

Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES DIVISION

The Law Relating to Social Security

Volume 13

Supplement 81 – December 2007

1. Supplements to The Law Relating to Social Security are issued at regular intervals. This supplement [81] includes amendments to the Contents Volume and Volumes 1, 2, 3, 5, 6, 8, 11, 12 and a new volume, numbered 13.
2. This package contains the new Volume 13, title, employment and support allowance. ACI Leeds will not be supplying new ringbinders for this volume.
3. These supplements are now issued in PDF format only. Please refer to ACI General Bulletin 01/2006, issued September 2006 for details.
5. Due to space constraints, ACI can only reproduce legislation currently in force. Where users are instructed to remove pages they may like to consider the need to retain such pages for their own use.
7. The last 2 supplements have amended the following volumes:

Supplement No. 79 [June 2007] Contents, 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12.

Supplement No. 80 [September 2007] Contents, 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11

8. While every effort is made to ensure the accuracy of this work, the ACI Publications team would be happy to hear from anyone who spots errors. Please contact

Quentin Chu on 0113 232 4861 or Jackie Wood on 0113 232 4991.

The Law Relating to Social Security is available on the DWP website at
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Insert

Volume 13

Title page (1 page)

13.0001 – 13.9992 (46 pages)

Record of amendments (1 page)



DEPARTMENT FOR WORK AND PENSIONS

**The Law Relating to
Social Security**

*The Statutes, Regulations and Orders
as now in force*

VOLUME 13

EMPLOYMENT AND SUPPORT ALLOWANCE

TABLE OF ABBREVIATIONS AND SYMBOLS

.....	Where occupying a line in an Act, indicates omission of text; refer to Annex 1 at end of that Act for reason for omission
▶ ◀	Text (between triangles) added or substituted, accompanied by marginal note
▶◀	Text (between triangles) added or substituted, accompanied by a marginal note, see note below
◀◀	Text omitted, accompanied by marginal note
▶ ◀	Text (between triangles) added or substituted, refer to last preceding marginal note
◀◀	Text omitted, refer to last preceding marginal note
Art.	Article
c.	chapter
C.	Commencement Order
C.B.	Child Benefit
DLA & DWA Act 1991	Disability Living Allowance and Disability Working Allowance Act 1991
defn.	definition
EC	European Communities
EEA	European Economic Area
Eng.	England
ESJ	Employment Service Jobcentre
F.C.	Family Credit
HASSASSA Act 1983	Health and Social Services and Social Security Adjudications Act 1983
I.S.	Income Support
L.G.F. Act 1992	Local Government Finance Act 1992
N.I.	Northern Ireland or National Insurance, according to context
No.	Number
O.J.	Official Journal of the European Communities
O.P.B.	Occupational Pensions Board
O.P.S.	Occupational Pension Schemes
p.	page
para.	paragraph
P.B. & M.D.B.S.	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme
prosp.	prospective or prospectively
Prot.	Protocol
P.S. Act 1993	Pension Schemes Act 1993
Pt.	Part
ref.	reference
reg.	regulation
S. or s.	section
S.B.	Supplementary Benefit
Sch.	Schedule
S.F.	Social Fund
S.I.	Statutory Instrument

continued

TABLE OF ABBREVIATIONS AND SYMBOLS

S.M.P.	Statutory Maternity Pay
S.S.	Social Security
S.S. Admin. Act 1992	Social Security Administration Act 1992
S.S. (C.P.) Act 1975	Social Security (Consequential Provisions) Act 1975
S.S. (C.P.) Act 1992	Social Security (Consequential Provisions) Act 1992
S.S. Conts. & Bens. Act 1992	Social Security Contributions and Benefits Act 1992
S.S. (M.P.) Act 1977	Social Security (Miscellaneous Provisions) Act 1977
S.S.P. Act 1975	Social Security Pensions Act 1975
S.S.P.	Statutory Sick Pay
sub-para.	sub-paragraph
subsec.	subsection
w.e.f.	with effect from
w/i	week including
* (in text)	see asterisked crossnote below that part of the text

Triangles

From September 2006 (supplement No. 76) marginal notes relating to triangles, within Statutory Instruments, will be numbered. The numbering will start from No.1 on each page and will only be introduced as pages are amended.

Typefaces

Italic sanserif print indicates provisions made prospectively but not yet in force

Small sanserif print is used for provisions which have recently ceased to have effect and which have not previously been reproduced in the Blue Volumes. It is also used for provisions being temporarily saved for certain circumstances or people, ordinary print being used for accompanying text containing permanent provisions (explanations are given in annotations).

Small ordinary print in main text indicates that, although the text so printed is now repealed or otherwise inoperative, it is reproduced in order to make sense of provisions which remain in force.

In the alphabetical list of Statutory Instruments (below), the subject matters of the instruments are listed in alphabetical order of the **words printed in bold type**. (These bold-printed words do not always correspond to the bold-printed words in the page headings in the main text.)

Editorial Note

Every effort has been made to reproduce text accurately, however, please inform us should any textual error be spotted.

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STATUTE REPRODUCED IN VOLUME 13

<i>Title</i>	<i>Chapter</i>	<i>Page</i>
Welfare Reform Act 2007	2007 c. 5	13.101

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VOLUME 13

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2007/1991	The Welfare Reform Act 2007 Commencement (No. 2) Order 2007	13.3103
2007/2819	The Welfare Reform Act 2007 Commencement (No. 3) Order 2007	13.3105
2007/2872	The Welfare Reform Act 2007 (Commencement No. 4 and Savings and Transitional Provisions) Order 2007	13.3107

CHRONOLOGICAL LIST OF STATUTORY INSTRUMENTS

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Welfare Reform Act 2007

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WELFARE REFORM ACT 2007 (c. 5)

Ss. 1-2

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

Employment and support allowance

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

(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,*
- (b) *is at least 16 years old,*
- (c) *has not reached pensionable age,*
- (d) *is in Great Britain,*
- (e) *is not entitled to income support, and*
- (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) *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.*

(6) *In subsection (3)—*

“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) *In this Part—*

“contributory allowance” means an employment and support allowance entitlement to which is based on subsection (2)(a);

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

Amount of contributory allowance

2.—(1) *In the case of a contributory allowance, the amount payable 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*
- (c) *that such other conditions as may be prescribed are satisfied.*

(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—*

- (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.*

Deductions from contributory allowance: supplementary

(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 a contributory allowance.*

WELFARE REFORM ACT 2007 (c. 5)

Ss. 3-4

(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;*

“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).*

Amount of income-related allowance

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.

(6) Regulations may—

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

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.

WELFARE REFORM ACT 2007 (c. 5)

Ss. 6-8

(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).

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;*

WELFARE REFORM ACT 2007 (c. 5)

Ss. 9-11

- (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.*

Report

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.*

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
 - (b) not a member of the support group,
- 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;

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- (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;*
- (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.

Work-related activity

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.*

- (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.

(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.

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Action plans in connection with work-focused interviews

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. — (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 undertaking of activity specified in the direction is, in his case, to be treated as not being the undertaking of work-related activity*

(2) *The power under subsection (1) to give directions—*

- (a) *is exercisable by instrument in writing, and*
- (b) *includes power to vary or revoke a direction given in previous exercise of the power.*

(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.*

Contracting out

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.*

(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, 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;*
- (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.*
- (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*

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(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).

Miscellaneous

*Income and capital:
general*

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.*

Disqualification

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—*

- (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 a contributory 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 24 months.* *Pilot schemes*

(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.*

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*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 a contributory 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 a contributory allowance in respect of the same period,*
- (b) a woman 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 woman shall be entitled to a contributory 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 a contributory 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 a contributory allowance in respect of the same period,*
- (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 a contributory allowance at a weekly rate equal to it.*

(6) Except as regulations may provide, a person who is entitled to additional statutory paternity pay is not entitled to a contributory 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 a contributory allowance in respect of the same period,*
- (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 a contributory 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.

*Deemed entitlement for
other purposes*

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.

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

Supplementary provisions

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.

