

Welfare Reform Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Work and Pensions, are published separately as HL Bill 32 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord McKenzie of Luton has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Welfare Reform Bill are compatible with the Convention rights.

Welfare Reform Bill

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TO

Amend the law relating to social security; to make provision enabling disabled people to be given greater control over the way in which certain public services are provided for them; to amend the law relating to child support; to make provision about the registration of births; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

SOCIAL SECURITY

“Work for your benefit” schemes etc.

1 Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc. 5

- (1) The Jobseekers Act 1995 (c. 18) is amended as follows.
- (2) After section 17 insert—

““Work for your benefit” schemes etc.

17A Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc. 10

- (1) Regulations may make provision for or in connection with imposing on claimants in prescribed circumstances a requirement to participate in schemes of any prescribed description that are designed to assist them to obtain employment.
- (2) Regulations under this section may, in particular, require participants to undertake work, or work-related activity, during any prescribed period with a view to improving their prospects of obtaining employment. 15

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- (3) In subsection (2) “work-related activity”, in relation to any person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so.
- (4) Regulations under this section may not require a person to participate in a scheme unless the person would (apart from the regulations) be required to meet the jobseeking conditions. 5
- (5) Regulations under this section may, in particular, make provision –
- (a) for notifying participants of the requirement to participate in a scheme within subsection (1);
 - (b) for securing that participants are not required to meet the jobseeking conditions or are not required to meet such of those conditions as are specified in the regulations; 10
 - (c) for suspending any jobseeker’s agreement to which a person is a party for any period during which the person is a participant;
 - (d) for securing that the appropriate consequence follows if a participant has failed to comply with the regulations and it is not shown, within a prescribed period, that the participant had good cause for the failure; 15
 - (e) prescribing matters which are, or are not, to be taken into account in determining whether a participant has good cause for any failure to comply with the regulations; 20
 - (f) prescribing circumstances in which a participant is, or is not, to be regarded as having good cause for any failure to comply with the regulations.
- (6) In the case of a jobseeker’s allowance other than a joint-claim jobseeker’s allowance, the appropriate consequence for the purposes of subsection (5)(d) is that the allowance is not payable for such period (of at least one week but not more than 26 weeks) as may be prescribed. 25
- (7) In the case of a joint-claim jobseeker’s allowance, the appropriate consequence for the purposes of subsection (5)(d) is that the participant is to be treated as subject to sanctions for the purposes of section 20A for such period (of at least one week but not more than 26 weeks) as may be prescribed. 30
- (8) Regulations under this section may make provision for an income-based jobseeker’s allowance to be payable in prescribed circumstances even though other provision made by the regulations would prevent payment of it. 35
- This subsection does not apply in the case of a joint-claim jobseeker’s allowance (corresponding provision for which is made by section 20B(4)). 40
- (9) The provision that may be made by the regulations by virtue of subsection (8) includes, in particular, provision for the allowance to be –
- (a) payable only if prescribed requirements as to the provision of information are complied with; 45
 - (b) payable at a prescribed rate;
 - (c) payable for a prescribed period (which may differ from any period mentioned in subsection (6)).
- (10) In this section –

“claimant”, in relation to a joint-claim couple claiming a joint-claim jobseeker’s allowance, means either or both of the members of the couple;

“the jobseeking conditions” means the conditions set out in section 1(2)(a) to (c);

“participant”, in relation to any time, means any person who is required at that time to participate in a scheme within subsection (1).

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17B Section 17A: supplemental

(1) For the purposes of, or in connection with, any scheme within section 17A(1) the Secretary of State may – 10

(a) make arrangements (whether or not with other persons) for the provision of facilities;

(b) provide support (by whatever means) for arrangements made by other persons for the provision of facilities; 15

(c) make payments (by way of fees, grants, loans or otherwise) to persons undertaking the provision of facilities under arrangements within paragraph (a) or (b);

(d) make payments (by way of grants, loans or otherwise) to persons participating in the scheme; 20

(e) make payments in respect of incidental expenses.

(2) For the purposes of, or in connection with, any scheme within section 17A(1) –

(a) the Scottish Ministers, and

(b) the Welsh Ministers, 25

may make payments (by way of fees, grants, loans or otherwise) to persons (including the Secretary of State) undertaking the provision of facilities under arrangements within subsection (1)(a) or (b) if the following condition is met.

(3) The condition is that the Scottish Ministers or the Welsh Ministers consider that the facilities are capable of supporting the training in Scotland or Wales of persons for employment. 30

(4) Unless the Scottish Ministers or Welsh Ministers otherwise specify, the payments may be used by the person to whom they are made for the provision of any of the facilities provided under the arrangements. 35

(5) In subsections (1) to (4) “facilities” includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(6) The power of the Secretary of State to make an order under section 26 of the Employment Act 1988 (status of trainees etc) includes power to make, in relation to – 40

(a) persons participating in any scheme within section 17A(1), and

(b) payments received by them by virtue of subsection (1) above,

provision corresponding to any provision which (by virtue of section 26(1) or (2) of that Act) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in section 26(1) of that Act.” 45

- (3) In section 36 (regulations and orders), after subsection (4) insert –
- “(4A) Without prejudice to the generality of the provisions of this section –
- (a) regulations under section 17A may make different provision for different areas;
 - (b) regulations under section 17A may make provision which applies only in relation to an area or areas specified in the regulations.” 5
- (4) In paragraph 3 of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies: payability of benefit), after paragraph (d) insert –
- “(da) regulations made under section 17A of the Jobseekers Act;”. 10
- (5) In –
- (a) section 63(2)(b)(i) of the Child Support, Pensions and Social Security Act 2000 (c. 19) (loss of joint-claim jobseeker’s allowance), and
 - (b) section 8(2)(b)(i) of the Social Security Fraud Act 2001 (c. 11) (effect of offence on joint-claim jobseeker’s allowance), 15
- after “is” insert “(or is treated as being)”.

Revised system of working-age benefits

2 Work-related activity: income support claimants and partners of claimants

- (1) The Social Security Administration Act 1992 (c. 5) is amended as follows.
- (2) After section 2C insert – 20
- “2D Work-related activity**
- (1) Regulations may make provision for or in connection with imposing on a person who is entitled to income support a requirement to undertake work-related activity in accordance with regulations as a condition of continuing to be entitled to the full amount of income support payable apart from the regulations. 25
 - (2) Regulations may make provision for or in connection with imposing on a person (“P”) who –
 - (a) is under pensionable age, and
 - (b) is a member of a couple the other member of which (“C”) is entitled to a benefit to which subsection (3) applies at a higher rate referable to P, 30
 a requirement to undertake work-related activity in accordance with regulations as a condition of the benefit continuing to be payable to C at that rate. 35
 - (3) The benefits to which this subsection applies are –
 - (a) income support;
 - (b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance; and
 - (c) an income-related employment and support allowance. 40
 - (4) Regulations under this section may, in particular, make provision –

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- (a) prescribing circumstances in which a person is to be subject to any requirement imposed by the regulations (a “relevant requirement”);
- (b) for notifying a person of a relevant requirement;
- (c) prescribing the time or times at which a person who is subject to a relevant requirement is required to undertake work-related activity and the amount of work-related activity the person is required at any time to undertake; 5
- (d) prescribing circumstances in which a person who is subject to a relevant requirement is, or is not, to be regarded as undertaking work-related activity; 10
- (e) in a case where C is a member of more than one couple, for determining which of the members of the couples is to be subject to a relevant requirement or requiring each of them to be subject to a relevant requirement; 15
- (f) for securing that the appropriate consequence follows if –
- (i) a person who is subject to a relevant requirement has failed to comply with the requirement, and
 - (ii) it is not shown, within a prescribed period, that the person had good cause for that failure; 20
- (g) prescribing the evidence which a person who is subject to a relevant requirement needs to provide in order to show compliance with the requirement;
- (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 a relevant requirement; 25
- (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.
- (5) For the purposes of subsection (4)(f) the appropriate consequence is that the amount of the benefit payable is to be reduced by the prescribed amount until the prescribed time. 30
- (6) Regulations under subsection (5) may, in relation to any such reduction, provide –
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed; 35
 - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent.
- (7) 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. 40
- (8) For the purposes of this section and sections 2E and 2F –
- (a) “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act;
 - (b) “prescribed” means specified in, or determined in accordance with, regulations; 45
 - (c) “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;

- (d) any reference to a person attaining pensionable age is, in the case of a man born before 6 April 1955, a reference to the time when a woman born on the same day as the man would attain pensionable age;
- (e) any reference to a benefit payable to C at a higher rate referable to P is a reference to any case where the amount payable is more than it would be if C and P were not members of the same couple. 5
- (9) Information supplied in pursuance of regulations under this section is to be taken for all purposes to be information relating to social security. 10
- 2E Action plans in connection with work-focused interviews**
- (1) The Secretary of State must in prescribed circumstances provide a document (referred to in this section as an “action plan”) prepared for such purposes as may be prescribed to a person who is subject to a requirement imposed under section 2A or 2AA in relation to any of the following benefits. 15
- (2) The benefits are –
- (a) income support;
- (b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance; and 20
- (c) an income-related employment and support allowance.
- (3) 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. 25
- (4) Regulations under this section may, in particular, make provision for action plans which are provided to a person who is subject under section 2D to a requirement to undertake work-related activity to contain particulars of activity which, if undertaken, would enable the requirement to be met. 30
- (5) Regulations may make provision for reconsideration of an action plan at the request of the person to whom it 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; 35
- (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. 40
- 2F Directions about work-related activity**
- (1) In prescribed circumstances, the Secretary of State may by direction given to a person subject to a requirement imposed under section 2D provide that the activity specified in the direction is –
- (a) to be the only activity which, in the person’s case, is to be regarded as being work-related activity; or 45

- (b) to be regarded, in the person's case, as not being work-related activity.
- (2) A direction under subsection (1) given to any person –
 - (a) must be reasonable, having regard to the person's circumstances; 5
 - (b) must be given to the person by being included in an action plan provided to the person under section 2E; and
 - (c) may be varied or revoked by a subsequent direction under subsection (1).
- (3) Where a direction under subsection (1) varies or revokes a previous direction, it may provide for the variation or revocation to have effect from a time before the giving of the direction. 10

2G Contracting-out

- (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 – 15
 - (a) conducting interviews under section 2A or 2AA;
 - (b) providing documents under section 2E;
 - (c) giving, varying or revoking directions under section 2F.
- (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 – 20
 - (a) any function under regulations under any of sections 2A to 2F, except the making of an excluded decision (see subsection (3));
 - (b) the function under section 9(1) of the 1998 Act (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under regulations under any of sections 2A to 2F; 25
 - (c) the function under section 10(1) of the 1998 Act (superseding of decisions) so far as relating to decisions (other than excluded decisions) of the Secretary of State that relate to any matter arising under regulations under any of sections 2A to 2F; 30
 - (d) any function under Chapter 2 of Part 1 of the 1998 Act (social security decisions), except section 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within paragraphs (a) to (c). 35
- (3) Each of the following is an “excluded decision” for the purposes of subsection (2) –
 - (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 2A, 2AA or 2D; 40
 - (b) a decision about whether a person had good cause for failure to comply with such a requirement;
 - (c) a decision about the reduction of a benefit in consequence of a failure to comply with such a requirement. 45
- (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 as the regulations may provide,
 and
 (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide. 5
- (5) An authorisation given by virtue of any provision made by or under this section 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 as may be so specified, and 10
 (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;
 but, in the case of an authorisation given by virtue of regulations under subsection (2), this subsection is subject to the regulations.
- (6) An authorisation given by virtue of any provision made by or under this section – 15
 (a) may specify its duration,
 (b) may be revoked at any time by the Secretary of State, and
 (c) does not prevent the Secretary of State or any other person from exercising the function to which the authorisation relates. 20
- (7) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State. 25
- (8) But subsection (7) does not apply –
 (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
 (b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person). 30
- (9) Any decision which an authorised person makes in exercise of the function concerned has effect as a decision of the Secretary of State under section 8 of the 1998 Act. 35
- (10) Where –
 (a) the authorisation of an authorised person is revoked at any time, and
 (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting, 40
 the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).
- (11) In this section –
 (a) “the 1998 Act” means the Social Security Act 1998; 45
 (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this section;

