 2000
- paras. 21 & 22 amends legislation not reproduced in these volumes
- para. 23 amends ss. 7, 9, 10, 11 & 13 of the S.S. Fraud Act 2001
- para. 24 amends legislation not reproduced in these volumes
- Sch. 5
- para. 1 amends the S.S. Conts and Bens. Act 1992
- paras. 3 & 4 amend the S.S. Admin Act 1992
- paras. 5 to 7 amends ss. 139E, 139F, & 139G of the S.S. Admin Act 1992
- paras. 8 & 9 amends s. 140A & 140B (5A) of the S.S. Admin. Act 1992
- para. 10 amends s. 191 of the S.S. Admin. Act 1992
- paras. 11 & 12 amend legislation not reproduced in these volumes
- paras. 14 amends legislation not reproduced in these volumes
- Sch. 6 amends the Pneumoconiosis etc (Workers' Compensation) Act 1979
- Sch. 7
- para. 2 amends S.S. Conts and Bens. Act 1992
- para. 3 amends S.S. Admin. Act 1992
- para. 4 amends s. 38 of the S.S. Act 1998

ANNEX 2

WELFARE REFORM ACT 2007

COMMENCEMENT DATES

(a) List of Commencement Orders

| <i>S.I. No.</i> | <i>Title of Order</i> | <i>Page no. (if reproduced in these volumes)</i> |
|--------------------|--|--|
| 2007/1721 (c. 67) | The Welfare Reform Act 2007 (Commencement No. 1) Order 2007 | 13.3101 |
| 2007/1991 (c. 73) | The Welfare Reform Act 2007 (Commencement No. 2) Order 2007 | 13.3103 |
| 2007/2819 (c. 110) | The Welfare Reform Act 2007 (Commencement No. 3) Order 2007 | 13.3105 |
| 2007/2872 (c. 111) | The Welfare Reform Act 2007 (Commencement No. 4) Order 2007 | 13.3107 |
| 2008/411 (c. 16) | The Welfare Reform Act 2007 (Commencement No. 5) Order 2008 | 13.3113 |
| 2008/787 (c. 36) | The Welfare Reform Act 2007 (Commencement No. 6 and Consequential Provisions) Order 2008 | 13.3117 |
| 2008/2101 (c. 99) | The Welfare Reform Act 2007 (Commencement No. 7, Transitional and Savings Provisions) Order 2008 | 13.3123 |
| 2008/2772 (c. 121) | The Welfare Reform Act 2007 (Commencement No. 8) Order 2008 | 13.3129 |
| 2008/3167 (c. 142) | The Welfare Reform Act 2007 (Commencement No. 9) Order 2008 | 13.3131 |
| 2009/775 (c. 49) | The Welfare Reform Act 2007 (Commencement No. 10, Transitional and Savings Provisions) Order 2009 | 13.3133 |
| 2009/1608 (c. 85) | The Welfare Reform Act 2007 (Commencement No. 11) Order 2009 | 13.3135 |

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| | | |
|-----------|--|---------|
| 2010/1905 | The Welfare Reform Act 2007 (Commencement No. 12) Order 2010 | 13.3301 |
| 2011/330 | The Welfare Reform Act 2007 (Commencement No. 13) Order 2011 | 13.3303 |

(b) dates on which provisions of the Welfare Reform Act 2007 came into force [Note: In the list below only those sections commenced will be included]

| <i>Section etc. of Welfare Reform Act 2007</i> | <i>Date of commencement</i> | <i>Commencing authority</i> |
|--|-----------------------------|---------------------------------|
| Section 1 | 27th October 2008 | 2008/787 |
| Section 2(1)(a) and (c) and (4)(a) and (c) (partially) | 18th March 2008 | 2008/787 |
| Section 2 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 3(1)(c) and (2)(b) and (d) (partially) | 18th March 2008 | 2008/787 |
| Section 3(3) for the purposes of prescribing a payment under paragraph (b) of the definition of "pension payment" (partially) | 18th March 2008 | 2008/787 |
| Section 3 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 4(2)(a), (3) and (6)(a) and (c) (partially) | 18th March 2008 | 2008/787 |
| Section 4 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 5(2) and (3) (partially) | 18th March 2008 | 2008/787 |
| Section 5 (for all other purposes) | 27th October 2008 | 2008/787 |
| Sections 6 and 7 | 27th October 2008 | 2008/787 |
| Section 8 except for subsection (4)(c) (partially) | 18th March 2008 | 2008/787 |
| Section 8 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 9 except for subsection (4)(c) (partially) | 18th March 2008 | 2008/787 |
| Section 9 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 10 | 27th October 2008 | 2008/787 |
| Section 11(1), (2)(a) to (g), (3) to (5), (6)(a) and (7)(c) (partially) | 18th March 2008 | 2008/787 |
| Section 11 (for all other purposes) | 27th October 2008 | 2008/787 |