Recovery of sums in respect of maintenance

(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

24.—(1) In this Part—

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

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

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

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

- (a) the provisions of this Act,
- (b) section 1 of the Administration Act (entitlement dependent on making of claim), and
- (c) section 27 of the Social Security Act 1998 (c. 14) (restrictions on entitlement in certain cases of error);

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

"income support" means income support under section 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;

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

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

Interpretation of Part 1

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

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

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

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

Regulations

25.—(1) Any power under this Part to make regulations shall be exercisable by statutory instrument.

(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.

(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 to 15 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) or 4(4)(c) or (5)(c);
- (b) the first regulations under section 13;

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

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

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

Financial provisions relating to Part 1

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

- (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 contributory allowance.

(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

30.—(1) In section 130 of the Contributions and Benefits Act (housing benefit) subsection (4) ceases to have effect.

Local housing allowance

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

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

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

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

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Housing benefit and council tax benefit for persons taking up employment

(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.

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(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 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) Subsection (3) ceases to have effect.

36. After section 122E of the Administration Act (supply of information between authorities administering benefit) insert—

Supply of information by
rent officers

“Rent officers and housing benefit

122F (Supply by rent officers of information relating to housing benefit

(1) The Secretary of State may require a rent officer to supply housing benefit information held by the rent officer to, or to a person providing services to, the Secretary of State for use for purposes relating to any of the following—

- (a) social security;
- (b) child support;
- (c) war pensions;
- (d) employment or training;
- (e) private pensions policy or retirement planning.

(2) Information must be supplied under subsection (1) in such manner and form, and in accordance with such requirements, as may be specified in directions given by the Secretary of State.

(3) A person who receives information by virtue of subsection (1) must not disclose the information to any person unless the disclosure is made—

- (a) for a purpose mentioned in that subsection (including disclosure to another rent officer in connection with any function he has under section 122 of the Housing Act 1996 relating to housing benefit),
- (b) in accordance with any other enactment, or
- (c) in accordance with the order of a court.

(4) Housing benefit information is any information which relates to the exercise by the rent officer of any function he has under section 122 of the Housing Act 1996 relating to housing benefit.”

37. In section 134 of the Administration Act (arrangements for housing benefit), for subsection (2) substitute—

Payment of housing
benefit

“(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—

Duty to send inspection
reports to the Secretary
of State

“(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.”

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(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).”

Directions by Secretary of State

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—
(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

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—

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- (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*
- (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—

Unlawful disclosure of certain 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.

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(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.

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

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.—(1) Section 122C of the Administration Act (supply of information to authorities administering benefit) is amended as follows—

Local authority functions relating to benefit: information

- (a) in subsection (2) at the end insert "or for the purposes of anything the authority is permitted to do in relation to any other benefit by virtue of section 110A or 116A above";
- (b) in subsection (3)(a) for "offences relating to housing benefit or council tax benefit" substitute "benefit offences (within the meaning of Part 6 above)".

(2) Section 122D of that Act (supply of information by authorities administering benefit) is amended as follows—

- (a) in subsection (1), for "benefit administration information" substitute "relevant benefit information";
- (b) in subsection (2A), after "subsection (2)" insert "; in addition to any other purpose for which the information may be used,";
- (c) for subsection (4) substitute—
 "(4) In subsection (1) "relevant benefit information"; in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit by the authority or other person.";
- (d) in subsection (5), in each place where it occurs for "housing benefit or council tax benefit" substitute "any relevant social security benefit";
- (e) in subsection (6), after the definition of "private pensions policy" insert—

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““relevant social security benefit” has the same meaning as in section 121DA above;”

(3) Section 122E of that Act (supply of information between authorities administering benefit) is amended as follows–

- (a) in subsection (1) for “benefit administration information” substitute “relevant benefit information”;*
- (b) in subsection (2)(a) for “offences relating to housing benefit or council tax benefit” substitute “benefit offences (within the meaning of Part 6 above)”;*
- (c) for subsection (6) substitute–
“(6) In this section “relevant benefit information”, in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit (within the meaning of section 121DA above) by the authority or other person.”*

(4) In section 126A of that Act (power to require information from landlords and agents), in subsection (8) for “benefit administration information” substitute “relevant benefit information”.

Loss of benefit for commission of benefit offences

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”.*

(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

Widowed mother’s allowance

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 parent’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.*

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

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

Vaccine Damage Payments Act 1979

56.—(1) Section 2 of the Vaccine Damage Payments Act 1979 (c. 17) *Overseas vaccinations*
(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”.

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

*Appeals to appeal
tribunal in Northern
Ireland*

(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

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- (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*

Minor and consequential amendments relating to Part 4

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

PART 5

GENERAL

Northern Ireland

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.

(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.

General interpretation

65. In this Act—

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

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

- 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.
- 67.** The enactments specified in Schedule 8 are hereby repealed to the extent specified. Financial provisions:
general
- 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. Repeals
- (2) The power under subsection (1) includes power to make—
- (a) different provision for different cases or areas;
 - (b) incidental, supplementary and consequential provision.
- 69.**—(1) Subject to the following provisions, this Act extends to England and Wales and Scotland only. Transition
- (2) The following provisions extend to England and Wales only—
- (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,

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- (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.

Short title

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

SCHEDULES

SCHEDULE 1

SECTION 1

EMPLOYMENT AND SUPPORT ALLOWANCE: ADDITIONAL CONDITIONS

PART 1

CONTRIBUTORY ALLOWANCE

*Conditions relating to national insurance*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 three 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*
- (c) *the earnings factor derived as mentioned in sub-paragraph (2) must be not less than the base tax year’s lower earnings limit multiplied by 25.*

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

- (a) *from so much of his earnings as did not exceed the base tax year’s upper earnings limit and upon which primary Class 1 contributions have been paid or treated as paid, 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 base tax year’s upper earnings limit.*(4) *Regulations may—*

- (a) *provide for the condition set out in sub-paragraph (1) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;*
- (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—*

- (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,*
- [(¹ca) credits under section 23A of that Act,]*
- (d) *a contributory 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*

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

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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;*
(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 a contributory 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.*

(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

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.*

(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;*

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(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–

(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.*

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.*

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.*

Contributory allowance: 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 a contributory allowance.*

Contributory allowance: 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;*

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- (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 a contributory 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.

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 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,*
- (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.

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, 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 13 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.*

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. *outsider 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),

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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) In section 46 as amended by the Child Support, Pensions and Social Security Act 2000 (reduced benefit decisions), in subsection (10)(c) (definition of “relevant benefit”), for “or an income-based jobseeker’s allowance” substitute “; an income-based jobseeker’s allowance, an income-related employment and support allowance”.

(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”.

Criminal Justice Act 1991 (c. 53)

8. In section 24 of the Criminal Justice Act 1991 (recovery of fines etc. by deduction from income support)—

(a) in subsections (1) and (2)(d), for “or state pension credit” substitute “state pension credit or an income-related employment and support allowance”;

(b) in subsection (4), after the definition of “fine” 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);”

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

9.—(1) The Contributions and Benefits Act is amended as follows.

(2) In section 6A (notional payment of primary Class 1 contribution where earnings not less than lower earnings limit), in subsection (3) (purposes for which Class 1 contribution treated as paid), at the end insert “; and

(e) any purposes relating to employment and support allowance.”