- (c) references to functions of the Secretary of State under any enactment (including one comprised in regulations) include functions which the Secretary of State has by virtue of the application of section 8(1)(c) of the 1998 Act in relation to the enactment.” 5
- (3) In the italic heading before section 2A, insert “*and work-related activity*”.
- (4) In section 189(7A) (regulations which may make provision only in relation to specified areas), for “2C” substitute “2F”.
- (5) In section 72(3) of the Welfare Reform and Pensions Act 1999 (c. 30) (supply of information for certain purposes), for paragraphs (a) and (aa) substitute – 10
“(a) any of sections 2A to 2F and 7A of the Administration Act,”.
- 3 Entitlement to jobseeker’s allowance without seeking employment etc.**
- (1) The Jobseekers Act 1995 (c. 18) is amended as follows.
- (2) In section 1 (the jobseeker’s allowance) – 15
(a) for subsections (2) to (2D) substitute –
“(1A) The circumstances in which a claimant is entitled to a jobseeker’s allowance are set out in –
(a) section 1A (jobseeker’s allowance other than joint-claim jobseeker’s allowance), and
(b) section 1B (joint-claim jobseeker’s allowance).”, and 20
(b) in subsection (4), for the definition of “a joint-claim couple” substitute –
““a joint-claim couple” means a couple other than a couple of a prescribed description;”.
- (3) After section 1 insert – 25
“1A Jobseeker’s allowance other than joint-claim jobseeker’s allowance
- (1) A claimant is entitled to a jobseeker’s allowance if the claimant meets –
(a) the basic conditions; and
(b) the conditions set out in section 2 (the contribution-based conditions). 30
- (2) A claimant who –
(a) is not a member of a joint-claim couple, or
(b) is a member of a joint-claim couple the other member of which has limited capability for work,
is entitled to a jobseeker’s allowance if the claimant meets condition A or B. 35
- (3) Condition A is that the claimant meets –
(a) the basic conditions; and
(b) the applicable conditions set out in section 3 (the income-based conditions). 40
- (4) Condition B is that the claimant –
(a) is not otherwise entitled to a jobseeker’s allowance;
(b) meets the basic conditions other than the jobseeking conditions;

- (c) falls within a prescribed description of person; and
 - (d) meets the applicable conditions set out in section 3.
- (5) For the purposes of this Act a person meets the basic conditions if the person—
- (a) is available for employment; 5
 - (b) has entered into a jobseeker’s agreement which remains in force;
 - (c) is actively seeking employment;
 - (d) is not engaged in remunerative work;
 - (e) does not have limited capability for work; 10
 - (f) is not receiving relevant education;
 - (g) is under pensionable age; and
 - (h) is in Great Britain.
- (6) Regulations may prescribe circumstances in which subsection (2) is to apply to a claimant who is a member of a joint-claim couple the other member of which does not have limited capability for work. 15
- (7) Subsections (1) and (2) are subject to the provisions of this Act.

1B Joint-claim jobseeker’s allowance

- (1) A joint-claim couple are entitled to a jobseeker’s allowance if—
- (a) a claim for the allowance is made jointly by the couple; 20
 - (b) each member of the couple meets the basic conditions; and
 - (c) the conditions set out in section 3A are met in relation to the couple.
- (2) Regulations may, in respect of cases where a person would (but for the regulations) be a member of two or more joint-claim couples, make provision for only one of those couples to be a joint-claim couple. 25
- (3) The regulations may, in particular, make provision for the couple which is to be the joint-claim couple to be nominated—
- (a) by the persons who are members of the couple; or
 - (b) in default of one of the couples being so nominated, by the Secretary of State. 30
- (4) Subsection (1) is subject to the provisions of this Act.”
- (4) Schedule 1 contains—
- (a) amendments of the Jobseekers Act 1995 (c. 18) to provide for work-focused interviews, and action plans in consequence of work-focused interviews, for persons entitled to a jobseeker’s allowance without being required to meet the jobseeking conditions, 35
 - (b) amendments of that Act to provide for the imposition on such persons of requirements to undertake work-related activity, and
 - (c) other amendments in consequence of, or otherwise in connection with, the amendments made by this section or the amendments mentioned in paragraphs (a) and (b). 40

4 Couples where at least one member capable of work

- (1) In section 124 of the Social Security Contributions and Benefits Act 1992 (c. 4) (conditions for income support) –
- (a) in subsection (1), after paragraph (g) (but before the “and” at the end of it) insert – 5
 - “(ga) except in such circumstances as may be prescribed, if he is a member of a couple, the other member of the couple has limited capability for work;”,
 - (b) after subsection (6) insert –
 - “(6A) The question whether a person has, or does not have, limited capability for work shall be determined for the purposes of this section in accordance with the provisions of Part 1 of the Welfare Reform Act 2007 (employment and support allowance). 10
 - (6B) References in that Part to the purposes of that Part shall be construed, where the provisions of that Part have effect for the purposes of this section, as references to the purposes of this section.”, and 15
 - (c) in subsection (7), for “Part 1 of the Welfare Reform Act 2007 (employment and support allowance)” substitute “that Part”.
- (2) In paragraph 6 of Schedule 1 to the Welfare Reform Act 2007 (c. 5) (conditions for income-related employment and support allowance) – 20
- (a) in sub-paragraph (1), after paragraph (d) insert –
 - “(da) is not a member of a couple the other member of which does not have limited capability for work;”, 25
 - and
 - (b) after sub-paragraph (2) insert –
 - “(2A) Regulations may prescribe circumstances in which sub-paragraph (1)(da) does not apply.”

5 Statutory sick pay and employment and support allowance

In section 20 of the Welfare Reform Act 2007 (relationship of employment and support allowance with statutory sick pay and other statutory payments), for subsection (1) substitute – 30

- “(1) A person –
- (a) is not entitled to a contributory allowance in respect of a day, and 35
 - (b) except as regulations may provide, is not entitled to an income-related allowance in respect of a day,
- if, for the purposes of statutory sick pay, that day is a day of incapacity for work in relation to a contract of service and falls within a period of entitlement (whether or not it is a qualifying day).” 40

6 Transitional provision relating to sections 3 to 5

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers necessary or expedient for the purposes of, or in connection with, the transition of persons to –
- (a) income-based jobseeker’s allowance, or 45

- (b) income-related employment and support allowance, by virtue of any provision of sections 3 to 5.
- (2) Regulations under this section may, in particular, make provision –
- (a) for the termination or cancellation of awards of income support or income-related employment and support allowance; 5
 - (b) for a person whose award of income support or income-related employment and support allowance has been terminated or cancelled under regulations made by virtue of paragraph (a) to be treated as having been awarded a transitional allowance;
 - (c) for any such award of a transitional allowance to be – 10
 - (i) of such a kind,
 - (ii) for such period,
 - (iii) of such an amount, and
 - (iv) subject to such conditions,
 as may be determined in accordance with the regulations; 15
 - (d) for a person’s continuing entitlement to a transitional allowance to be determined by reference to such provision as may be made by the regulations;
 - (e) for the termination of an award of a transitional allowance;
 - (f) for the review of an award of a transitional allowance; 20
 - (g) that –
 - (i) days which were days of entitlement to income support or income-related employment and support allowance, and
 - (ii) such other days as may be specified in or determined in accordance with the regulations, 25
 are to be treated as having been days during which a person was, or would have been, entitled to an income-based jobseeker’s allowance or income-related employment and support allowance.
- (3) Subsections (3) to (5) of section 175 of the Social Security Contributions and Benefits Act 1992 (c. 4) (supplementary provisions in relation to powers to make subordinate legislation under that Act) apply in relation to the power to make regulations under this section as they apply to any power to make regulations under that Act. 30
- (4) The power to make regulations under this section is exercisable by statutory instrument. 35
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section –
- “income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995 (c. 18); 40
 - “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (c. 5) (employment and support allowance);
 - “transitional allowance” means an income-based jobseeker’s allowance or income-related employment and support allowance. 45

Abolition of income support

7 Abolition of income support

- (1) This section applies if, whether as a result of –
 - (a) provision made by any regulations under section 1A(4)(c) or (6) of the Jobseekers Act 1995 (c. 18) (as inserted by section 3 above), or 5
 - (b) provision made by or under any other enactment, or otherwise, the Secretary of State considers that it is no longer appropriate for any category of person to be prescribed under section 124(1)(e) of the Social Security Contributions and Benefits Act 1992 (c. 4) (conditions for income support).
- (2) The Secretary of State may by order provide for section 124 of the Social Security Contributions and Benefits Act 1992 (which establishes the entitlement to income support) to cease to have effect. 10
- (3) If an order is made under subsection (2) –
 - (a) the amendments made by Schedule 2, and
 - (b) the repeals in Part 1 of Schedule 7, 15have effect in accordance with provision made by the order.
- (4) The Secretary of State may by order make such transitional or consequential provision or savings as the Secretary of State considers necessary or expedient for the purposes of or in connection with the abolition of income support (including provision of the kind mentioned in section 6(2)). 20
- (5) The consequential provision that may be made by an order under subsection (4) includes, in particular, provision amending, repealing or revoking –
 - (a) any provision of any Act (whenever passed), or
 - (b) any provision of any instrument made under any Act (whenever made). 25
- (6) In subsection (5) “Act” means –
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament, or
 - (c) a Measure or Act of the National Assembly for Wales.
- (7) Subsections (3) to (5) of section 175 of the Social Security Contributions and Benefits Act 1992 (supplementary provisions in relation to powers to make subordinate legislation under that Act) apply in relation to any power to make an order under this section as they apply to any power to make orders under that Act. 30
- (8) Any power to make an order under this section is exercisable by statutory instrument. 35
- (9) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Work-related activity for claimants of employment and support allowance

8 Power to direct claimant to undertake specific work-related activity 40

In section 15 of the Welfare Reform Act 2007 (c. 5) (directions about work-

related activity), for subsections (1) and (2) substitute –

- “(1) In prescribed circumstances, the Secretary of State may by direction given to a person subject to a requirement imposed under section 13(1) provide that the activity specified in the direction is –
- (a) to be the only activity which, in the person’s case, is to be regarded as being work-related activity; or
 - (b) to be regarded, in the person’s case, as not being work-related activity.
- (2) A direction under subsection (1) given to any person –
- (a) must be reasonable, having regard to the person’s circumstances;
 - (b) must be given to the person by being included in an action plan provided to the person under section 14; and
 - (c) may be varied or revoked by a subsequent direction under subsection (1).”

Jobseeker’s allowance and employment and support allowance: drugs

9 Claimants dependent on drugs etc.

- (1) Part 1 of Schedule 3 makes provision for or in connection with imposing requirements on claimants for a jobseeker’s allowance in cases where –
- (a) they are dependent on, or have a propensity to misuse, any drug, and
 - (b) any such dependency or propensity is a factor affecting their prospects of obtaining or remaining in work.
- (2) Part 1 of that Schedule also contains a power for the provisions concerned to apply in relation to alcohol.
- (3) Part 2 of that Schedule makes similar provision in relation to claimants for an employment and support allowance.

Contributory jobseeker’s allowance and employment and support allowance

10 Conditions for contributory jobseeker’s allowance

- (1) Section 2 of the Jobseekers Act 1995 (c. 18) (jobseeker’s allowance: the contribution-based conditions) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute –
- “(b) the claimant’s relevant earnings for the base year upon which primary Class 1 contributions have been paid or treated as paid are not less than the base year’s lower earnings limit multiplied by 26.”
- (3) After that subsection insert –
- “(2A) Regulations may make provision for the purposes of subsection (2)(b) for determining the claimant’s relevant earnings for the base year.
- (2B) Regulations under subsection (2A) may, in particular, make provision –

- (a) for making that determination by reference to the amount of a person's earnings for periods comprised in the base year;
- (b) for determining the amount of a person's earnings for any such period by –
 - (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Benefits Act, and 5
 - (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base year's lower earnings limit (or the prescribed equivalent).” 10
- (4) In subsection (3A), for “subsections (2)(b) and (3)” substitute “subsection (3)”.
- (5) After that subsection insert –
 - “(3B) Regulations may –
 - (a) provide for the first set of conditions to be taken to be satisfied in the case of persons – 15
 - (i) who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time, or
 - (ii) who satisfy other prescribed conditions; 20
 - (b) with a view to securing any relaxation of the requirements of the first set of conditions in relation to persons who have been entitled as mentioned in paragraph (a)(i), provide for that set of conditions to apply in relation to them subject to prescribed modifications. 25
 - (3C) In subsection (3B) –
 - “the first set of conditions” means the condition set out in subsection (1)(a) and the additional conditions set out in subsection (2);
 - “benefit” means – 30
 - (a) any benefit within the meaning of section 122(1) of the Benefits Act,
 - (b) any benefit under Parts 7 to 12 of the Benefits Act,
 - (c) credits under regulations under section 22(5) of the Benefits Act, 35
 - (d) a contribution-based jobseeker's allowance, and
 - (e) working tax credit.”
 - (6) In paragraph 45 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) (which amended section 2(2)(b) of the Jobseekers Act 1995 (c. 18)), for “section 2(2)(b) and (3)” substitute “section 2(3)”. 40

11 Conditions for contributory employment and support allowance

- (1) Paragraph 1 of Schedule 1 to the Welfare Reform Act 2007 (c. 5) (employment and support allowance: conditions relating to national insurance) is amended as follows.
- (2) In sub-paragraph (1)(a) (Class 1 or Class 2 contributions to have been paid in respect of one of last three complete tax years), for “three” substitute “two”. 45

- (3) In sub-paragraph (1), for paragraph (c) substitute –
 “(c) the claimant’s earnings determined in accordance with sub-paragraph (2) must be not less than the base tax year’s lower earnings limit multiplied by 26.”
- (4) For sub-paragraphs (2) and (3) substitute – 5
 “(2) The earnings referred to in sub-paragraph (1)(c) are the aggregate of –
 (a) the claimant’s relevant earnings for the base tax year upon which primary Class 1 contributions have been paid or treated as paid, and 10
 (b) the claimant’s earnings factors derived from Class 2 contributions.
 (3) Regulations may make provision for the purposes of sub-paragraph (2)(a) for determining the claimant’s relevant earnings for the base tax year. 15
 (3A) Regulations under sub-paragraph (3) may, in particular, make provision –
 (a) for making that determination by reference to the amount of a person’s earnings for periods comprised in the base tax year; 20
 (b) for determining the amount of a person’s earnings for any such period by –
 (i) first determining the amount of the earnings for the period in accordance with regulations made for the purposes of section 3(2) of the Contributions and Benefits Act, and 25
 (ii) then disregarding so much of the amount found in accordance with sub-paragraph (i) as exceeded the base tax year’s lower earnings limit (or the prescribed equivalent).” 30
- (5) In sub-paragraph (4) –
 (a) in paragraph (a), for “persons who” substitute “persons –
 (i) who”,
 (b) in that paragraph, after “prescribed time” insert “, or
 (ii) who satisfy other prescribed conditions”, and 35
 (c) in paragraph (b), for “so entitled” substitute “entitled as mentioned in paragraph (a)(i)”.