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|---|-----------------------------|-----------------------------|
| Section 12(1), (2)(a) to (h) and (3) to (7) (partially) | 18th March 2008 | 2008/787 |
| Section 12 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 13(1)-(6) | 11th February 2011 | 2011/330 |
| Section 13(7) | 27th October 2008 | 2008/2772 |
| Section 14(1) and (2)(a) and (b) (partially) | 18th March 2008 | 2008/787 |
| Section 14 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 15 | 11th February 2011 | 2011/330 |
| Section 16(2)(a) and (4) (partially) | 18th March 2008 | 2008/787 |
| Section 16 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 17 (partially) | 18th March 2008 | 2008/787 |
| Section 17 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 18(1), (2) and (4) (partially) | 18th March 2008 | 2008/787 |
| Section 18 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 19 | 27th October 2008 | 2008/787 |
| Section 20(2) to (7) (partially) | 18th March 2008 | 2008/787 |
| Section 20 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 21 | 27th October 2008 | 2008/787 |
| Section 22 insofar as it relates to paragraphs 1 to 7, 8(1), 9, 10, 12 and 14 of Schedule 2 (partially) | 18th March 2008 | 2008/787 |
| Section 22 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 23(1) and (3) (partially) | 18th March 2008 | 2008/787 |
| Section 23 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 24(1) for the purpose of defining “employed”, “employment”, “period of limited capability for work”, “prescribed”, “regulations” and “week” (partially) | 18th March 2008 | 2008/787 |
| Section 24(2)(b) and (3) (partially) | 18th March 2008 | 2008/787 |
| Section 24 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 25(1) to (5) (partially) | 18th March 2008 | 2008/787 |

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| <i>Section etc. of Welfare Reform Act 2007</i> | <i>Date of commencement</i> | <i>Commencing authority</i> |
|---|-----------------------------|---------------------------------|
| Section 25(2)(b) (for all other purposes) | 27th July 2008 | 2008/787 |
| Section 25(1), (2)(a) and (c) and (3) to (7) (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 26(2) (partially) | 18th March 2008 | 2008/787 |
| Section 26 (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 27 | 27th October 2008 | 2008/787 |
| Section 28(1) insofar as it relates to certain provisions of Schedule 3 (partially) | 18th March 2008 | 2008/787 |
| Section 28(1) (partially) | 27th July 2008 | 2008/787 |
| Section 28(1) (partially) | 27th October 2008 | 2008/787 |
| Section 28(2) (partially) | 18th March 2008 | 2008/787 |
| Section 28(2) (for all other purposes) | 27th October 2008 | 2008/787 |
| Section 28(3) | 27th October 2008 | 2008/787 |
| Section 29 insofar as it relates to paragraphs 1(1), 2, 3(b), (c) and (d) of Schedule 4 (partially) | 18th March 2008 | 2008/787 |
| Section 29 (insofar as it relates to paragraphs 7 & 8 of Schedule 4) | 27th July 2010 | 2010/1905 |
| Section 30(1) | 7th April 2008 | 2007/2872 |
| Section 30(2) (partially) | 1st October 2007 | 2007/2872 |
| Section 30(2) (for all other purposes) | 7th April 2008 | 2007/2872 |
| Section 30(3) (partially) | 1st October 2007 | 2007/2872 |
| Section 30(3) (for all other purposes) | 7th April 2008 | 2007/2872 |
| Section 31 (partially) | 14th June 2007 | 2007/1721 |
| Section 31 (for all other purposes) | 1st November 2007 | 2007/1721 |
| Section 32 (partially) | 1st April 2008 | 2008/411 |
| Section 32 (for all other purposes) | 6th October 2008 | 2008/411 |
| Section 33 (partially) | 1st April 2008 | 2008/411 |
| Section 33 (for all other purposes) | 6th October 2008 | 2008/411 |
| Section 34 (partially) | 1st April 2008 | 2008/411 |
| Section 34 (for all other purposes) | 6th October 2008 | 2008/411 |