(3) In section 22 (earnings factors)—

- (a) *in subsection (2) (purposes for which a person may be treated as having annual earnings factors), in paragraph (a), after “jobseeker’s allowance” insert “; to a contributory employment and support allowance”;*
- (b) *in subsection (5) (power to provide for crediting earnings or Class 2 contributions), after “jobseeker’s allowance” insert “; to a contributory employment and support allowance”.*
- (4) *At the end of section 22 insert—*
“(8) In this section, “contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”
- (5) *Sections 30A to 30E (incapacity benefit) cease to have effect.*
- (6) *In section 61A (contributions paid in error), in subsection (3), at the end of paragraph (c) insert “and”.*
- (7) *In section 88 (increases of benefits to be in respect of only one adult dependant), for “86A” substitute “85”.*
- (8) *In section 89(1) and (1A) (earnings to include occupational and personal pensions etc. for purposes of provisions relating to increases of benefits in respect of adult dependants), for “to 86A” substitute “to 85”.*
- (9) *In section 124 (income support), in subsection (1), after paragraph (g) insert “; and*
 (h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance.”
- (10) *At the end of section 124 insert—*
“(7) In this section, “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”
- (11) *In section 150 (interpretation of Part 10: Christmas bonus)—*
 (i) *in subsection (1) (definition of “qualifying benefit”), after paragraph (b) insert—*
 “(ba) a qualifying employment and support allowance;”;
 (ii) *in subsection (2), after the definition of “the qualifying age for state pension credit” insert—*
 ““qualifying employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act 2007 the calculation of the amount of which includes an addition in respect of the support component or the work-related activity component;”
- (12) *Sections 171A to 171G (incapacity for work) cease to have effect.*
- (13) *In paragraph 5 of Schedule 3 (contribution conditions for widowed mother’s allowance etc.), after sub-paragraph (6) insert—*
 “(6A) The first condition shall be taken to be satisfied if the contributor concerned was entitled to main phase employment and support allowance at any time during—
 (i) *the year in which he attained pensionable age or died under that age, or*
 (ii) *the year immediately preceding that year.*

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(6B) The reference in sub-paragraph (6A) to main phase employment and support allowance is to an employment and support allowance in the case of which the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied)."

Social Security Administration Act 1992 (c. 5)

10.—(1) *The Administration Act is amended as follows.*

(2) In section 1 (entitlement to benefit dependent on claim), in subsection (4) (definition of "benefit"), after "state pension credit;" insert—

"(ac) an employment and support allowance;"

(3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) in subsection (2) (benefits to which section applies), at the end insert " ; and

(f) an employment and support allowance."

(4) In section 5 (regulations about claims for and payments of benefit), in subsection (2) (benefits to which section applies), after paragraph (ab) insert—

"(ac) an employment and support allowance;"

(5) In section 15A (payment out of benefit of sums in respect of mortgage interest etc.)—

(a) in subsection (1) (cases in which section applies), for "or an income-based jobseeker's allowance" in each place, substitute "an income-based jobseeker's allowance or an income-related employment and support allowance";

(b) in subsection (4), in the definition of "qualifying associate" for "or state pension credit" substitute "state pension credit or an income-related employment and support allowance" and for "or the State Pension Credit Act 2002" substitute "the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007";

(c) in that subsection, in the definition of "relevant benefits" after paragraph (c) insert—

"(d) an employment and support allowance;"

(6) In section 71 (overpayments), in subsection (11) (benefits to which section applies), after paragraph (ab) insert—

"(ac) an employment and support allowance;"

(7) In section 73 (overlapping benefits)—

(a) in subsection (1), after "contribution-based jobseeker's allowance" insert "or a contributory employment and support allowance";

(b) in subsection (4), at the end of paragraph (b) insert "or

(c) a contributory employment and support allowance."

(8) In section 74 (income support and other payments)—

(a) in subsections (1)(b) and (2)(b), for "or state pension credit" substitute "state pension credit or an income-related employment and support allowance";

(b) in subsection (3)(b), for "or an income-based jobseeker's allowance" in each place, substitute "an income-based jobseeker's allowance or an income-related employment and support allowance."

(9) In section 74A (payment of benefit where maintenance payments collected by Secretary of State), in subsection (7) (benefits to which section applies), after “an income-based jobseeker’s allowance” insert “; an income-related employment and support allowance”.

(10) In section 105 (failure to maintain)–

(a) in subsection (1)(b), for “or an income-based jobseeker’s allowance” substitute “; an income-based jobseeker’s allowance or an income-related employment and support allowance”;

(b) in subsection (4), after “an income-based jobseeker’s allowance” insert “or an income-related employment and support allowance”.

(11) In section 109(1) (diversion of arrested earnings to the Secretary of State_Scotland), after “income support” in both places, insert “or an income-related employment and support allowance”.

(12) In section 121DA (interpretation of Part 6), in subsection (1) (definition of “relevant social security legislation”), after paragraph (hh) insert–

“(hi) Part 1 of the Welfare Reform Act 2007;”

(13) In section 122ZA (supply of tax information to assess certain employment or training schemes), in subsection (6)(b), after “the Jobseekers Act 1995 (c. 18)” insert “; Part 1 of the Welfare Reform Act 2007”.

(14) In section 122B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “the Jobseekers Act 1995” insert “; Part 1 of the Welfare Reform Act 2007”.

(15) In section 122C (supply of information to authorities administering benefit), in subsection (6)(b), after “the Jobseekers Act 1995” insert “; Part 1 of the Welfare Reform Act 2007”.

(16) In section 124 (provisions relating to age, death and marriage), in subsection (1), before “and” at the end of paragraph (ab) insert–

“(ac) of the provisions of Part 1 of the Welfare Reform Act 2007;”

(17) In section 125 (regulations as to notification of death), in subsection (1), after “the State Pension Credit Act 2002” insert “; Part 1 of the Welfare Reform Act 2007”.

(18) In section 126 (personal representatives to give information about the estate of a deceased person who was in receipt of certain benefits), in subsection (1), after “state pension credit” insert “; an income-related employment and support allowance”.

(19) In section 130 (duties of employers: statutory sick pay), in subsection (1) (power to require employer to supply information in connection with making of claim for certain benefits by employee), at the end insert–

“(f) an employment and support allowance.”

(20) In section 132 (power to require employers to provide information in connection with claims to certain benefits), in subsection (1), after paragraph (a) insert–

“(aa) an employment and support allowance;”

(21) In section 150 (annual up-rating of benefits)–

(a) in subsection (1) (Secretary of State to review certain sums each year to determine whether value retained in relation to prices), after paragraph (l) insert–

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“(m) specified in regulations under section 2(1)(a) or (4)(c) or 4(2)(a) or (6)(c) of the Welfare Reform Act 2007;”;

(b) in subsection (7) (power to include in annual up-rating order provision for increase in sums not required to be up-rated), for “or the State Pension Credit Act 2002” substitute “the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007”.

(22) In section 159B (effect of alterations affecting state pension credit)–

(a) before “or” at the end of subsection (1)(b)(iii) insert–

“(iiia) in any component of a contributory employment and support allowance;”;

(b) in subsection (6), in the definition of “component”, at the end insert–

“(c) in relation to a contributory employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act 2007 which are relevant in calculating the amount payable by way of a contributory employment and support allowance;”

(23) After section 159B insert–

“159C Effect of alteration of rates of an employment and support allowance

(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) shall have effect where–

(a) an award of an employment and support allowance is in force in favour of any person (“the recipient”), and

(b) an alteration–

(i) in any component of the allowance,

(ii) in the recipient’s benefit income, or

(iii) in the recipient’s war disablement or war widow’s or widower’s pension,

affects the computation of the amount of the employment and support allowance to which he is entitled.

(2) Where, as a result of the alteration, the amount of the employment and support allowance to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of the employment and support allowance payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of an employment and support allowance as before, the award shall continue in force accordingly.

(4) Subsection (5) applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies–

(a) in relation to any of the items referred to in subsection (1)(b)(i) to (iii), the amount of the alteration which he proposes to make by an order under section 150 or 152 or by or under any other enactment, and

(b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of an employment and support allowance is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award–

(a) may provide for the employment and support allowance to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items referred

to in subsection (1)(b)(i) to (iii) which will be in force on that date, or

- (b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration” means—

- (a) in relation to any component of an employment and support allowance, its alteration by or under any enactment;
- (b) in relation to a person’s benefit income, the alteration of any of the sums referred to in section 150 by any enactment or by an order under section 150 or 152 to the extent that any such alteration affects the amount of his benefit income;
- (c) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”, in relation to an employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act 2007 which are relevant in calculating the amount payable by way of an employment and support allowance;

“war disablement pension” and “war widow’s or widower’s pension” have the same meaning as in section 159B.”