*Disability living allowance***12 Mobility component**

- (1) Section 73 of the Social Security Contributions and Benefits Act 1992 (c. 4) 40
 (mobility component of disability living allowance) is amended as follows.
- (2) In subsection (1), for paragraph (b) (together with the “or” at the end of it) substitute –
 “(ab) he falls within subsection (1AB) below; or

- (b) he does not fall within that subsection but does fall within subsection (2) below; or”.
- (3) In subsection (1A)(a), after “paragraph (a),” insert “(ab),”.
- (4) After subsection (1A) insert –
 - “(1AB) A person falls within this subsection if – 5
 - (a) he has such severe visual impairment as may be prescribed; and
 - (b) he satisfies such other conditions as may be prescribed.”
- (5) In subsection (11)(a), after “subsection (1)(a),” insert “(ab),”.

13 Disability living allowance for blind claimants

- (1) Section 73 of the Social Security Contributions and Benefits Act 1992 (c. 4) (mobility component of disability living allowance) is amended as follows. 10
- (2) In subsection (1), after paragraph (b) insert –
 - “(ba) he falls within subsection (2A); or”.
- (3) In subsection (1A)(a), after “(b),” insert “(ba),”.
- (4) After subsection (2) insert – 15
 - “(2A) A person falls within this subsection if –
 - (a) he is blind; and
 - (b) he satisfies such other conditions as may be prescribed.”
- (5) In subsection (5), after “(2)(a)” insert “or subsection (2A)(a)”.
- (6) In subsection (11)(a), after “(b),” insert “(ba),” 20

Abolition of adult dependency increases

14 Maternity allowance and carer’s allowance

- (1) The following provisions of the Social Security Contributions and Benefits Act 1992 (c. 4) (“the Benefits Act”) are omitted on 6 April 2010 –
 - (a) section 82 (maternity allowance: increase for adult dependants); and 25
 - (b) section 90 (carer’s allowance: increase for adult dependants).
- (2) Nothing in subsection (1) or Part 2 of Schedule 7 applies in relation to –
 - (a) the amount of a maternity allowance payable for a maternity allowance period (within the meaning of section 35(2) of the Benefits Act) which begins before 6 April 2010 but ends on or after that date, or 30
 - (b) the amount of a carer’s allowance payable to a qualifying person at any time on or after 6 April 2010 but before the appropriate date.
- (3) In subsection (2)(b) –
 - “a qualifying person” means a person who –
 - (a) has, before 6 April 2010, made a claim for an increase in a carer’s allowance under section 90 of the Benefits Act; and 35
 - (b) immediately before that date is either entitled to the increase claimed or a beneficiary to whom section 92 of the Benefits Act

applies in respect of that increase (continuation of awards where fluctuating earnings);

“the appropriate date” means whichever is the earlier of—

- (a) 6 April 2020; and
- (b) the date when the qualifying person ceases to be either entitled to that increase or a beneficiary to whom section 92 of the Benefits Act applies in respect of that increase. 5

External provider social loans

15 External provider social loans

- (1) After Part 8 of the Social Security Contributions and Benefits Act 1992 (c. 4) insert— 10

“PART 8ZA

EXTERNAL PROVIDER SOCIAL LOANS

140ZA Arrangements for external provider social loans

- (1) The Secretary of State may with the consent of the Treasury make such arrangements as the Secretary of State thinks fit with any person for the purpose of securing the making by that person (“the lender”) of loans to eligible persons. 15
- (2) In subsection (1) “eligible person” means an individual who—
 - (a) is in receipt of a prescribed benefit, or 20
 - (b) has needs of a prescribed description.
- (3) Arrangements under this section may relate to particular areas in Great Britain or to the whole of Great Britain.
- (4) Arrangements under this section may provide for the making of payments by the Secretary of State to the lender— 25
 - (a) in respect of sums required for making loans, and
 - (b) in respect of other expenses of the lender.
- (5) Arrangements under this section may in particular—
 - (a) specify categories of eligible person to whom a loan may not be made, 30
 - (b) make provision as to the criteria to be applied by the lender in determining whether to make a particular loan;
 - (c) specify circumstances in which a loan may or may not be made;
 - (d) make provision as to the manner in which the terms and conditions relating to repayment of the loan are to be determined by the lender; 35
 - (e) make provision as to the keeping of accounts by the lender;
 - (f) require the provision of information by the lender to the Secretary of State;
 - (g) require the provision to prospective borrowers of information or guidance about budgeting. 40
- (6) Arrangements under this section may also—

-
- (a) make provision as to the duration of the arrangements and as to the circumstances in which they may be terminated;
- (b) provide for the making of payments by the lender to the Secretary of State if the arrangements cease to be in force.
- (7) Any payments by virtue of subsection (4)(a) are to be made out of the social fund. 5
- (8) Any sums received by virtue of subsection (6)(b) are to be paid into the social fund.
- (9) In this Part a loan made by virtue of arrangements under this section is referred to as an “external provider social loan”. 10
- 140ZB Transfer of loans**
- (1) Arrangements under section 140ZA may provide—
- (a) for the right to repayment of a loan made under section 138(1)(b) before the arrangements come into force to be transferred to the person with whom the arrangements are made, and 15
- (b) for the right to repayment of an external provider social loan to be transferred to the Secretary of State on the arrangements ceasing to be in force.
- (2) Regulations may make provision modifying any provision of this Act, the Administration Act or the Social Security Act 1998 in its application to loans in relation to which provision made by virtue of subsection (1)(a) or (b) has effect. 20
- 140ZC Annual report on operation of arrangements**
- (1) The Secretary of State shall prepare an annual report on the operation of arrangements under section 140ZA. 25
- (2) A copy of every such report shall be laid before each House of Parliament.”
- (2) After section 78 of the Social Security Administration Act 1992 (c. 5) insert—
- “Repayments of external provider social loans* 30
- 78A Repayments of external provider social loans**
- (1) Regulations may provide for the collection by the Secretary of State of repayments of a qualifying loan—
- (a) by deduction in accordance with the regulations from prescribed benefits payable to— 35
- (i) the borrower, or
- (ii) where the borrower is a member of a couple, the other member of the couple, or
- (b) in any other way.
- (2) In subsection (1) “qualifying loan” means— 40
- (a) an external provider social loan, as defined by subsection (9) of section 140ZA of the Contributions and Benefits Act, or

- (b) a loan made by virtue of arrangements made under any provision having effect in Northern Ireland and corresponding to that section.
- (3) The Secretary of State must pay any amounts collected to the person to whom the loan is repayable, except to the extent that the regulations otherwise provide. 5
- (4) In this section “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act.”
- 16 Power to restrict availability of social fund loans**
- In section 138 of the Social Security Contributions and Benefits Act 1992 (payments out of the social fund) after subsection (2) insert – 10
- “(2A) Directions given by the Secretary of State under subsection (1)(b) may restrict the making of payments by way of crisis loan or budgeting loan to persons living in areas in which external provider social loans (as defined by section 140ZA(9)) are to any extent available.” 15
- 17 Supply of information to or by lenders making external provider social loans**
- After section 122F of the Social Security Administration Act 1992 (c. 5) insert –
- “Lenders making external provider social loans*
- 122G Supply of information in connection with external provider social loans** 20
- (1) Regulations may make provision –
- (a) authorising the Secretary of State, or a person providing services to the Secretary of State, to supply to relevant persons information relating to social security, and
- (b) authorising or requiring relevant persons to supply to the Secretary of State, or a person providing services to the Secretary of State, information relating to the operation of arrangements under section 140ZA of the Contributions and Benefits Act (external provider social loans). 25
- (2) In this section “relevant person” means – 30
- (a) a person with whom arrangements have been made under section 140ZA of the Contributions and Benefits Act, or
- (b) a person providing services to such a person.
- (3) Regulations under this section must specify the purposes for which information may be supplied by virtue of subsection (1)(a), which must be purposes connected with external provider social loans. 35
- (4) Regulations may make provision as to the use or disclosure of information supplied under the regulations (including provision creating criminal offences).
- (5) In this section “external provider social loan” has the meaning given by section 140ZA(9) of the Contributions and Benefits Act.” 40

Community care grants

18 Community care grants relating to specified goods or services

- (1) The Social Security Contributions and Benefits Act 1992 (c. 4) is amended as follows.
- (2) In section 138 (payments out of social fund), before subsection (3) insert— 5
“(2B) If or to the extent that directions issued under subsection (2) of section 140 by virtue of subsection (4)(ca) of that section require the award of a community care grant to be expressed as the award of a payment for goods or services specified in the award, the power to make a payment out of the social fund under subsection (1)(b) shall be exercised by making a payment to a third party specified in the award, with a view to the third party providing, or arranging for the provision of, the specified goods or services for the applicant.” 10
- (3) In subsection (3) of that section, for “The power” substitute “If or to the extent that subsection (2B) does not apply, the power”. 15
- (4) In section 139 (awards by social fund officers), in subsection (1), after “how much it is to be” insert “or, where section 138(2B) applies, what goods or services are to be specified”.
- (5) For subsection (5) of that section substitute—
“(5) Payment of an award shall be made to the applicant unless— 20
(a) section 138(2B) applies, or
(b) the appropriate officer determines otherwise.”
- (6) In section 140 (principles of determination), in subsection (4), after paragraph (c) insert—
“(ca) that, except in circumstances specified in the direction, an appropriate officer shall express an award of a community care grant as the award of a payment for goods or services that are— 25
(i) determined by the appropriate officer in accordance with the direction,
(ii) specified in the award, and 30
(iii) to be provided by, or under arrangements made by, a specified person with whom arrangements have been made by the Secretary of State.”
- (7) After that subsection insert—
“(4A) The reference in subsection (1) to the amount or value to be awarded is, in a case where directions under subsection (4)(ca) apply, to be read as a reference to the goods or services to be specified in the award.” 35

19 Community care grants: reviews and information

- (1) In section 38 of the Social Security Act 1998 (c. 14) (reviews of determinations) in subsection (1)— 40
(a) in paragraph (a), after “social fund determination” insert “other than an excluded determination”, and

- (b) in paragraph (b), for “such a determination” substitute “a social fund determination”.
- (2) After that subsection insert –
- “(1A) For the purposes of subsection (1)(a) an “excluded determination” is any determination to award a community care grant where the award is expressed as the award of a payment for goods or services specified in the award, other than such a determination made in prescribed circumstances.” 5
- (3) After section 122G of the Social Security Administration Act 1992 (c. 5) insert –
- “Persons supplying goods and services to recipients of community care grants”* 10

122H Supply of information in connection with community care grants

- (1) In this section “relevant supplier” means –
- (a) a person with whom the Secretary of State has made arrangements of the kind mentioned in section 140(4)(ca)(iii) of the Contributions and Benefits Act (arrangements for supply of goods or services in connection with community care grants), or 15
- (b) a person providing services to such a person.
- (2) Regulations may make provision authorising the Secretary of State, or a person providing services to the Secretary of State, to supply to relevant suppliers information relating to community care grants. 20
- (3) Regulations may make provision authorising or requiring relevant suppliers to supply to the Secretary of State or a person providing services to the Secretary of State, information relating to the operation of the arrangements.
- (4) Regulations under this section must specify the purposes for which information may be supplied by virtue of subsection (2) or (3), which must be purposes connected with community care grants. 25
- (5) Regulations may make provision as to the use or disclosure of information supplied under the regulations (including provision creating criminal offences). 30
- (6) In this section “community care grant” has the same meaning as in Part 8 of the Contributions and Benefits Act.”