| <i>Section etc. of Welfare Reform Act 2007</i> | <i>Date of commencement</i> | <i>Commencing authority</i> |
|--|-----------------------------|---------------------------------|
| Section 35(1) (partially) | 1st October 2007 | 2007/2872 |
| Section 35(1) (for all other purposes) | 7th April 2008 | 2007/2872 |
| Section 35(2) (partially) | 1st October 2007 | 2007/2872 |
| Section 35(2) (for all other purposes) | 7th April 2008 | 2007/2872 |
| Section 35(3) | 7th April 2008 | 2007/2872 |
| Section 36 | 27th March 2009 | 2009/775 |
| Section 38 | 1st April 2008 | 2008/411 |
| Section 39 | 1st April 2008 | 2008/411 |
| Section 40 (partially) | 7th April 2008 | 2007/2872 |
| Section 40 (partially) | 1st April 2008 | 2008/411 |
| Section 41(1) | 1st October 2007 | 2007/2819 |
| Section 42 (partially) | 5th August 2008 | 2008/2101 |
| Section 42 (for all other purposes) | 1st September 2008 | 2008/2101 |
| Section 43 | 1st September 2008 | 2008/2101 |
| Section 46 (partially) | 19th February 2008 | 2008/411 |
| Section 46 (for all other purposes) | 7th April 2008 | 2008/411 |
| Section 47 (partially) | 19th February 2008 | 2008/411 |
| Section 47 (for all other purposes) | 7th April 2008 | 2008/411 |
| Section 48 | 2nd July 2009 | 2009/1608 |
| Section 49 | 1st April 2008 | 2008/787 |
| Section 50 | 7th October 2008 | 2008/2101 |
| Section 51 | 7th October 2008 | 2008/2101 |
| Section 52 | 1st October 2007 | 2007/2819 |
| Section 53 | 1st October 2007 | 2007/2819 |
| Section 58 (partially) | 12th July 2007 | 2007/1991 |
| Section 58 (for all other purposes) | 10th August 2007 | 2007/1991 |
| Section 60 (partially) | 1st October 2007 | 2007/2819 |
| Section 60 (for all other purposes) | 29th October 2007 | 2007/2819 |
| Section 63 (partially) | 1st October 2007 | 2007/2819 |

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Annex 2

| <i>Section etc. of Welfare Reform Act 2007</i> | <i>Date of commencement</i> | <i>Commencing authority</i> |
|--|-----------------------------|-----------------------------|
| Section 67 (partially) | 1st October 2007 | 2007/2819 |
| Section 67 (partially) | 27th October 2008 | 2008/787 |
| Section 67 (partially) | 1st September 2008 | 2008/2101 |
| Section 67 (partially) | 7th October 2008 | 2008/2101 |
| Section 67 (partially) | 27th March 2009 | 2009/775 |
| Schedule 1: paragraphs 1(4) and 3(2), 4(1)(a) and (c), (3) and (4), 6(1)(b), (2) to (4), (7) and (8) and 6(5) for the purposes of the meaning of “couple”, “education” and “remunerative work” (partially) | 18th March 2008 | 2008/787 |
| Schedule 1 (for all other purposes) | 27th October 2008 | 2008/787 |
| Schedule 2: paragraphs 1 to 7, 8(1), 9, 10, 12 and 14 (partially) | 18th March 2008 | 2008/787 |
| Schedule 2 (for all other purposes) | 27th October 2008 | 2008/787 |
| Schedule 3: paragraphs 7(1) and (8), 8, 9(1), (3)(b) and (4), 10(1), (2), (3) to (8), (12) and (32), 12(1) and (5), 15, 17(1), (3), (6) and (7), 18, 20, 23(1) to (5) and (8) and 24 (partially) | 18th March 2008 | 2008/787 |
| Schedule 3: paragraphs 10(1), (2) and (32) and 17(1), (2), (3) and (6) (for all other purposes) | 27th July 2008 | 2008/787 |
| Schedule 3: paragraphs 1 to 4, 6, 7(1), (7) and (8), 8, 9(1) to (4), (6) to (11) and (13), 10(3) to (31), 11 to 16, 17(4), (5), (7) to (9), 18 to 20 and 22 to 24 (for all other purposes) | 27th October 2008 | 2008/787 |
| Schedule 4: paragraphs 1(1), 2, 3(b), (c) and (d) (partially) | 18th March 2008 | 2008/787 |
| Schedule 4: paragraphs 1, 2, 3(b), (c) and (d) (for all other purposes) | 27th July 2008 | 2008/787 |
| Schedule 4: paragraphs 7 & 8 | 27th July 2010 | 2010/1905 |
| Schedule 4: paragraph 10 | 11th December 2008 | 2008/3167 |
| Schedule 4: paragraph 11 | 27th July 2008 | 2008/787 |
| Schedule 5: paragraphs 5, 6, 7 and 9 | 1st April 2008 | 2008/411 |
| Schedule 5: paragraph 12 (partially) | 7th April 2008 | 2007/2872 |
| Schedule 6 (partially) | 12th July 2007 | 2007/1991 |
| Schedule 6 (for all other purposes) | 10th August 2007 | 2007/1991 |
| Schedule 7 (partially) | 1st October 2007 | 2007/2819 |
| Supplement No. 94 [March 2011] Schedule 8 (partially) | 1st October 2007 | 2007/2819 |
| Schedule 8 (partially) | 7th April 2008 | 2007/2872 |
| Schedule 8 (partially) | 1st September 2008 | 2008/2101 |

| <i>Section etc. of Welfare Reform Act 2007</i> | <i>Date of commencement</i> | <i>Commencing authority</i> |
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