(24) After section 160A insert—

“160B Implementation of increases in employment and support allowance due to attainment of particular ages

(1) This section applies where—

- (a) an award of an employment and support allowance is in force in favour of a person (“the recipient”), and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an employment and support allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Subsection (2) does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient’s entitlement to a benefit under the Contributions and Benefits Act.

(4) Subsection (2) does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient’s entitlement to an employment and support allowance, other than—

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient’s case, and
- (b) the question whether, in consequence, the amount of his employment and support allowance falls to be varied.

(5) In this section, “component”, in relation to a recipient and his employment and support allowance, means any of the amounts determined in accordance with regulations made under section 2(1)(a) or 4(2)(a) of the Welfare Reform Act 2007.”

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(25) In section 164 (destination of repayments), in subsection (1), after “section 38 of the Jobseekers Act 1995” insert “; section 27 of the Welfare Reform Act 2007”.

(26) In section 165(6)(a) (under which no adjustment between the National Insurance Fund and the Consolidated Fund is required for administrative expenses of the Secretary of State relating to benefits payable out of money provided by Parliament), for “or section 20 of the State Pension Credit Act 2002” substitute “; section 20 of the State Pension Credit Act 2002 or section 27 of the Welfare Reform Act 2007”.

(27) In section 166 (financial review and report), in subsection (2) (duty at end of each review period to review operation of certain provisions)–

(a) after paragraph (b) insert–

“(ba) the provisions of Part 1 of the Welfare Reform Act 2007 relating to contributory employment and support allowance;”;

(b) in paragraph (c), for “and (b)” substitute “to (ba)”.

(28) In section 170 (Social Security Advisory Committee), in subsection (5)–

(a) in the definition of “the relevant enactments”, after paragraph (ai) insert–

“(aia) the provisions of Part 1 of the Welfare Reform Act 2007;”;

(b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ai) insert–

“(aia) any provisions in Northern Ireland which correspond to provisions of Part 1 of the Welfare Reform Act 2007;”.

(29) In section 179 (reciprocal agreements with countries outside the United Kingdom)–

(a) in subsection (3)(a), after “the State Pension Credit Act 2002” insert “; Part 1 of the Welfare Reform Act 2007”;

(b) in subsection (4), before “and” at the end of paragraph (ae) insert “and

(af) to Part 1 of the Welfare Reform Act 2007;”;

(c) in subsection (5), after paragraph (ab) insert–

“(ac) employment and support allowance;”.

(30) In section 180 (payment of travelling expenses by Secretary of State), after “the State Pension Credit Act 2002”, in both places, insert “; Part 1 of the Welfare Reform Act 2007”.

(31) In section 187 (certain benefits to be inalienable), in subsection (1), after paragraph (ab) insert–

“(ac) an employment and support allowance;”.

(32) In section 191 (general interpretation)–

(a) in the definition of “benefit”, for “and state pension credit” substitute “; state pension credit and an employment and support allowance”;

(b) after the definition of “the Contributions and Benefits Act” insert–

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”;

(c) after the definition of “income-related benefit” 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);”.

Local Government Finance Act 1992 (c. 14)

11.—(1) *The Local Government Finance Act 1992 is amended as follows.*

(2) *In Schedule 4 (enforcement in England and Wales)—*

- (a) *in paragraph 6 (deductions from income support etc.), in sub-paragraphs (1) and (2)(b), for “or state pension credit” substitute “state pension credit or an employment and support allowance”;*
- (b) *in paragraph 12 (relationship between remedies), after sub-paragraph (1)(bb) insert—*
“(bc) deductions from an employment and support allowance may be resorted to more than once.”;
- (c) *in that paragraph, in sub-paragraph (1)(d), after “state pension credit” insert “deductions from an employment and support allowance”.*

(3) *In Schedule 8 (enforcement in Scotland), in paragraph 6 (deductions from income support etc.), in sub-paragraphs (1) and (2)(b), for “or state pension credit” substitute “state pension credit or an employment and support allowance”.*

Jobseekers Act 1995 (c. 18)

12.—(1) *The Jobseekers Act 1995 is amended as follows.*

(2) *In section 1 (the jobseeker’s allowance), in subsection (2) (conditions of entitlement), for paragraph (f) substitute—*

“(f) does not have limited capability for work;”

(3) *In section 3 (income-based conditions), in subsection (1)—*

- (a) *in paragraph (b), for “or state pension credit” substitute “state pension credit or an income-related employment and support allowance”;*
- (b) *after paragraph (dd) insert—*
“(de) is not a member of a couple the other member of which is entitled to an income-related employment and support allowance;”

(4) *In section 3A (conditions for claims by joint-claim couples), in subsection (1), after paragraph (cc) insert—*

“(cd) that neither member of the couple is entitled to an income-related employment and support allowance;”

(5) *In section 35 (interpretation)—*

- (a) *in subsection (1), 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);”;
- (b) *in subsection (2), for “capable of work” substitute “limited capability for work”.*

(6) *In Schedule 1 (supplementary provisions), for paragraph 2, and the italic cross-heading immediately preceding it, substitute—*

“Limited capability for work

2.—(1) The question whether a person has, or does not have, limited capability for work shall be determined, for the purposes of this Act, in accordance with the provisions of Part 1 of the Welfare Reform Act 2007 (employment and support allowance).

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(2) References in Part 1 of the Welfare Reform Act 2007 to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this Act, as references to the purposes of this Act."

Pensions Act 1995 (c. 26)

13. In Schedule 4 to the Pensions Act 1995 (equalisation of pensionable ages for men and women), in paragraph 1 (enactments for the purposes of which the rules for determining pensionable age apply) for "and the State Pension Credit Act 2002" substitute "the State Pension Credit Act 2002 and Part 1 of the Welfare Reform Act 2007"

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

Employment Tribunals Act 1996 (c. 17)

15. —(1) The Employment Tribunals Act 1996 is amended as follows.

(2) In section 16 (power to provide for recoupment of benefits)—

(a) in subsections (3)(a) and (c) and (5)(cc) and (e), for "or income support" substitute "income support or income-related employment and support allowance";

(b) in subsection (3)(b), for "either benefit" substitute "jobseeker's allowance, income support or income-related employment and support allowance";

(c) in subsection (4), for paragraph (b) substitute—

"(b) so as to apply to all or any of the benefits mentioned in subsection (3)."

(3) In section 17 (recoupment: further provisions), in subsection (1), for "or income support" in both places, substitute "income support or income-related employment and support allowance"

(4) In that section, at the end insert—

"(5) In this section and section 16 "income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)."

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

Social Security Act 1998 (c. 14)

17. —(1) The Social Security Act 1998 is amended as follows.

(2) In section 2 (use of computers), in subsection (2) (meaning of "relevant enactment"), after paragraph (i) insert " or

"(j) Part 1 of the Welfare Reform Act 2007."

(3) In section 8 (which provides for any decision on a claim for a relevant benefit, or under or by virtue of a relevant enactment, to be made by the Secretary of State)—

(a) in subsection (3) (definition of "relevant benefit"), after paragraph (b) insert—

"(ba) an employment and support allowance;"

(b) in subsection (4) (definition of “relevant enactment”), for “or the State Pension Credit Act 2002” substitute “; the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007”.

(4) In section 11 (regulations with respect to decisions), in subsection (3), in the definition of “the current legislation”, for “and the State Pension Credit Act 2002” substitute “; the State Pension Credit Act 2002 and Part 1 of the Welfare Reform Act 2007”.

(5) In section 27 (restrictions on entitlement to benefit in certain cases of error), in subsection (7), in the definition of “benefit”–

(a) after paragraph (dd) insert–

“(de) an employment and support allowance;”;

(b) in paragraph (e), for “to (dd)” substitute “to (de)”.

(6) In section 28 (correction of errors and setting aside of decisions), in subsection (3) (definition of “relevant enactment”), at the end insert “; or

(g) Part 1 of the Welfare Reform Act 2007.”