Payments on account

20 Payments on account

- (1) The Social Security Administration Act 1992 is amended as follows. 35
- (2) In section 5 (regulations about claims for and payments of benefit) –
- (a) in subsection (1), omit paragraph (r) (which relates to payments on account), and
- (b) after that subsection insert –
- “(1A) Regulations may provide for the making of a payment on account of a benefit to which this section applies – 40

- (a) where a person by or in respect of whom a claim has been or might be made (including a person in respect of whom an award has been made) would be in need if no payment on account were made, or
 - (b) where an award has been made but it is impracticable to pay the full amount of the benefit immediately. 5
- (1B) Regulations may –
 - (a) make provision about the manner in which payments on account of a benefit to which this section applies are to be set against subsequent payments of benefit (other than payments on account), and 10
 - (b) prescribe circumstances in which payments on account are not to be set against subsequent payments of benefit (and are not to be otherwise recoverable).”
- (3) In section 7 (relationship between community charge benefit and other benefits), in subsection (2)(a) for “section 5(1)(r)” substitute “section 5(1A)”. 15
- (4) In section 16 (emergency payments by local authorities and other bodies), in subsection (1), for “subsection (1)(r)” substitute “subsection (1A)”. 15
- (5) In section 71 (overpayments – general), for subsection (7) substitute –
 - “(7) Circumstances may be prescribed in which a payment on account by virtue of section 5(1A) may be recovered to the extent that it is not set against subsequent payments of the benefit to which it relates.” 20

Benefit sanctions for offenders

21 Loss of benefit provisions

- (1) Before section 7 of the Social Security Fraud Act 2001 (c. 11) (but after the italic heading immediately before that section) insert –
 - “6A Meaning of “disqualifying benefit” and “sanctionable benefit” for purposes of sections 6B and 7**
 - (1) In this section and sections 6B and 7 –
 - “disqualifying benefit” means (subject to any regulations under section 10(1)) – 30
 - (a) any benefit under the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995;
 - (b) any benefit under the State Pension Credit Act 2002 or the State Pension Credit Act (Northern Ireland) 2002; 35
 - (c) any benefit under Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);
 - (d) any benefit under the Social Security Contributions and Benefit Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 other than – 40
 - (i) maternity allowance;
 - (ii) statutory sick pay and statutory maternity pay;
 - (e) any war pension;

- “sanctionable benefit” means (subject to subsection (2) and to any regulations under section 10(1)) any disqualifying benefit other than –
- (a) joint-claim jobseeker’s allowance;
 - (b) any retirement pension; 5
 - (c) graduated retirement benefit;
 - (d) disability living allowance;
 - (e) attendance allowance;
 - (f) child benefit;
 - (g) guardian’s allowance; 10
 - (h) a payment out of the social fund in accordance with Part 8 of the Social Security Contributions and Benefits Act 1992;
 - (i) a payment under Part 10 of that Act (Christmas bonuses). 15
- (2) In their application to Northern Ireland sections 6B and 7 shall have effect as if references to a sanctionable benefit were references only to a war pension.
- 6B Loss of benefit in case of conviction, penalty or caution for benefit offence** 20
- (1) Subsection (4) applies where a person (“the offender”) –
- (a) is convicted of one or more benefit offences in any proceedings,
 - (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority by reference to an overpayment, in a case where the offence mentioned in subsection (1)(b) of the appropriate penalty provision is a benefit offence, or 25
 - (c) is cautioned in respect of one or more benefit offences. 30
- (2) In subsection (1)(b) –
- (a) “the appropriate penalty provision” means section 115A of the Administration Act (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) 1992 (the corresponding provision for Northern Ireland); 35
 - (b) “appropriate authority” means –
 - (i) in relation to section 115A of the Administration Act, the Secretary of State or an authority which administers housing benefit or council tax benefit, and 40
 - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.
- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the later set of proceedings for the purposes of section 7, the restriction in subsection (2) of that section applies in the offender’s case. 45

-
- (4) If this subsection applies and the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period, then, even though those conditions are satisfied, the following restrictions shall apply in relation to the payment of that benefit in the offender's case. 5
- (5) Subject to subsections (6) to (10), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.
- (6) Where the sanctionable benefit is income support, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the applicable amount used for the determination under section 124(4) of the Social Security Contributions and Benefits Act 1992 of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed. 10 15
- (7) The Secretary of State may by regulations provide that, where the sanctionable benefit is jobseeker's allowance, any income-based jobseeker's 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 – 20
- (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; 25
 - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- (8) The Secretary of State may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed. 30
- (9) 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 – 35
- (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; 40
 - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- (10) The Secretary of State may by regulations provide that, where the sanctionable benefit is housing benefit or council tax benefit, the benefit 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 – 45
- (a) the rate of the benefit were reduced in such manner as may be prescribed; 50

- (b) the benefit were payable only if the circumstances are such as may be prescribed.
- (11) For the purposes of this section the disqualification period, in relation to any disqualifying event, means the period of four weeks beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations made by the Secretary of State. 5
- (12) This section has effect subject to section 6C.
- (13) In this section and section 6C –
- “benefit offence” means – 10
- (a) any post-commencement offence in connection with a claim for a disqualifying benefit;
- (b) any post-commencement offence in connection with the receipt or payment of any amount by way of such a benefit; 15
- (c) any post-commencement offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) any post-commencement offence consisting in an attempt or conspiracy to commit a benefit offence; 20
- “disqualifying event” means the conviction falling within subsection (1)(a), the agreement falling within subsection (1)(b) or the caution falling within subsection (1)(c);
- “post-commencement offence” means any criminal offence committed after the commencement of this section. 25

6C Section 6B: supplementary provisions

- (1) Where –
- (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 6B in relation to that person, and 30
- (b) that conviction is subsequently quashed,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if the conviction had not taken place.
- (2) Where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 6B in relation to that person – 35
- (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due, 40
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if P had not agreed to pay the penalty. 45
- (3) Where, after the agreement (“the old agreement”) of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into

- account for the purposes of the application of section 6B in relation to P, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 – 5
- (a) section 6B shall cease to apply by virtue of the old agreement, and
 - (b) subsection (4) shall apply.
- (4) Where this subsection applies – 10
- (a) if there is a new disqualifying event consisting of –
 - (i) P’s agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment, or
 - (ii) P being cautioned in relation to the offence to which the old agreement relates, 15the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when section 6B ceased to apply by virtue of the old agreement, and 20
 - (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if P had not agreed to pay the penalty.
- (5) For the purposes of section 6B – 25
- (a) the date of a person’s conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge; and 30
 - (b) references to a conviction include references to –
 - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge or a court in Scotland makes a probation order,
 - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and 35
 - (iii) a conviction in Northern Ireland.
- (6) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).” 40
- (2) In Schedule 4 –
- (a) Part 1 contains further amendments of the Social Security Fraud Act 2001 (c. 11), and
 - (b) Part 2 contains related amendments of other Acts. 45
- 22 Jobseeker’s allowance: sanctions for violent conduct etc. in connection with claim**
- (1) The Jobseekers Act 1995 (c. 18) is amended as follows.

- (2) After section 20B insert –

“Violent conduct etc. in connection with claim

20C Sanctions for violent conduct etc. in connection with claim

- (1) This section applies if –
- (a) a person (“the offender”) is convicted of, or in England and Wales is cautioned in respect of, an offence involving violence or harassment, 5
 - (b) the conduct constituting the offence was done to, or in relation to, a person who was in the course of exercising functions under this Act on any premises, 10
 - (c) the conduct occurred while the offender was on those premises for the purposes of a claim to a jobseeker’s allowance, and
 - (d) the offender is a person, or a member of a joint-claim couple, with respect to whom the conditions for entitlement to a jobseeker’s allowance are or become satisfied. 15
- (2) In the case of a jobseeker’s allowance other than a joint-claim jobseeker’s allowance –
- (a) the allowance is not to be payable in respect of the offender for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and 20
 - (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks.
- (3) For the purposes of subsection (2)(b) – 25
- (a) the reference to another sanctions provision is to any provision made by or under this Act (other than subsection (2)) which provides for a jobseeker’s allowance not to be payable for a period; and
 - (b) the reference to the sanctions period is to the period for which the allowance would (but for subsection (2)(b)) not be payable by virtue of that provision. 30
- (4) In the case of a joint-claim jobseeker’s allowance –
- (a) the offender is to be treated as subject to sanctions for the purposes of section 20A for the period of one week beginning with such date as may be prescribed (even though the conditions for entitlement are satisfied); and 35
 - (b) on the first occasion (if any) on which another sanctions provision applies in the case of the offender, the sanctions period is to be extended in that case by a period of five weeks. 40
- (5) For the purposes of subsection (4)(b) –
- (a) the reference to another sanctions provision is to any provision made by or under this Act (other than subsection (4)) which provides for a member of a joint-claim couple to be (or treated as being) subject to sanctions for the purposes of section 20A for a period; and 45
 - (b) the reference to the sanctions period is to the period for which the member of the couple would (but for subsection (4)(b)) be

(or be treated as being) subject to sanctions for those purposes by virtue of that provision.

- (6) Regulations may make provision for subsections (2) and (4) not to apply at any time after the end of a prescribed period or otherwise in prescribed circumstances. 5
- (7) Regulations may make provision for an income-based jobseeker's allowance to be payable in prescribed circumstances even though the preceding provisions of this section prevent payment of it. This subsection does not apply in the case of a joint-claim jobseeker's allowance (corresponding provision for which is made by section 20B(4)). 10
- (8) The provision that may be made by regulations by virtue of subsection (7) includes, in particular, provision for the allowance to be—
- (a) payable only if prescribed requirements as to the provision of information are complied with; 15
 - (b) payable at a prescribed rate;
 - (c) payable for only part of a week.
- (9) If—
- (a) a jobseeker's allowance was not payable, or was payable at a reduced rate, as a result of the application of this section in a case where a person was convicted of an offence involving violence or harassment, and 20
 - (b) the person's conviction is subsequently quashed,
- all such payments and other adjustments are to be made as would be necessary if the person had never been convicted of the offence. 25

20D Section 20C: supplementary

- (1) For the purposes of section 20C in its application in relation to England and Wales each of the following is an offence involving violence or harassment—
- (a) common assault or battery; 30
 - (b) an offence under section 16, 18, 20 or 47 of the Offences against the Person Act 1861;
 - (c) an offence under section 3, 4, 4A or 5 of the Public Order Act 1986;
 - (d) an offence under section 2 or 4 of the Protection from Harassment Act 1997; 35
 - (e) an offence under section 29, 31 or 32 of the Crime and Disorder Act 1998;
 - (f) an ancillary offence in relation to an offence within any of paragraphs (a) to (e). 40
- (2) In subsection (1)(f) “ancillary offence”, in relation to an offence, means any of the following—
- (a) aiding, abetting, counselling or procuring the commission of the offence;
 - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence; 45
 - (c) attempting or conspiring to commit the offence.

- (3) For the purposes of section 20C in its application in relation to Scotland each of the following is an offence involving violence or harassment –
- (a) assault;
 - (b) a breach of the peace;
 - (c) an offence under section 50A of the Criminal Law (Consolidation) Scotland Act 1995;
 - (d) an ancillary offence in relation to an offence within any of paragraphs (a) to (c).
- (4) In subsection (3)(d) “ancillary offence”, in relation to an offence, means any of the following –
- (a) being art and part in the commission of the offence or counselling or procuring its commission;
 - (b) inciting a person to commit the offence;
 - (c) attempting or conspiring to commit the offence.
- (5) For the purposes of section 20C references to a conviction include references to a conviction in relation to which the court makes an order for conditional discharge or a court in Scotland makes a probation order.
- (6) For the purposes of section 20C “cautioned” means –
- (a) cautioned after the person concerned has admitted the offence, or
 - (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.
- (7) Regulations may make provision for or in connection with requiring such persons as may be prescribed to notify the Secretary of State about prescribed matters for the purposes of section 20C.
- (8) Regulations may amend subsections (1) to (4) by adding or removing an offence.”
- (3) In section 37(1)(c) (regulations subject to the affirmative resolution procedure), after “7,” insert “20D(8),”.
- (4) In paragraph 3(d) of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies: payability of benefit), before “of the Jobseekers Act” insert “or 20C”.