(7) In section 31 (incapacity for work), after subsection (1) insert–

“(1A) Regulations may provide that a determination that a person is disqualified for any period in accordance with regulations under section 18(1) to (3) of the Welfare Reform Act 2007 shall have effect for such purposes as may be prescribed as a determination that he is to be treated as not having limited capability for work for that period, and vice versa.”

(8) In Schedule 2 (decisions against which no appeal lies), in paragraph 6(b) (alteration of rates of benefit), at the end insert “; or

(iv) section 159C(1)(b) of that Act (employment and support allowance).”

(9) In Schedule 3 (decisions against which an appeal lies), in paragraph 3 (payability of benefit), at the end insert “; or

(g) section 18 of the Welfare Reform Act 2007.”

Welfare Reform and Pensions Act 1999 (c. 30)

18. In section 72 of the Welfare Reform and Pensions Act 1999 (power to make regulations about the use and supply of social security information), in subsection (3) (provisions in connection with which the power is exercisable), at the end insert “; or

(d) Part 1 of the Welfare Reform Act 2007.”

Immigration and Asylum Act 1999 (c. 33)

19. In section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits), in subsection (1) (benefits to which entitlement excluded), after “State Pension Credit Act 2002” insert “or to income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”

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

20.—(1) The Child Support, Pensions and Social Security Act 2000 is amended as follows.

(2) In section 62 (loss of benefit for breach of community order), after subsection (4) insert–

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“(4A) The Secretary of State may by regulations provide that, where the relevant benefit is an employment and support allowance, any income-related allowance (within the meaning of Part 1 of the Welfare Reform Act 2007) shall be payable, during the whole or part of the prescribed period, as if one or more of the following applied–

- (a) the rate of the allowance were such reduced rate as may be prescribed;*
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;*
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.”*

(3) In that section, in subsection (8), in the definition of “relevant benefit” after paragraph (b) insert–

“(ba) an employment and support allowance;”

(4) In section 65 (loss of benefit regulations), in subsection (4) (regulations subject to affirmative resolution procedure), in paragraph (c), after “section 62(4)” insert “or (4A).”

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

Social Security Fraud Act 2001 (c. 11)

23.—(1) The Social Security Fraud Act 2001 is amended as follows.

(2) In section 7 (loss of benefit for commission of benefit offences), after subsection (4A) insert–

“(4B) The Secretary of State may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied–

- (a) the rate of the allowance were such reduced rate as may be prescribed;*
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;*
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.”*

(3) In that section, in subsection (8) (interpretation), in the definition of “disqualifying benefit”, after paragraph (aa) insert–

“(ab) any benefit under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) or under any provision having effect in Northern Ireland corresponding to that Part;”

(4) In section 9 (effect of offences on benefits of members of offender’s family), in subsection (1) (benefits to which section applies), after paragraph (bb) insert–

“(bc) employment and support allowance;”

(5) In that section, after subsection (4A) insert–

“(4B) In relation to cases in which the benefit is employment and support allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender’s family member, any income-related allowance shall be payable, during the

whole or a part of any period comprised in the relevant period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if circumstances are otherwise such as may be prescribed."

(6) In section 10 (power to supplement and mitigate loss of benefit provisions), in subsection (3) (definition of "social security benefit"), after paragraph (bb) insert—

"(bc) any benefit under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) or under any provision having effect in Northern Ireland corresponding to that Part;"

(7) In section 11 (loss of benefit regulations), in subsection (3) (regulations subject to affirmative resolution procedure), in paragraph (c), after "(4A)", in both places, insert "(4B)".

(8) In section 13 (interpretation of sections 7 to 12), after the definitions by reference to the Jobseekers Act 1995 insert—

"income-related allowance" has the same meaning as in Part 1 of the Welfare Reform Act 2007 (employment and support allowance);"

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

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.

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).*

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.

(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.

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;*

“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.*
3. & 4. amends 1992 (c. 5), see Annex 1, page 13.251
5. *In section 139E (information about attainment of standards), in subsection (1)—*
 - (a) for “section 139D(3)” substitute “section 139D(3A) or (3B)”;*
 - (b) after paragraph (a) insert—*
 - “(aa) whether the authority has taken the action which it has been directed to take;”;*
 - (c) in paragraph (b) after “those standards” insert “or take that action.”*
6. —(1) *Section 139F (enforcement notices) is amended as follows.*
 - (2) In subsection (1)—*
 - (a) for “section 139D(3)” substitute “section 139D(3A) or (3B)”;*
 - (b) after paragraph (a) insert—*
 - “(aa) is not satisfied that the authority has taken the action which it has been directed to take;”;*
 - (c) in paragraph (b) after “those standards” insert “or take that action.”*
 - (3) In subsection (2)(a), after “paragraph (a)” insert “(aa)”.*
 - (4) In subsection (4), at the beginning insert “If the notice identifies directions under section 139D(3A),”*
 - (5) After subsection (4) insert—*
 - “(4A) If the notice identifies directions under section 139D(3B), the authority’s response shall either—*
 - (a) state that the authority has taken the action, or is likely to take it within the time specified in the directions, and justify that statement; or*

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(b) *state that the authority has not taken the action, or is not likely to take it within that time, and (if the authority wishes) give reasons why a determination under section 139G below should not be made or should not include any particular provision.*

7.—(1) *Section 139G (enforcement determinations) is amended as follows.*

(2) *In subsection (1)–*

(a) *in paragraph (a) after “the standards” insert “or taken the action”;*

(b) *in paragraph (b) after “those standards” insert “or take that action”*

(3) *In subsections (3) and (5)(c), after “the standards” insert “or the taking of the action”.*

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

9. *In section 140B(5A) (calculation of amount of subsidy), for “section 139D(3)” substitute “section 139D(3A) or (3B)”.*

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)

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*

SCHEDULE 7

SECTION 63

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) *in subsection (1)(a) (decisions with respect to which regulations made by the Secretary of State may make provision), after “Act” insert “; other than a decision of an appeal tribunal constituted under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998”;*
 - (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) *After section 9 insert–*
“9A Interpretation: “appeal tribunal”
In this Act, references to an appeal tribunal, without more, are to a tribunal constituted under–
- (a) *Chapter 1 of Part 1 of the Social Security Act 1998; or*
 - (b) *Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998.”*
- (9) *In section 12(3)(b) (duty of Secretary of State to pay travelling and other allowances to persons required to attend before tribunals under section 4)–*
- (a) *after “required” insert “under section 4”, and*
 - (b) *for “under section 4 above” substitute “constituted under Chapter 1 of Part 1 of the Social Security Act 1998”.*
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

SCHEDULE 8

SECTION 67

REPEALS

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
<i>Social Security Contributions and Benefits Act 1992 (c. 4)– cont.</i>	<p><i>In section 21(4), the words “short-term benefit or”</i></p> <p><i>In section 21(5A)(c), the words “2(4)(a) and (5)(a),”</i></p> <p><i>Sections 30A to 30E.</i></p> <p><i>In section 37(2), the words from “one of the conditions” to “person and”</i></p> <p><i>In section 39A(3), the words from “one of the conditions” to “person and”</i></p> <p><i>Sections 40 to 42.</i></p> <p><i>In section 44(4), the words from “except that” to the end. Section 47.</i></p> <p><i>In section 61–</i></p> <p style="padding-left: 40px;"><i>(a) in subsection (1), the words “under section 47(1) above or”;</i></p> <p style="padding-left: 40px;"><i>(b) subsection (2).</i></p> <p><i>In section 61A(3), paragraph (d), and the word “and” immediately preceding it.</i></p> <p><i>Section 72(6).</i></p> <p><i>In section 73(5), the words “Subject to subsection (4) above.”</i></p> <p><i>Section 84.</i></p> <p><i>Section 86A.</i></p> <p><i>Section 87.</i></p> <p><i>In section 89(1) and (1A), the words “; and in regulations under section 86A above,”</i></p> <p><i>Section 93.</i></p> <p><i>In section 124(1), the word “and” at the end of paragraph (f).</i></p> <p><i>Section 130(4).</i></p> <p><i>In section 140(1A), the words following paragraph (b).</i></p> <p><i>Section 150(1)(b).</i></p>

WELFARE REFORM ACT 2007 (c. 5)

Sch. 8

<i>Short title and chapter</i>	<i>Extent of repeal</i>
<p><i>Social Security Administration Act 1992 (c. 5)</i></p>	<p><i>Section 171ZP(1) to (3).</i></p> <p><i>Sections 171A to 171G.</i></p> <p><i>In section 176(1)(a), the words “section 30DD(5)(b) or (c);”</i></p> <p><i>In Schedule 3, paragraphs 2 and 5(6).</i></p> <p><i>In Schedule 4–</i></p> <p style="padding-left: 40px;"><i>(a) in Part 1, paragraphs 2 and 2A;</i></p> <p style="padding-left: 40px;"><i>(b) in Part 4, paragraphs 1A and 2.</i></p> <p><i>In Schedule 11, paragraph 2(d)(i).</i></p> <p><i>In Schedule 12, paragraphs 1, 3, 4, 5 and 6.</i></p> <p><i>In Schedule 13, paragraphs 1 and 2.</i></p> <p><i>Section 2A(2)(e) and (f).</i></p> <p><i>In section 2AA(2), paragraph (c) and the word “and” at the end of paragraph (d).</i></p> <p><i>Section 5(3).</i></p> <p><i>Section 71(5).</i></p> <p><i>In section 71ZA(2)–</i></p> <p style="padding-left: 40px;"><i>(a) in paragraph (a), the words “paragraph (a) of subsection (5) and”;</i></p> <p style="padding-left: 40px;"><i>(b) paragraph (b).</i></p> <p><i>In section 73(4), the word “or” at the end of paragraph (a).</i></p> <p><i>Section 130(1)(a) and (c).</i></p> <p><i>Section 132(1)(b) and (c).</i></p> <p><i>In section 134(8)(a), the words “or surviving civil partner’s”.</i></p> <p><i>In section 150, subsection (1)(aa) and, in subsection (3)(b), “(aa);”</i></p> <p><i>In section 168(3)(d), the words from “to the same officer” to the end.</i></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 the Act 1999 (c. 30)	Sections 61 to 64. In section 72(3), 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>	

WELFARE REFORM ACT 2007 (c. 5)

Sch. 8

<i>Short title and chapter</i>	<i>Extent of repeal</i>
<i>State Pension Credit Act 2002 (c. 16)</i>	<i>In Schedule 2, paragraphs 9(5)(b)(ii), 16(3), 18(3), 24(2) and 37(a).</i>
<i>National Insurance Contributions Act 2002 (c. 19)</i>	<i>In Schedule 1, paragraph 14(2).</i>
<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) 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. 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. 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. 14 amends legislation not reproduced in these volumes
- para. 16 amends legislation not reproduced in these volumes
- paras. 21 & 22 amends legislation not reproduced in these volumes
- para. 24 amends legislation not reproduced in these volumes

WELFARE REFORM ACT 2007 (c. 5)

Annex 1

Sch. 5

para. 1 amends the S.S. Conts and Bens. Act 1992

paras. 3 & 4 amend the S.S. Admin Act 1992

para. 8 amends s. 140A 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

(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 Pensions Act 2007</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
sections 30 partially	1st October 2007	2007/2872
sections 30 partially	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 35 partially	1st October 2007	2007/2827
section 35 partially	7th April 2008	2007/2872
section 40	3rd May 2007	Royal Assent
section 41 partially	1st October 2007	2007/2819
section 41 partially	3rd July 2007	Royal Assent
sections 44 & 45	3rd July 2007	Royal Assent
sections 52 & 53	1st October 2007	2007/2819
sections 54 & 55	3rd July 2007	Royal Assent
section 58 partially	12th July 2007	2007/1991
section 58 for all other purposes	10th August 2007	2007/1991
section 59	3rd July 2007	Royal Assent
section 60 partially	1st October 2007	2007/2819
section 60 for all other purposes	29th October 2007	2007/2819

WELFARE REFORM ACT 2007 (c. 5)

Annex 2

<i>Section etc. of Pensions Act 2007</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
section 61 partially	3rd July 2007	Royal Assent
section 62	3rd July 2007	Royal Assent
section 63 partially	1st October 2007	2007/2819
sections 64 - 66	3rd May 2007	Royal Assent
section 67	1st October 2007	2007/2819
sections 68 - 71	3rd May 2007	Royal Assent

2007 No. 1721 (c. 67)

SOCIAL SECURITY

**The Welfare Reform Act 2007 Commencement (No. 1)
Order 2007**

Made - - - -

13th June 2007

The Secretary of State for Work and Pensions makes the following Order, in exercise of the powers conferred by section 70(2) of the Welfare Reform Act 2007(a).

Citation

1. This Order may be cited as the Welfare Reform Act 2007 Commencement (No. 1) Order 2007.

Appointed days

2.—(1) 14th June 2007 is the day appointed for the coming into force of section 31 of the Welfare Reform Act 2007 for the purpose only of the exercise of the power to make regulations.

(2) 1st November 2007 is the day appointed for the coming into force of section 31 of that Act for all other purposes.

Signed by authority of the Secretary of State for Work and Pensions

13th June 2007

James Plaskitt
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) 2007 c. 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 31 of the Welfare Reform Act 2007, which relates to loss of housing benefit following eviction for anti-social behaviour etc. Section 31 inserts new sections into the Social Security Contributions and Benefits Act 1992 (c. 4).

Section 31 comes into force on 14th June 2007 for the purposes of making regulations. The regulations will prescribe the amount of the reduction of housing benefit and various other matters.

Section 31 comes into force on 1st November 2007 for all other purposes.

A full regulatory impact assessment has not been carried out in relation to this Order as it does not impose a cost on business, charities or voluntary bodies.

2007 No. 1991 (c. 73)

SOCIAL SECURITY

**The Welfare Reform Act 2007 Commencement (No. 2)
Order 2007**

Made - - - -

11th July 2007

The Secretary of State for Work and Pensions makes the following Order, in exercise of the powers conferred by section 70(2) of the Welfare Reform Act 2007(a).

Citation

1. This Order may be cited as the Welfare Reform Act 2007 Commencement (No. 2) Order 2007.

Appointed day

2.—(1) The day appointed for the coming into force of section 58 of, and Schedule 6 to, the Welfare Reform Act 2007 for the purpose only of conferring power to make an order is 12th July 2007.

(2) The day appointed for the coming into force of section 58 of, and Schedule 6 to, that Act for all other purposes is 10th August 2007.

Signed by authority of the Secretary of State for Work and Pensions.

11th July 2007

Bill McKenzie
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) 2007 c. 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 58 of and Schedule 6 to the Welfare Reform Act 2007, which substitute a new definition of “relevant employer” and insert a new Schedule into the Pneumoconiosis etc. (Workers’ Compensation) Act 1979 (“the 1979 Act”).

Section 58 and Schedule 6 come into force on 12th July 2007 for the purposes of making an order. The order will prescribe occupations in relation to diseases under the 1979 Act for the purposes determining who is a “relevant employer”.

Section 58 and Schedule 6 come into force on 10th August 2007 for all other purposes.

A full regulatory impact assessment has not been carried out in relation to this Order as it does not impose a cost on business, charities or voluntary bodies.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 31 (partially)	14.06.2007	2007/1721
s. 31 (remainder)	1.11.2007	2007/1721

2007 No. 2819 (c. 110)

SOCIAL SECURITY

**The Welfare Reform Act 2007 Commencement (No. 3)
Order 2007**

Made - - - - 24th September 2007

The Secretary of State for Work and Pensions makes the following Order, in exercise of the power conferred by section 70(2) of the Welfare Reform Act 2007(a).

Citation and interpretation

1.—(1) This Order may be cited as the Welfare Reform Act 2007 Commencement (No.3) Order 2007.

(2) In this Order—

"the Act" means the Welfare Reform Act 2007;

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992(b).