Pilot schemes

- 23 State pension credit: pilot schemes** 35
- (1) The State Pension Credit Act 2002 (c. 16) is amended as follows.
- (2) Before section 19 (but after the italic heading immediately before that section) insert –
- “18A Pilot schemes**
- (1) Any regulations to which this subsection applies may be made so as to have effect for a specified period not exceeding 12 months. 40
 - (2) Subject to subsection (3), subsection (1) applies to –

-
- (a) regulations made under this Act, and
 - (b) regulations made under section 1 or 5 of the Administration Act.
- (3) Subsection (1) only applies to regulations if they are made with a view to ascertaining whether their provisions will – 5
- (a) make it more likely that persons who are entitled to claim state pension credit will do so;
 - (b) make it more likely that persons who are entitled to claim state pension credit will receive it.
- (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”. 10
- (5) A pilot scheme may, in particular –
- (a) provide for a relevant provision not to apply, or to apply with modifications, for the purposes of the pilot scheme, and
 - (b) make different provision for different cases or circumstances. 15
- (6) For the purposes of subsection (5)(a), a “relevant provision” is –
- (a) any provision of this Act, and
 - (b) section 1 of the Administration Act.
- (7) A pilot scheme may provide that no account is to be taken of any payment made under the pilot scheme in considering a person’s – 20
- (a) liability to tax,
 - (b) entitlement to benefit under an enactment relating to social security (irrespective of the name or nature of the benefit), or
 - (c) entitlement to a tax credit.
- (8) A pilot scheme may provide that its provisions are to apply only in relation to – 25
- (a) one or more specified areas or localities;
 - (b) one or more specified classes of person;
 - (c) persons selected – 30
 - (i) by reference to prescribed criteria, or
 - (ii) on a sampling basis.
- (9) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (10) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision. 35
- (11) The power of the Secretary of State to make regulations which, by virtue of this section, are to have effect for a limited period is exercisable only with the consent of the Treasury.”
- (3) In section 19 (regulations and orders) after subsection (2) insert – 40
- “(2A) A statutory instrument containing regulations which, by virtue of section 18A, are to have effect for a limited period shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

24 Period for which pilot schemes have effect etc.

- (1) In section 29 of the Jobseekers Act 1995 (c. 18) (pilot schemes) –
- (a) in subsection (1), for “12 months” substitute “36 months”, and
 - (b) in subsection (8), for the words from “facilitate” to the end substitute “make it more likely that persons will obtain or remain in work or be able to do so”. 5
- (2) In section 19(1) of the Welfare Reform Act 2007 (c. 5) (pilot schemes), for “24 months” substitute “36 months”.

*Miscellaneous***25 Contracting out functions under Jobseekers Act 1995** 10

- (1) The Jobseekers Act 1995 is amended as follows.
- (2) Before section 21 (but after the italic heading immediately before that section) insert –

“20E Contracting out

- (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 – 15
- (a) conducting interviews under section 11A;
 - (b) providing documents under section 11C;
 - (c) giving, varying or revoking directions under section 18B(4); 20
 - (d) asking questions under paragraph 1 of Schedule A1;
 - (e) making decisions under paragraph 2 or 3 of that Schedule;
 - (f) exercising any functions in relation to rehabilitation plans under paragraph 6 of that Schedule.
- (2) The following functions of officers 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 – 25
- (a) specifying places and times, and being contacted, under section 8;
 - (b) entering into or varying any jobseeker’s agreement under section 9 or 10 and referring any proposed agreement or variation to the Secretary of State under section 9 or 10; 30
 - (c) giving notifications under section 16 or 18A;
 - (d) giving, varying or revoking directions under section 18A.
- (3) 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 – 35
- (a) any function under regulations under section 8, 11A, 11C, 17A or 18B or Schedule A1, except the making of an excluded decision (see subsection (4)); 40
 - (b) the function under section 9(1) of the 1998 Act (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under any such regulations;

- (c) the function under section 10(1) of the 1998 Act (superseding of decisions) so far as relating to decisions (other than excluded decisions) of the Secretary of State that relate to any matter arising under any such regulations;
 - (d) any function under Chapter 2 of Part 1 of the 1998 Act (social security decisions), except section 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within paragraphs (a) to (c). 5
- (4) Each of the following is an “excluded decision” for the purposes of subsection (3) – 10
 - (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 8, 11A or 17A or Schedule A1;
 - (b) a decision about whether a person had good cause for failure to comply with such a requirement; 15
 - (c) a decision about not paying or reducing a jobseeker’s allowance in consequence of a failure to comply with such a requirement.
- (5) Regulations under subsection (3) may provide that a function to which that subsection applies may be exercised – 20
 - (a) either wholly or to such extent as the regulations may provide,
 - (b) either generally or in such cases as the regulations may provide, and
 - (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide. 25
- (6) An authorisation given by virtue of any provision made by or under this section 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 as may be so specified, and 30
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;but, in the case of an authorisation given by virtue of regulations under subsection (3), this subsection is subject to the regulations.
- (7) An authorisation given by virtue of any provision made by or under this section – 35
 - (a) may specify its duration,
 - (b) may be revoked at any time by the Secretary of State, and
 - (c) does not prevent the Secretary of State or any other person from exercising the function to which the authorisation relates. 40
- (8) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State or (as the case may be) an officer of the Secretary of State. 45
- (9) But subsection (8) does not apply –

-
- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person). 5
- (10) Any decision which an authorised person makes in exercise of a function of the Secretary of State has effect as a decision of the Secretary of State under section 8 of the 1998 Act.
- (11) Where – 10
- (a) the authorisation of an authorised person is revoked at any time, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting, 15
- the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).
- (12) In this section –
- (a) “the 1998 Act” means the Social Security Act 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this section; 20
- (c) references to functions of the Secretary of State under any enactment (including one comprised in regulations) include functions which the Secretary of State has by virtue of the application of section 8(1)(c) of the 1998 Act in relation to the enactment.” 25
- (3) In each of the following provisions for “employment officer” substitute “officer of the Secretary of State” – 30
- (a) section 8(1)(a),
- (b) section 9(1), (5), (6) and (7)(b),
- (c) section 10(1), (4), (5) and (6)(b)(ii),
- (d) section 16(3)(b)(ii),
- (e) section 19(5)(b)(ii), (6)(c) and (10)(b) (as the section has effect before its substitution by paragraph 6 of Schedule 1 to this Act), and 35
- (f) section 20A(2)(b)(ii) and (f) (as the section has effect before its substitution by paragraph 7 of that Schedule).
- (4) In section 8(1A)(a), for “the Secretary of State” substitute “an officer of the Secretary of State”.
- (5) In relation to any time before paragraph 4 of Schedule 1 to this Act is fully in force, section 20E(2)(c) and (d) of the Jobseekers Act 1995 (c. 18) have effect as if they included references to the giving of notifications or directions under section 19 or 20A of that Act. 40
- 26 Attendance in connection with jobseeker’s allowance: sanctions**
- (1) Section 8 of the Jobseekers Act 1995 (attendance, information and evidence) is amended as follows. 45

- (2) In subsection (2), for paragraphs (a) to (c) (together with the “and” at the end of paragraph (c)) substitute—
- “(a) prescribe circumstances in which a jobseeker’s allowance is not to be payable for a prescribed period (of at least one week but not more than two weeks) in the case of—
 - (i) a claimant (other than a joint-claim couple claiming a joint-claim jobseeker’s allowance) who fails to comply with any regulations made under that subsection, or
 - (ii) a joint-claim couple claiming a joint-claim jobseeker’s allowance a member of which fails to comply with any such regulations;
 - (b) provide for the consequence set out in paragraph (a) not to follow if, within a prescribed period of a person’s (“P”) failure to comply with any such regulations (“the relevant period”), P or, if P is a member of a joint-claim couple, either member of the couple—
 - (i) makes prescribed contact with an officer of the Secretary of State, and
 - (ii) shows that P had good cause for the failure;
 - (c) provide for entitlement to a jobseeker’s allowance to cease at such time as may be determined in accordance with any such regulations if P or, as the case may be, a member of the couple does not make prescribed contact with an officer of the Secretary of State in the relevant period;
 - (ca) prescribe circumstances in which a jobseeker’s allowance is to be payable in respect of a claimant even though provision made by any such regulations by virtue of paragraph (a) prevents payment of a jobseeker’s allowance in respect of the claimant; and”.
- (3) After that subsection insert—
- “(2A) The provision that may be made by any such regulations by virtue of subsection (2)(ca) includes, in particular, provision for a jobseeker’s allowance payable by virtue of that paragraph to be—
- (a) payable only if prescribed requirements as to the provision of information are complied with;
 - (b) payable at a prescribed rate;
 - (c) payable for a prescribed period (which may differ from the period mentioned in subsection (2)(a)).”
- (4) In paragraph 3(da) of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies: payability of benefit), which is inserted by section 1 of this Act, after “section” insert “8 or”.

27 Social security information and employment or training information

- (1) In section 2A of the Social Security Administration Act 1992 (c. 5) (claim or full entitlement to certain benefits conditional on work-focused interview), after subsection (7) insert—
- “(7A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.”

- (2) In section 2AA of that Act (full entitlement to certain benefits conditional on work-focused interview for partner), after subsection (6) insert –
- “(6A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.” 5
- (3) In Schedule 1 to the Jobseekers Act 1995 (c. 18) (supplementary provisions relating to jobseeker’s allowance), at the end insert –
- “Treatment of information supplied as information relating to social security*
- 19 Information supplied in pursuance of any provision made by or under this Act shall be taken for all purposes to be information relating to social security.” 10
- (4) In section 72 of the Welfare Reform and Pensions Act 1999 (c. 30) (supply of information for certain purposes) –
- (a) in subsection (1)(a) and (b), after “social security information” insert “, or information relating to employment or training,” and 15
- (b) in subsection (7), for “purposes connected with employment or training includes purposes connected with” substitute “information relating to, or purposes connected with, employment or training includes information relating to, or purposes connected with,”.
- 28 Persons under pensionable age to take part in work-focused interviews etc.** 20
- (1) The Social Security Administration Act 1992 (c. 5) is amended as follows.
- (2) In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview) –
- (a) in subsection (1)(a), for sub-paragraph (ii) substitute –
- “(ii) has not attained pensionable age at the time of making the claim (but see subsection (1A)),” 25
- (b) in subsection (1)(b)(i), for “is under that age and” substitute “has not attained pensionable age and is”, and
- (c) after subsection (1) insert –
- “(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.” 30
- (3) In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) –
- (a) in subsection (1)(a), for sub-paragraphs (i) and (ii) substitute – 35
- “(i) has not attained pensionable age (but see subsection (1A)), and
- (ii) has a partner who has also not attained pensionable age,” and
- (b) after subsection (1) insert – 40
- “(1A) For the purposes of subsection (1) a man born before 6 April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.”

- (4) In sections 2A(1)(a) and 2AA(1), for “a work-focused interview” substitute “one or more work-focused interviews”, and in section 2A(1)(b), for “such an interview” substitute “one or more work-focused interviews”.

29 Minor amendments

- (1) Sections 80 and 81 of the Benefits Act (which continue to have effect in certain cases despite their repeal by the Tax Credits Act 2002 (c. 21)) are to have effect as if the references in those sections to a child or children included references to a qualifying young person or persons. 5
- (2) “Qualifying young person” has the same meaning as in Part 9 of the Benefits Act. 10
- (3) In section 150(2) of the Benefits Act (interpretation of Part 10: Christmas bonus), in the definition of “qualifying employment and support allowance”, for “an employment and support allowance” substitute “a contributory allowance”.
- (4) Despite the provision made by the Welfare Reform Act 2007 (Commencement No. 6 and Consequential Provisions) Order 2008 (S.I. 2008/ 787), paragraph 9(7) and (8) of Schedule 3 to the Welfare Reform Act 2007 (c. 5) (which amend sections 88 and 89 of the Benefits Act) are deemed not to be in force by virtue of the provision made by that order at any time after the passing of this Act. 15
- (5) In this section “the Benefits Act” means the Social Security Contributions and Benefits Act 1992 (c. 4). 20

PART 2

DISABLED PEOPLE: RIGHT TO CONTROL PROVISION OF SERVICES

Introductory

30 Purpose of Part 25

The purpose of this Part is to enable disabled people aged 18 or over to exercise greater choice in relation to, and greater control over, the way in which relevant services (as defined by section 31) are provided to or for them, in cases where the provision of the relevant services is a function of a relevant authority (as defined by section 32). 30

31 Relevant services

- (1) In this Part “relevant services” means services –
- (a) which are provided to or for the benefit of a disabled person (“P”) (whether or not in connection with P’s disability), and
 - (b) which relate to one or more of the following matters. 35
- (2) Those matters are –
- (a) the provision of further education for P;
 - (b) facilitating the undertaking by P of further education or higher education;
 - (c) the provision of training for P; 40
 - (d) securing employment for P;