Commencement

2.—(1) 1st October 2007 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 41(1) (social security information);
- (b) sections 52 and 53 (disability living allowance: age conditions);
- (c) sections 63 and 67, so far as relating to the paragraphs and entries referred to in paragraphs (d) and (e) below;
- (d) in Schedule 7 (minor and consequential amendments relating to Part 4), paragraph 2(2) (which amends section 73 of the 1992 Act);
- (e) in Schedule 8 (repeals), the entries relating to sections 72(6) and 73(5) of the 1992 Act (which entries contain repeals connected with section 52 and 53 of the Act).

(2) The day appointed for the coming into force of section 60 of the Act is—

- (a) 1st October 2007 for the purpose only of exercising any power to make regulations;
- (b) 29th October 2007 for all other purposes.

Signed by authority of the Secretary of State for Work and Pensions

Anne McGuire
Parliamentary Under Secretary of State
Department for Work and Pensions

24th September 2007

(a) 2007 c. 5.
(b) 1992 c. 4.

EXPLANATORY NOTE*(This note is not part of the Order)*

This Order brings into force the following sections of the Welfare Reform Act 2007 (c. 5). Firstly, section 41(1) which relates to the use of social security information. Section 41(1) comes into force on 1st October 2007 (section 41(2) and (3) came into force on 3rd July 2007: see section 70(1)(a) of that Act). Secondly, sections 52 and 53 (disability living allowance: age conditions) which amend sections 72 and 73 of the Social Security Contributions and Benefits Act 1992 (c. 4) which in turn govern the application of the conditions of entitlement to the care component and the mobility component of disability living allowance to people on or around the age of 16 years. This Order also commences minor amendments and repeals consequent to the coming into force of sections 52 and 53. Sections 52 and 53 and the minor amendments and repeals come into force on 1st October 2007. Thirdly, section 60 (power to stop payment of allowances to care home residents) which amends sections 67 and 72 of the Social Security Contributions and Benefits Act 1992. These provisions relate to the power to stop payment of attendance allowance and the care component of disability living allowance to people resident in care homes. Section 60 comes into force on 1st October 2007 for the purpose of making regulations. The regulations will prescribe the circumstances in which payment of attendance allowance and the care component of disability living allowance will be stopped in respect of a person for a period when he is a resident in a care home (an establishment that provides accommodation together with nursing or personal care). This will be where any of the costs of any qualifying services (accommodation, board or personal care) provided for him are borne out of public or local funds under a specified enactment. Section 60 comes into force on 29th October 2007 for all other purposes.

A full regulatory impact assessment has not been carried out in relation to this Order as it does not impose a cost on business, charities or voluntary bodies.

NOTE AS TO EARLIER COMMENCEMENT ORDERS*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 31 (partially)	14.06.2007	2007/1721
s. 31 (remainder)	1.11.2007	2007/1721
s. 58, Schedule 6 (partially)	12.07.2007	2007/1991
s. 58, Schedule 6 (remainder)	10.08.2007	2007/1991

2007 No. 2872 (c. 111)

SOCIAL SECURITY

The Welfare Reform Act 2007 (Commencement No. 4, and Savings and Transitional Provisions) Order 2007

Made - - - - 30th September 2007

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 68 and 70(2) of the Welfare Reform Act 2007(a)

Citation and interpretation

1.—(1) This Order may be cited as the Welfare Reform Act 2007 (Commencement No.4, and Savings and Transitional Provisions) Order 2007.

(2) In this Order—

"the Act" means the Welfare Reform Act 2007;

"the Administration Act" means the Social Security Administration Act 1992(b);

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992(c);

"the Consequential Provisions Regulations" means the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(d);

"the Housing Act" means the Housing Act 1996(e);

"the Housing Benefit (State Pension Credit) Regulations" means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(f);

"the Regulations" means the Housing Benefit Regulations 2006(g).

Appointed days

2.—(1) 7th April 2008 is the appointed day for the coming into force of—

(a) section 30(1) of the Act (local housing allowance);

(b) section 35(3) of the Act (information relating to housing benefit);

(c) Schedule 8 to the Act (repeals), in so far as it relates to the repeal of—

(i) section 130(4) of the Contributions and Benefits Act (housing benefit);

(ii) section 5(3) of the Administration Act (power to make regulations about information or evidence required by rent officer)(h);

(iii) section 122(3) of the Housing Act (functions of rent officers in connection with housing benefit and rent allowance subsidy);

(a) 2007 c. 5.

(b) 1992 c. 5.

(c) 1992 c. 4.

(d) S.I. 2006/217.

(e) 1996 c. 52.

(f) S.I. 2006/214. Relevant amending instruments are S.I. 2006/2967, 2006/2968 and 2007/1356.

(g) S.I. 2006/213. Relevant amending instruments are S.I. 2006/2967, 2006/2968 and 2007/1356.

(h) 1992 c. 5. Section 5(3) was amended by section 123 of and paragraph 3(2) of Schedule 13 to the Housing Act 1996 (c. 52).

- (iv) in section 122(5)(b) of the Housing Act, the words "or regulations"; and
 - (v) paragraph 3(2) of Schedule 13 to the Housing Act (housing benefit and related matters: consequential amendments);
and section 67 of the Act (repeals) in so far as it relates to those repeals; and
 - (d) paragraph 12 of Schedule 5 to the Act (minor and consequential amendments relating to Part 2) so far as it relates to the amendment of section 122(5) of the Housing Act and section 40 of the Act in so far as it relates to that consequential amendment.
- (2) For the purpose only of conferring power to make regulations 1st October 2007 is the appointed day for the coming into force of—
- (a) section 30(2) of the Act (insertion of section 130A (appropriate maximum housing benefit) into the Contributions and Benefits Act);
 - (b) section 30(3) of the Act (amendment of paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals)(a); and
 - (c) section 35(1) and (2) of the Act.
- (3) For all other purposes 7th April 2008 is the appointed day for the coming into force of the provisions specified in paragraph (2).
- (4) This article is subject to the savings and transitional provisions in articles 3 to 5.

Transitional provisions and savings in relation to section 130(4) of the Contributions and Benefits Act and section 122(3) and (5) of the Housing Act

- 3.—(1) Notwithstanding article 2 and subject to article 4—
- (a) section 130(4) of the Contributions and Benefits Act and section 122(3) and (5) of the Housing Act shall continue to have effect as they were in force immediately before 7th April 2008 so far as is required for the purpose of conferring power to amend or revoke the regulations referred to in paragraph (2), until 7th April 2009; and
 - (b) any regulations made under any of the provisions referred to in sub-paragraph (a) shall continue to have effect in relation to the period ending on the date specified in paragraph (3), (4), (5) or (6) except for paragraphs 11 and 12 of Schedule 2 to the Consequential Provisions Regulations.
- (2) The regulations are—
- (a) the Regulations;
 - (b) the Housing Benefit (State Pension Credit) Regulations; and
 - (c) the Consequential Provisions Regulations.
- (3) In relation to a case in which reference was made to a maximum rent (standard local rate) in determining the eligible rent which applied immediately before 7th April 2008, the date is 7th April 2008.
- (4) In relation to a case where—
- (a) either—
 - (i) a claim for housing benefit is made, delivered or received on or after 7th April 2008 but the date the claim is made or is treated as being made is a date before 7th April 2008 by virtue of regulations 83, 83A, 84 or 85 of the Regulations or regulations 64, 64A, 65 or 66 of the Housing Benefit (State Pension Credit) Regulations; or
 - (ii) a claim was made or was treated as made before 7th April 2008 but the decision on the claim was not made by that date; and

(a) 2000 c. 19.

- (b) reference to a maximum rent (standard local rate) would have been made in determining the eligible rent which applied immediately before 7th April 2008 had the decision on the claim been made before that date,

the date is 7th April 2008.

(5) In relation to a non-local housing allowance case the date is the relevant date for that case.