- (e) facilitating P’s continued employment;
 - (f) enabling P to live independently or more independently in P’s home;
 - (g) enabling P to overcome barriers to participation in society.
- (3) Relevant services also include the provision by or on behalf of a relevant authority to or for the benefit of a disabled person of grants or loans relating to one or more of the matters mentioned in subsection (2). 5
- (4) Relevant services do not include excluded services (provision as to direct payments relating to excluded services being made by other legislation).
- (5) In relation to England and Wales, the following are excluded services – 10
- (a) community care services as defined by section 46(3) of the National Health Service and Community Care Act 1990 (c. 19),
 - (b) services provided under the Carers and Disabled Children Act 2000 (c. 16), and
 - (c) services provided under section 17 of the Children Act 1989 (c. 41) (provision of services for children in need, their families and others). 15
- (6) In relation to Scotland, the following are excluded services –
- (a) community care services as defined by section 5A of the Social Work (Scotland) Act 1968 (c. 49), and
 - (b) services provided under section 22(1) of the Children (Scotland) Act 1995 (c. 36) (promotion of welfare of children in need). 20
- (7) In this section “further education” and “higher education” –
- (a) in relation to England and Wales, have the same meaning as in the Education Act 1996 (c. 56);
 - (b) in relation to Scotland, have the same meaning as in the Further and Higher Education (Scotland) Act 1992 (c. 37). 25

32 Relevant authority

- (1) In this Part “relevant authority” means –
- (a) a Minister of the Crown or government department;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers; 30
 - (d) a local authority;
 - (e) a person or body whose functions are exercised on behalf of the Crown;
 - (f) any other body which meets conditions A and B below.
- (2) Condition A is that the body is established by virtue of Her Majesty’s prerogative or by an enactment or is established in any other way by a Minister of the Crown acting as such or by a government department. 35
- (3) Condition B is that the body’s revenues derive wholly or mainly from public funds.
- (4) In subsection (1)(d) “local authority” means – 40
- (a) a local authority within the meaning of the Local Government Act 1972 (c. 70),
 - (b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
 - (c) the Greater London Authority,

- (d) the Common Council of the City of London in its capacity as a local authority, or
 - (e) the Council of the Isles of Scilly.
- (5) In subsection (2) “Minister of the Crown” includes the Scottish Ministers and the Welsh Ministers. 5

Power to make regulations

33 Power to make provision enabling exercise of greater choice and control

- (1) The appropriate authority (as defined by section 37) may by regulations made by statutory instrument make any provision that would in the opinion of the authority making the regulations serve the purpose of this Part. 10
- (2) Regulations under this section may, in particular, make provision for and in connection with enabling a disabled person (“P”) in prescribed circumstances to require a relevant authority that is or may be obliged, or has decided, to provide P with a relevant service, or to arrange the provision of a relevant service for P, to do any one or more of the following— 15
- (a) to carry out an assessment of P’s needs;
 - (b) to prepare, in consultation with P, a plan setting out the way in which the authority proposes to meet those needs;
 - (c) to review and revise the plan in consultation with P taking account of any changes in P’s needs or P’s wishes; 20
 - (d) at P’s request, to make payments to P in respect of P securing the provision of an equivalent service.
- (3) Regulations under this section may also—
- (a) specify who is or is not to be treated as a disabled person for any purpose of the regulations; 25
 - (b) make provision about the circumstances in which a relevant authority is to be taken to have decided to provide a relevant service to a person;
 - (c) make provision enabling a disabled person to require a relevant authority to assess the value of any relevant services to which the person is entitled; 30
 - (d) make provision as to matters to which a relevant authority must, or may, have regard when making a decision for the purposes of a provision of the regulations;
 - (e) make provision as to steps which a relevant authority must, or may, take before, or after, the relevant authority makes a decision for the purposes of a provision of the regulations (including provision requiring the relevant authority to review its decision). 35
- (4) Regulations under this section may enable or require the disclosure of information by one relevant authority to another for prescribed purposes of the regulations. 40
- (5) Regulations under this section may, for the purpose of this Part—
- (a) vary the conditions attached to any power of a relevant authority to provide financial assistance to disabled people;
 - (b) vary the conditions attached to any power of a relevant authority to provide financial assistance to another relevant authority in connection 45

with the provision of relevant services to disabled people by the other authority.

- (6) Regulations under this section may require a relevant authority exercising any function under the regulations to have regard to any guidance given from time to time by the appropriate authority. 5

34 Provision that may be made about direct payments

- (1) In this section “direct payments regulations” means regulations under section 33 making provision by virtue of subsection (2)(d) of that section and “direct payments” means payments made by a relevant authority under the regulations. 10
- (2) Direct payments regulations relating to a relevant service (“the qualifying service”) of a relevant authority (“the providing authority”) may in particular –
- (a) specify circumstances in which the providing authority is or is not required to comply with a request for direct payments to be made under the regulations, whether those circumstances relate to the disabled person or to the qualifying service; 15
 - (b) make provision about the manner in which a request for direct payments is to be made;
 - (c) make provision enabling a disabled person to require a providing authority to assess the amount of the payments to which the person would be entitled if the person were to request the authority to make them; 20
 - (d) enable a disabled person to require a providing authority to comply with a request to provide direct payments in place of the qualifying service (or its provision at certain times or in certain circumstances) while providing, or continuing to provide, other relevant services (or providing, or continuing to provide, the qualifying service at other times or in other circumstances); 25
 - (e) make provision displacing functions or obligations of the providing authority with respect to the provision of the qualifying service (whether arising under any enactment, under any trust or otherwise) to such extent and subject to such conditions as may be prescribed. 30
- (3) Direct payments regulations must include provision excluding any duty of a providing authority to comply with a request for direct payments, or a class of such requests, if compliance with the request, or with requests falling within that class, would in all the circumstances impose an unreasonable financial burden on the providing authority. 35
- (4) Direct payments regulations may –
- (a) make provision for and in connection with requiring or authorising the providing authority to make direct payments to the disabled person or such other person as the authority may determine (“the payee”) in accordance with the regulations in respect of the person securing the provision of the equivalent service; 40
 - (b) make provision as to the conditions falling to be complied with by the payee in relation to the direct payments; 45
 - (c) prescribe circumstances in which the providing authority may or must terminate the making of direct payments;

- (d) prescribe circumstances in which the providing authority may require repayment (whether by the payee or otherwise) of the whole or any part of the direct payments;
 - (e) make provision for any sum falling to be paid or repaid to the providing authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority; 5
 - (f) prescribe circumstances in which any sum is to cease to be payable by virtue of paragraph (d);
 - (g) make provision authorising direct payments to be made to a prescribed person on behalf of the disabled person. 10
- (5) For the purposes of subsection (4)(b), the conditions that are to be taken to be conditions in relation to direct payments include, in particular, conditions relating to –
- (a) what is or is not to be regarded as an equivalent service, 15
 - (b) the securing of the provision of the equivalent service,
 - (c) the provider of the service,
 - (d) the person to whom the payments are made in respect of the provision of the service, or
 - (e) the provision of the service. 20

35 Exercise of rights on behalf of persons who lack capacity

- (1) Regulations under section 33 may make provision for and in connection with enabling any request or consent for the purposes of the regulations (including any request or consent relating to payments by virtue of subsection (2)(d) of that section) to be made or given on behalf of a disabled person who falls within subsection (2) by a person of a prescribed description. 25
- (2) A person falls within this subsection –
- (a) in relation to England and Wales, if the person lacks capacity, within the meaning of the Mental Capacity Act 2005 (c. 9), in relation to the decision concerned, and 30
 - (b) in relation to Scotland, if the person is incapable, within the meaning of the Adults with Incapacity (Scotland) Act 2000 (asp 4), in relation to that decision.

36 Pilot schemes

- (1) Regulations to which this subsection applies may be made so as to have effect for a specified period not exceeding 36 months. 35
- (2) Subsection (1) applies to regulations under section 33 that are made with a view to ascertaining –
- (a) the extent to which their provisions contribute to achieving the purpose of this Part, 40
 - (b) the extent of any beneficial effects on the lives of the disabled people affected, and
 - (c) the extent of any financial burden imposed on the relevant authorities to which the regulations relate.
- (3) 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”. 45

- (4) 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.
- (5) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (6) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.
- (7) The appropriate authority which made a pilot scheme must prepare and publish a report on the operation of the scheme.

Supplementary

- 37 The appropriate authority by which regulations under section 33 are made** 15
- (1) Subsection (2) has effect to determine the appropriate authority by which regulations under section 33 may be made.
- (2) The Secretary of State is the appropriate authority, except that –
- (a) in relation to provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, the Scottish Ministers are the appropriate authority, and
 - (b) in relation to provision that would be within the legislative competence of the National Assembly for Wales if it were included in a Measure of the Assembly (or, if regulations are made after the Assembly Act provisions come into force, an Act of the Assembly), the Welsh Ministers are the appropriate authority.
- (3) Any power of the Secretary of State to make regulations under section 33 is exercisable only with the consent of the Treasury.
- (4) In this section “the Assembly Act provisions” has the meaning given by section 103(8) of the Government of Wales Act 2006 (c. 32). 30
- 38 Regulations under section 33: supplementary provisions**
- (1) Any power to make regulations under section 33 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.
- (2) 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 respect the same case or class of case for different purposes;

- (c) any such provision either unconditionally or subject to any specified condition.
- (3) 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.
- (4) Any such power includes power – 5
 - (a) to make such incidental, supplementary, consequential or saving provision as the authority making the regulations considers to be necessary or expedient;
 - (b) to provide for a person to exercise a discretion in dealing with any matter; 10
 - (c) to amend or repeal an enactment whenever passed or made.

39 Consultation

- (1) Before laying before Parliament (or the Scottish Parliament or the National Assembly for Wales) a draft of a statutory instrument containing regulations under section 33, the appropriate authority must – 15
 - (a) publish draft regulations in such manner as it thinks fit, and
 - (b) invite representations to be made to it about the draft, during a specified period of not less than 12 weeks, by persons appearing to it to be affected by the proposals.
- (2) In this section “the appropriate authority” is to be read in accordance with section 37(2). 20

40 Regulations under section 33: control by Parliament or other legislature

- (1) The Secretary of State may not make a statutory instrument containing regulations under section 33 unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 25
- (2) The Scottish Ministers may not make a statutory instrument containing regulations under section 33 unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.
- (3) The Welsh Ministers may not make a statutory instrument containing regulations under section 33 unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales. 30

41 Interpretation of Part 2

In this Part –

- “employment” includes self-employment;
- “enactment” means an enactment contained in, or in an instrument made under – 35
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament, or
 - (c) a Measure or Act of the National Assembly for Wales;
- “prescribed” means specified in, or determined in accordance with, regulations under section 33. 40

PART 3

CHILD MAINTENANCE

42 Disqualification for holding etc. driving licence or travel authorisation

- (1) The Child Support Act 1991 (c. 48) is amended as follows.
- (2) In section 39B (disqualification for holding or obtaining travel authorisation) –
- (a) in subsection (1), for “The Commission may apply to the court for an order under this section” substitute “The Commission may make an order under this section (referred to in this section and sections 39C to 39F as a “disqualification order”);” and
- (b) for subsections (3) to (13) substitute –
- “(3) A disqualification order shall provide that the person against whom it is made is disqualified for holding or obtaining –
- (a) a driving licence,
- (b) a travel authorisation, or
- (c) both a driving licence and a travel authorisation,
- while the order has effect.
- (4) Before making a disqualification order against a person, the Commission shall consider whether the person needs the relevant document in order to earn a living.
- (5) A disqualification order shall specify the amount in respect of which it is made.
- (6) That amount shall be the aggregate of –
- (a) the amount sought to be recovered as mentioned in subsection (1)(a), or so much of it as remains unpaid; and
- (b) the amount which the person against whom the order is made is required to pay by the order under section 39DA(1).
- (7) The Commission shall serve a copy of the disqualification order (together with a copy of the order under section 39DA(1)) on the person against whom it is made.
- (8) In this section –
- “driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
- “relevant document”, in relation to a disqualification order made against a person, means the document (or documents) for the holding or obtaining of which the person is disqualified by the order;
- “travel authorisation” means –
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971);
- (b) an ID card issued under the Identity Cards Act 2006 that records that the person to whom it has been issued is a British citizen.”

- (3) In section 39C (period for which orders under section 39B are to have effect), for subsection (1) substitute –
- “(1) A disqualification order shall specify the period for which it is to have effect.
- (1A) That period shall not exceed 12 months (subject to any extension under section 39CA or 39CB). 5
- (1B) That period shall begin to run with –
- (a) the first day after the end of the period within which an appeal may be brought against the order under section 39CB(1); or
- (b) if the running of the period is suspended at that time, the first day when its running is no longer suspended.” 10
- (4) After that section insert –

“39CA Surrender of relevant documents

- (1) A person against whom a disqualification order is made who holds any relevant document shall surrender it in the prescribed manner to the prescribed person within the required period. 15
- (2) For this purpose “the required period” means the period of 7 days beginning with the start of the period for which the order has effect or has effect again following a period of suspension.
- (3) But, if immediately before the end of the required period the person has a good reason for not surrendering any relevant document, the person shall instead surrender it as soon as practicable after the end of that period. 20
- (4) The Secretary of State may by regulations make provision prescribing circumstances in which a person is, or is not, to be regarded for the purposes of subsection (3) as having a good reason for not surrendering any relevant document. 25
- (5) The requirements imposed by subsections (1) and (3) cease to have effect if the period for which the disqualification order has effect is suspended or ends. 30
- (6) A person who fails to comply with a requirement imposed by subsection (1) or (3) commits an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale. 35
- (8) On sentencing a person for an offence under that subsection the court may by order extend the period for which the disqualification order is to have effect by such period as may be specified in the order under this subsection.
- (9) But the power conferred by subsection (8) may not be exercised so as to provide for the disqualification order to have effect for a period exceeding 2 years in total. 40
- (10) In this section “relevant document” has the same meaning as in section 39.

- (11) Where this section applies in relation to a driving licence at any time before the commencement of Schedule 3 to the Road Safety Act 2006, any reference in this section to any relevant document includes the licence's counterpart (within the meaning of section 108(1) of the Road Traffic Act 1988). 5
- 39CB Appeals against disqualification orders**
- (1) A person against whom a disqualification order is made may appeal to the court against the order within a prescribed period (which must begin with the first day on which that person had actual notice of the order). 10
- (2) Where an appeal is brought under subsection (1), the running of the period for which the order has effect shall be suspended until the time at which the appeal is determined, withdrawn or discontinued.
- (3) If—
- (a) the person against whom a disqualification order is made does not bring an appeal within the period specified in subsection (1), and 15
- (b) prescribed conditions are satisfied,
- the court may grant leave for an appeal to be brought after the end of that period. 20
- (4) On granting leave under subsection (3) the court may suspend the running of the period for which the order has effect until such time and on such conditions (if any) as it thinks just.
- (5) On an appeal under this section the court—
- (a) shall reconsider the exercise by the Commission of its powers under section 39B; and 25
- (b) may by order affirm, vary or revoke the disqualification order.
- (6) On an appeal under this section the court shall not question—
- (a) the liability order by reference to which the Commission acted as mentioned in section 39B(1)(a); 30
- (b) any liability order made against the same person after the disqualification order was made; or
- (c) the maintenance calculation by reference to which any liability order within paragraph (a) or (b) was made.
- (7) The power under subsection (5) to vary a disqualification order includes power to extend the period for which it has effect; but that power may not be exercised so as to provide for it to have effect for a period exceeding 2 years in total. 35
- (8) If, on appeal under this section, the court affirms or varies a disqualification order, the court shall substitute for the amount specified under section 39B(5) the aggregate of— 40
- (a) the amount sought to be recovered as mentioned in section 39B(1)(a), or so much of it as remains unpaid;
- (b) the amount which the person against whom the order was made is required to pay by the order under section 39DA(1), so far as remaining unpaid; 45

- (c) the amount which that person is required to pay by the order under section 39DA(2); and
 - (d) if a liability order has been made against that person since the disqualification order was made, the amount in respect of which the liability order was made, so far as remaining unpaid. 5
- (9) On the affirmation or variation of the disqualification order by the court, any existing suspension of the running of the period for which the order is to have effect shall cease.
- (10) But the court may suspend the running of that period until such time and on such conditions (if any) as it thinks fit if – 10
 - (a) the person against whom the disqualification order was made agrees to pay the amount specified in the order; or
 - (b) the court is of the opinion that the suspension in question is justified by exceptional circumstances.
- (11) If, on an appeal under this section, the court revokes a disqualification order, the court shall also revoke the order made under section 39DA(1). 15
- (12) But subsection (11) does not apply if the court is of the opinion that, having regard to all the circumstances, it is reasonable to require the person against whom the disqualification order was made to pay the costs mentioned in section 39DA(1). 20
- (13) In this section “the court” means –
 - (a) in relation to England and Wales, a magistrates’ court;
 - (b) in relation to Scotland, the sheriff.”
- (5) After section 39D insert – 25

“39DA Recovery of Commission’s costs

 - (1) On making a disqualification order against any person the Commission shall also make an order requiring that person to pay an amount in respect of the costs incurred by the Commission in exercising its functions under section 39B. 30
 - (2) If on an appeal under section 39CB the court affirms or varies a disqualification order made against any person, the court shall also make an order requiring that person to pay an amount in respect of the costs incurred by the Commission in connection with the appeal (“the Commission’s appeal costs”). 35
 - (3) If –
 - (a) on an appeal under that section the court revokes a disqualification order made against any person, and
 - (b) the court is satisfied that, having regard to all the circumstances, it is reasonable to require that person to pay an amount in respect of the Commission’s appeal costs, 40the court shall also make an order requiring that person to pay an amount in respect of those costs.
 - (4) Any amount payable by virtue of an order made under this section shall be – 45
 - (a) specified in the order; and

- (b) determined in accordance with regulations made by the Secretary of State.
- (5) The provisions of this Act with respect to—
- (a) the collection of child support maintenance, and
- (b) the enforcement of an obligation to pay child support maintenance, 5
- apply equally (with any necessary modifications) to amounts which a person is required to pay under this section.”
- (6) Schedule 5 contains consequential amendments and other amendments related to the provision made by this section. 10

43 Report on operation of driving licences amendments

- (1) The Secretary of State must prepare a report on the operation during the review period of the amendments of the 1991 Act made by section 42 and Schedule 5 so far as those amendments relate to the disqualification of any person for holding or obtaining a driving licence. 15
- (2) “The review period” is the period of 24 months beginning with the day on which section 42 and Schedule 5 come into force in relation to the disqualification of any person for holding or obtaining a driving licence.
- (3) The Secretary of State must—
- (a) prepare the report, and
- (b) lay it before Parliament, 20
- within 6 months from the end of the review period.
- (4) The continued effect of the driving licence amendments depends on whether the Secretary of State makes an order under this subsection within the relevant period providing for those provisions to continue to have effect. 25
- (5) “The relevant period” means the period of 30 days beginning with the day on which the report is laid before Parliament; and, in reckoning this period, no account is to be taken of any time during which Parliament—
- (a) is dissolved or prorogued, or
- (b) is adjourned for more than 4 days. 30
- (6) If no order is made as mentioned in subsection (4), the Secretary of State must instead make an order under this subsection containing such amendments of the 1991 Act as the Secretary of State considers necessary to secure that the effect of the driving licence amendments is reversed.
- (7) The effect of the driving licence amendments is to be regarded as reversed if the 1991 Act is amended so that it has the same effect in relation to the disqualification of any person for holding or obtaining a driving licence as it would have had if this Act had not been passed. 35
- (8) An order under subsection (6) may contain consequential provision and transitional provision or savings. 40
- (9) The consequential provision that may be made by an order under subsection (6) includes, in particular, provision amending, repealing or revoking—
- (a) any provision of any Act passed before the making of the order, or
- (b) any provision of any instrument made under any Act before the making of the order. 45

-
- (10) Any power to make an order under this section is exercisable by statutory instrument.
- (11) An order under subsection (4) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament. 5
- (12) A statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) In this section –
“the 1991 Act” means the Child Support Act 1991 (c. 48);
“driving licence” has the same meaning as in section 39B of the 1991 Act; 10
“the driving licence amendments” means the amendments of the 1991 Act made by section 42 and Schedule 5 so far as relating to the disqualification of any person for holding or obtaining a driving licence.
- 44 Payments of child support maintenance 15**
- (1) Section 29 of the Child Support Act 1991 (collection of child support maintenance) is amended as follows.
- (2) In subsection (3) (provision which may be made by regulations for payment of child support maintenance), for paragraph (c) substitute –
“(c) for determining, on the basis of prescribed assumptions, the total amount of the payments of child support maintenance payable in a reference period (including provision for adjustments to such an amount); 20
(ca) requiring payments of child support maintenance to be made –
(i) by reference to such an amount and a reference period; and 25
(ii) at prescribed intervals falling in a reference period;”.
- (3) After that subsection insert –
“(3A) In subsection (3)(c) and (ca) “a reference period” means –
(a) a period of 52 weeks beginning with a prescribed date; or 30
(b) in prescribed circumstances, a prescribed period.”
- 45 Child support maintenance: offences relating to information**
- (1) Section 14A of the Child Support Act 1991 (offences relating to information) is amended as follows.
- (2) For subsection (3A) substitute – 35
“(3A) In the case of regulations under section 14 which require a person liable to make payments of child support maintenance to notify –
(a) a change of address, or
(b) any other change of circumstances,
a person who fails to comply with the requirement is guilty of an offence.” 40

- (3) After subsection (5) insert—
- “(6) In England and Wales, an information relating to an offence under subsection (2) may be tried by a magistrates’ court if it is laid within the period of 12 months beginning with the commission of the offence.
- (7) In Scotland, summary proceedings for an offence under subsection (2) may be commenced within the period of 12 months beginning with the commission of the offence. 5
- (8) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date when proceedings deemed to be commenced) applies for the purposes of subsection (7) as it applies for the purposes of that section.” 10

PART 4

BIRTH REGISTRATION

46 Registration of births

Schedule 6 contains—

- (a) amendments of the Births and Deaths Registration Act 1953 (c. 20) relating to the registration of the births of children whose parents are neither married to each other nor civil partners of each other, 15
- (b) amendments of that Act relating to the late registration of births, and
- (c) related amendments of other legislation.

PART 5

20

GENERAL

47 Consequential amendments of subordinate legislation

- (1) The Secretary of State may by regulations made by statutory instrument make such provision amending or revoking any instrument made under any other Act before the passing of this Act as appears to the Secretary of State to be appropriate in consequence of any provision of this Act, other than a provision contained in Part 2. 25
- (2) Regulations under this section may include—
- (a) transitional provisions or savings, and
- (b) provision conferring a discretion on any person. 30
- (3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

48 Repeals and revocations

- (1) Schedule 7 contains repeals and revocations.
- (2) The following repeals and revocation in Part 2 of that Schedule (which are made in consequence of section 14(1)) have effect on 6 April 2010— 35
- (a) the repeals in the Social Security Contributions and Benefits Act 1992 (c. 4) other than those of sections 88, 89, 91 and 92;

- (b) the repeal of paragraph 24 of Schedule 1 to the Jobseekers Act 1995 (c. 18);
 - (c) the repeals in the Welfare Reform and Pensions Act 1999 (c. 30), the Tax Credits Act 2002 (c. 21), the Civil Partnership Act 2004 (c. 33) and the Child Benefit Act 2005 (c. 6); and 5
 - (d) the revocation in the Regulatory Reform (Carer’s Allowance) Order 2002 (S.I. 2002/ 1457).
- (3) The repeal in that Part of paragraph 9 of Part 4 of Schedule 4 to the Social Security Contributions and Benefits Act 1992 (c. 4) is not to be taken as affecting the operation of article 3 of the Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003 (S.I. 2003/ 938) (savings in relation to the abolition of child dependency increases). 10

49 Financial provisions

- (1) There is to be paid out of money provided by Parliament – 15
- (a) any expenditure incurred in consequence of this Act by a Minister of the Crown, a government department or the Registrar General for England and Wales, and
 - (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (2) There is to be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other Act. 20

50 Extent

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland – 25
- section 21 and Schedule 4 (loss of benefit provisions); and
 - this section and sections 51 and 52.
- (2) Section 46 and Schedule 6 (birth registration) extend to England and Wales only.
- (3) Subject to subsection (4), the other provisions of this Act extend to England and Wales and Scotland only. 30
- (4) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.
- (5) Subsection (4) is subject to paragraph 20(2) of Schedule 6.

51 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed – 35
- sections 1 and 2;
 - section 9;
 - sections 23 and 24;
 - section 29; 40
 - section 47;
 - sections 49 and 50;

-
- this section;
 section 52; and
 Schedule 3.
- (2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which this Act is passed – 5
 section 14;
 section 27;
 Part 2;
 section 48(2) and (3); and
 Part 2 of Schedule 7 so far as relating to the repeals and revocation 10
 mentioned in section 48(2).
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) An order under subsection (3) may – 15
 (a) appoint different days for different purposes and in relation to different areas;
 (b) make such provision as the Secretary of State considers necessary or 20
 expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision falling within that subsection.
- (5) Before making an order under subsection (3) in relation to any provision of Part 1 of Schedule 6 (birth registration), the Secretary of State must consult the Registrar General for England and Wales.
- 52 Short title**
- This Act may be cited as the Welfare Reform Act 2009. 25

SCHEDULES

SCHEDULE 1

Section 3

AMENDMENTS CONNECTED TO SECTION 3

PART 1

AMENDMENTS OF JOBSEEKERS ACT 1995

5

Introduction

- 1 The Jobseekers Act 1995 (c. 18) is amended as follows.

Work-focused interviews etc.