(6) In relation to a case where—

(a) either—

- (i) a claim for housing benefit is made, delivered or received on or after the 7th April 2008 but the date the claim is made or is treated as being made is a date before that date by virtue of regulations 83, 83A, 84 or 85 of the Regulations or regulations 64, 64A, 65 or 66 of the Housing Benefit (State Pension Credit) Regulations; or
- (ii) a claim was made or was treated as made before 7th April 2008 but the decision on the claim was not made by that date; and

- (b) the case would have been a non-local housing allowance case had the decision on the claim been made before 7th April 2008,

the date is the relevant date for that case.

(7) In this article—

"eligible rent" shall be construed, except in the definition of "the relevant date", in accordance with—

- (a) regulations 12 or 12A of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before the 7th April 2008; or
- (b) in a case to which paragraph 4 of Schedule 3 to the Consequential Provisions Regulations applies, regulations 12 and 13 of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of that Schedule as in force immediately before the 7th April 2008;

"maximum rent (standard local rate)" means a maximum rent (standard local rate) determined in accordance with regulation 13A of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before 7th April 2008;

"non-local housing allowance case" means a case where no reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008;

"the relevant date" means, in relation to a non-local housing allowance case—

- (a) the day on or after 7th April 2008 when any of the following sub-paragraphs first applies—
 - (i) a relevant authority is required to apply to a rent officer by virtue of regulation 14 of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;
 - (ii) sub-paragraph (i) would apply but for the case falling within regulation 14(4)(a) of, or 14(4)(b) of and paragraph 2 of Schedule 2 to, the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;
 - (iii) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3)(b) of the Regulations or the Housing Benefit (State Pension Credit) Regulations as in force immediately before that day;
 - (iv) a relevant authority is required to determine an eligible rent in accordance with regulation 12(3) of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as set out in paragraph 5 of Schedule 3

to the Consequential Provisions Regulations as in force immediately before that day; or

- (b) 6th April 2009 in any case where paragraph (a) does not apply before that date;

"relevant authority" means an authority administering housing benefit.

Transitional provisions and savings in relation to section 130(4) of the Contributions and Benefits Act and extended payments

4.—(1) Notwithstanding article 2, regulations 72 and 73 of, and Schedules 7 and 8 to, the Regulations, and regulation 53 of, and Schedule 7 to, the Housing Benefit (State Pension Credit) Regulations shall continue to have effect in relation to the period ending on 6th October 2008 or such later date as is provided by paragraphs (2) or (3).

(2) Where an extended payment award is determined before 6th October 2008 and the extended payment period will end after that date, the date shall be the end of that extended payment period.

(3) Where a claim for an extended payment is made or treated as made on a date before 6th October 2008 but the extended payment award was not determined by that date, the date shall be the end of that extended payment period.

(4) In this Article—

"extended payment" means a payment of housing benefit pursuant to—

- (a) regulation 72 of the Regulations (extended payments);
(b) regulation 73 of the Regulations (extended payments (severe disablement allowance and incapacity benefit)); or
(c) regulation 53 of the Housing Benefit (State Pension Credit) Regulations (extended payments severe disablement allowance and incapacity benefit), where the date on which the claimant ceased to be entitled to housing benefit in accordance with regulation 77 or 78 of the Regulations or regulation 58 of the Housing Benefit (State Pension Credit) Regulations was before 6th October 2008; and

"extended payment period" means the period during which a person is entitled to housing benefit in accordance with regulation 72(6) or 73(6) of the Regulations or regulation 53(6) of the Housing Benefit (State Pension Credit) Regulations.

Transitional provisions and savings in relation to section 5(3) of the Administration Act

5. Notwithstanding article 2, any regulations made under both section 5(1)(h) and 5(3) of the Administration Act shall continue to have effect for all purposes relating to the furnishing of information or evidence required by a rent officer under section 122 of the Housing Act 1996 in relation to a claim for or an award of housing benefit which relates to any period before 7th April 2008.

Signed by authority of the Secretary of State for Work and Pensions

30th September 2007

James Plaskitt
Parliamentary Under Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the coming into force of the following provisions in the Welfare Reform Act 2007 ("the Act")—

- (a) section 30(1) of the Act (local housing allowance);
- (b) section 30(2) of the Act (insertion of section 130A (appropriate maximum housing benefit) into the Social Security Contributions and Benefits Act 1992 ("the Contributions and Benefits Act");
- (c) section 30(3) of the Act (amendment of paragraph 4 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (housing benefit and council tax benefit: revisions and appeals);
- (d) section 35(1) to (3) of the Act (information relating to housing benefit);
- (e) section 40 and paragraph 12 of Schedule 5 to the Act (minor and consequential amendments relating to Part 2) so far as it relates to the amendment of section 122(5) of the Housing Act 1996 ("the Housing Act"); and
- (f) section 67 and Schedule 8 to the Act (repeals), in so far as it relates to the repeal of—
 - (i) section 130(4) of the Contributions and Benefits Act (housing benefit);
 - (ii) section 5(3) of the Social Security Administration Act 1992 ("the Administration Act") (power to make regulations about information or evidence required by rent officer);
 - (iii) section 122(3) of the Housing Act (functions of rent officers in connection with housing benefit and rent allowance subsidy);
 - (iv) in section 122(5)(b) of the Housing Act, the words "or regulations"; and
 - (v) paragraph 3(2) of Schedule 13 to the Housing Act (housing benefit and related matters: consequential amendments).

The current powers will be repealed on 7 April 2008, except to the extent that they are saved by Articles 3 to 5 of the Commencement Order.

Article 3 saves section 130(4) of the Contributions and Benefits Act and sections 122(3) and (5) of the Housing Act for certain purposes. It also saves regulations made under those provisions for certain periods, subject to specified exceptions and to the provisions in Article 4 relating to extended payments. Once those regulations cease to have effect in any particular case, regulations made under the new powers in section 30 of the Act will apply to those cases.

Under Article 3—

- (a) for cases in which reference was made to maximum rent (standard local rate) (known as local housing allowance cases) immediately before 7th April 2008 (or a claim in such a case is treated as made before that date), the period in relation to which the regulations will apply is until 7th April 2008. This is to ensure that regulations made under section 130(4) of the Contributions and Benefits Act will continue to apply for the period up to 7th April 2008, even where decisions relating to that period are made after that date; and
- (b) for non-local housing allowance cases, the move to the new powers will be staggered. In any particular case regulations made under section 130(4) of the Contributions and Benefits Act will continue to apply until the relevant date for that case or such later date if the claim was made (or treated as made) before the relevant date for that case. Any remaining non-local housing allowance cases which have not already transferred to regulations under the new powers will do so on 6th April 2009.

Article 4 provides that regulations made under section 130(4) of the Contributions and Benefits Act which relate to extended payments will continue to apply until 6th October 2008 or such later date as is provided in that article.

Article 5 provides that regulations made under both section 5(1)(h) and 5(3) of the Administration Act will continue to apply for all purposes which relate to requiring persons to furnish information or evidence to a rent officer in relation to an award of housing benefit for any period before 7th April 2008.

A full regulatory impact assessment has not been published for this instrument as it has no direct impact on the costs of businesses, charities and the voluntary sector.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been or will be brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 31 (partially)	14.06.2007	2007/1721
s. 31 (remainder)	1.11.2007	2007/1721
s. 41(1)	1.10.2007	[2007/]
s. 521.10.2007	[2007/]	
s. 531.10.2007	[2007/]	
s. 58, Schedule 6 (partially)	12.07.2007	2007/1991
s. 58, Schedule 6 (remainder)	10.08.2007	2007/1991
s. 60 (partially)	1.10.2007	[2007/]
s. 60 (remainder)	29.10.2007	[2007/]
s. 63, Schedule 7, paragraph 2 (partially)	1.10.2007	[2007/]
s. 67, Schedule 8 (partially)	1.10.2007	[2007/]

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Supp. means Supplement No.

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RECORD OF AMENDMENTS FOR VOLUME 13

[Volume 13 was issued in Dec 2007 as “Initial Issue” and therefore within the normal run of Supplement Nos. for all other volumes, the first amendment to this initial Issue will be Supp. 82.]

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