- 2 In section 8(1) (attendance, information and evidence), after “other than a” insert “claimant whose claim is based on meeting condition B in section 1A or”. 10
- 3 After section 11 insert—

“Work-focused interviews etc.

11A Persons not required to meet the jobseeking conditions

- (1) Regulations may make provision for or in connection with imposing on a person— 15
- (a) who makes a claim for a jobseeker’s allowance (other than a joint-claim jobseeker’s allowance), and
 - (b) to whom section 8(1) does not apply,
- a requirement to take part in a work-focused interview as an additional condition which the person must meet before the person becomes entitled to the allowance. 20
- (2) Regulations may make provision for or in connection with imposing on a person—
- (a) who is entitled to a jobseeker’s allowance (other than a joint-claim jobseeker’s allowance), and 25
 - (b) to whom section 8(1) does not apply,
- a requirement to take part in one or more work-focused interviews as a condition of continuing to be entitled to the full amount of the allowance payable apart from the regulations. 30
- (3) In this section and sections 11B and 11C “work-focused interview”, in relation to any person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be prescribed.

- (4) The purposes which may be so prescribed include –
- (a) purposes connected with a person’s existing or future employment or training prospects or needs; and
 - (b) (in particular) assisting or encouraging a person to enhance the person’s employment prospects. 5

11B Provision which may be made by regulations under section 11A

- (1) Regulations under section 11A(1) or (2) may, in particular, make provision –
- (a) prescribing circumstances in which a person is to be subject to a requirement to take part in one or more work-focused interviews (a “relevant requirement”); 10
 - (b) for notifying a person of a relevant requirement;
 - (c) prescribing the work-focused interviews in which a person who is subject to a relevant requirement is required to take part; 15
 - (d) for determining, in relation to work-focused interviews under the regulations, when and how the interview is to be conducted and, if it is to be conducted face to face, where it is to take place;
 - (e) for notifying persons who are subject to a relevant requirement of what is determined in respect of the matters mentioned in paragraph (d); 20
 - (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; 25
 - (g) for securing that the appropriate consequence follows if a person who is subject to a relevant requirement –
 - (i) fails to take part in the work-focused interview, and
 - (ii) does not, within a prescribed period, show that the person had good cause for that failure; 30
 - (h) prescribing matters which are, or are not, to be taken into account in determining whether a person has good cause for any failure to comply with the regulations;
 - (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure. 35
- (2) For the purposes of subsection (1)(g) “the appropriate consequence” means –
- (a) in the case of regulations under section 11A(1), that the person is to be regarded as not having made a claim for the allowance or, if the allowance has already been awarded (because the case is within subsection (6)), the entitlement to it is to cease immediately; 40
 - (b) in the case of regulations under section 11A(2), that the amount of the allowance is to be reduced by the prescribed amount until the prescribed time. 45
- (3) Regulations under section 11A(2) may, in relation to any such reduction, provide –
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;

- (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
 - (c) where the person is also entitled to one or more relevant benefits, for determining the extent, and the order, in which the jobseeker’s allowance and the relevant benefits are to be reduced in order to give effect to the required reduction. 5
- (4) Regulations under section 11A(1) or (2) may provide that a relevant requirement that would otherwise apply to a person by virtue of the regulations –
 - (a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is prescribed; 10
 - (b) is not to apply if the Secretary of State determines that a work-focused interview would not be of assistance to the person or would otherwise not be appropriate in the circumstances; 15
 - (c) is not to apply until such time as the Secretary of State determines, if the Secretary of State determines that a work-focused interview would not be of assistance to the person, or would otherwise not be appropriate in the circumstances, until that time. 20
- (5) The regulations may make provision for treating a person in relation to whom a relevant requirement does not apply, or does not apply until a particular time, as having complied with the requirement to such extent and for such purposes as may be prescribed.
- (6) Where – 25
 - (a) a person is subject to a relevant requirement as a result of regulations under section 11A(1), and
 - (b) the interview is postponed by or under provision of the regulations made as a result of subsection (4)(a) or (c) above, the time to which it is so postponed may be a time falling after an award of the allowance. 30
- (7) In this section “relevant benefit”, in relation to any person, means any benefit in relation to which the person is required to take part in a work-focused interview by virtue of regulations made under section 2A of the Administration Act. 35

11C Action plans in connection with work-focused interviews

- (1) The Secretary of State must in prescribed circumstances provide an action plan to a person subject to a requirement imposed under section 11A to take part in a work-focused interview.
- (2) In this section an “action plan” means a document prepared for such purposes as may be prescribed. 40
- (3) 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. 45

- (4) Regulations may make provision for reconsideration of an action plan at the request of the person to whom it is provided and may, in particular, make provision about –
- (a) the circumstances in which reconsideration may be requested; 5
 - (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.” 10

Directions given by officers of the Secretary of State etc

4 After section 18 insert –

“Claimants to comply with directions etc.

- 18A Requirements imposed on claimants by officers of the Secretary of State** 15
- (1) A claimant must carry out any direction given by an officer of the Secretary of State to the claimant with a view to achieving one or both of the following –
- (a) assisting the claimant to find employment; 20
 - (b) improving the claimant’s existing or future prospects of being or remaining employed.
- (2) A direction under subsection (1) –
- (a) must be reasonable, having regard to the claimant’s circumstances; 25
 - (b) must be in writing; and
 - (c) may be varied or revoked by a subsequent direction given under that subsection.
- (3) If an officer of the Secretary of State notifies a claimant of a place on a training scheme which is vacant or about to become vacant, the claimant –
- (a) must apply for the place, and
 - (b) if offered the place, must accept it and attend the scheme. 30
- (4) If an officer of the Secretary of State notifies a claimant of a place on an employment programme which is vacant or about to become vacant, the claimant –
- (a) must apply for the place, and
 - (b) if offered the place, must accept it and attend the programme. 35
- (5) If an officer of the Secretary of State notifies a claimant of a situation in any employment which is vacant or about to become vacant, the claimant –
- (a) must apply for the situation, and
 - (b) if offered the situation, must accept it. 40

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- (6) In the case of a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A –
- (a) a subsection (1)(a) direction may not be given except as mentioned in subsection (7); and
 - (b) subsections (4) and (5) do not apply (but see subsection (7)).
- (7) If a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A so agrees –
- (a) a subsection (1)(a) direction may be given to the person; and
 - (b) a subsection (1)(b) direction may require the person to apply for a place on an employment programme and, if offered the place, accept it and attend the programme.
- (8) Regulations may, in the case of a person of a prescribed description whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A, provide –
- (a) for a subsection (1)(b) direction not to be given or not to be given in prescribed circumstances;
 - (b) for subsection (3) not to apply or not to apply in prescribed circumstances.
- (9) For the purposes of this section –
- “employment programme” has such meaning as may be prescribed;
 - “subsection (1)(a) direction” means a direction under subsection (1) given with a view to achieving the purpose mentioned in paragraph (a) of that subsection;
 - “subsection (1)(b) direction” means a direction under subsection (1) given with a view to achieving the purpose mentioned in paragraph (b) of that subsection;
 - “training scheme” has such meaning as may be prescribed.
- (10) For the purposes of the application of this section in the case of a joint-claim couple claiming a joint-claim jobseeker’s allowance –
- (a) a direction or notification under this section may be given to only one member of the couple, or
 - (b) separate directions or notifications under this section may be given to each member of the couple,
- and references in this section to a claimant are to be read accordingly.
- (11) Nothing in any provision of this section is to be read as prejudicing the generality of any other provision of this section or of section 18B.
- (12) For the sanctions for failure to comply with this section, see sections 19 and 20A (as read with sections 18C and 18D).
- 18B Work-related activity: section 1A(4) claimants**
- (1) Regulations may make provision for or in connection with imposing on a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A a requirement to undertake work-related activity in accordance with regulations.
 - (2) Regulations under this section may, in particular, make provision –

-
- (a) prescribing circumstances in which a person is to be subject to any requirement imposed by the regulations (a “relevant requirement”);
 - (b) for notifying a person of a relevant requirement;
 - (c) prescribing the time or times at which a person who is subject to a relevant requirement is required to undertake work-related activity and the amount of work-related activity the person is required at any time to undertake; 5
 - (d) prescribing circumstances in which a person who is subject to a relevant requirement is, or is not, to be regarded as undertaking work-related activity. 10
 - (3) 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. 15
 - (4) In prescribed circumstances, the Secretary of State may by direction given to a person subject to a requirement imposed under subsection (1) provide that the activity specified in the direction is –
 - (a) to be the only activity which, in the person’s case, is to be regarded as being work-related activity; or 20
 - (b) to be regarded, in the person’s case, as not being work-related activity.
 - (5) A direction under subsection (4) given to any person –
 - (a) must be reasonable, having regard to the person’s circumstances; 25
 - (b) must be given to the person by being included in an action plan provided to the person under section 11C; and
 - (c) may be varied or revoked by a subsequent direction under that subsection. 30
 - (6) Where a direction under subsection (4) 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.
 - (7) For the purposes of this section “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. 35
 - (8) Nothing in this section is to be read as prejudicing the generality of any provision of section 18A.
 - (9) For the sanctions for failure to comply with this section, see section 19 (as read with sections 18C and 18D).” 40
- 5 Before section 19 (but after the italic heading immediately before that section) insert –

“18C Definitions for purposes of sections 19 and 20A

- (1) This section applies for the purposes of sections 19 and 20A.

- (2) A person (“P”) is in breach of a jobseeker’s direction if P has, without good cause, refused or failed to carry out a direction given to P under section 18A(1).
- (3) A person (“P”) is in breach of a training scheme requirement if P –
- (a) has, without good cause, refused or failed to do as mentioned in section 18A(3); 5
 - (b) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of a place on a training scheme;
 - (c) has, without good cause, given up a place on a training scheme; 10
 - (d) has, without good cause, failed to attend a training scheme on which P has been given a place; or
 - (e) has lost a place on a training scheme through misconduct.
- (4) A person (“P”) is in breach of an employment programme requirement if P – 15
- (a) has, without good cause, refused or failed to do as mentioned in section 18A(4);
 - (b) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of a place on an employment programme; 20
 - (c) has, without good cause, given up a place on an employment programme;
 - (d) has, without good cause, failed to attend an employment programme on which P has been given a place; or
 - (e) has lost a place on an employment programme through misconduct. 25
- (5) A person (“P”) is in breach of an employment requirement if P –
- (a) has, without good cause, refused or failed to do as mentioned in section 18A(5);
 - (b) has lost employment as an employed earner through misconduct; 30
 - (c) has, without just cause, voluntarily left employment as an employed earner; or
 - (d) has, without good cause, neglected to avail himself or herself of a reasonable opportunity of employment. 35
- (6) A person (“P”) is in breach of a work-related activity requirement if P has, without good cause, refused or failed to comply with a requirement imposed on P under section 18B.
- (7) In this section “employment programme” and “training scheme” have the same meaning as in section 18A. 40

18D Section 18C: supplemental

- (1) A person is not to be regarded as breaching any requirement under section 18C merely because the person refuses to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute. 45

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- (2) A person is not to be regarded as breaching a jobseeker’s direction, a training scheme requirement or an employment programme requirement under section 18C if –
- (a) a direction is in force under section 16 with respect to the person; and 5
 - (b) the person has acted in such a way as to risk –
 - (i) having that direction revoked under section 16(3)(b), or
 - (ii) having the amount of jobseeker’s allowance reduced by virtue of section 17 because the condition mentioned in section 17(3)(b) or (c) is satisfied. 10
- (3) In such circumstances as may be prescribed, a person who might otherwise be regarded as having left employment voluntarily is to be treated for the purposes of section 18C as not having left voluntarily.
- (4) The circumstances that may be prescribed include, in particular, where the person has been dismissed by reason of redundancy within the meaning of section 139(1) of the Employment Rights Act 1996 after volunteering or agreeing to be so dismissed. 15
- (5) Regulations must make provision for the purpose of enabling any person of a prescribed description to accept any employed earner’s employment without breaching an employment requirement by virtue of section 18C(5)(c) or (d) should the person leave that employment voluntarily and without just cause at any time during a trial period. 20
- (6) “Trial period” has such meaning as may be prescribed. 25
- (7) Regulations may for the purposes of section 18C –
- (a) prescribe matters which are, or are not, to be taken into account in determining whether a person has good cause or just cause for any act or omission;
 - (b) prescribe circumstances in which a person is, or is not, to be regarded as having good cause or just cause for any act or omission. 30
- (8) Subject to those regulations, in determining whether, for the purposes of section 18C, a person has, or does not have, good cause or just cause for any act or omission, any matter relating to the level of remuneration in the employment in question is to be disregarded. 35
- (9) Regulations may, in the case of a person of a prescribed description whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A, provide that section 18C(3)(b) to (e) –
- (a) are not to apply, or
 - (b) are not to apply in prescribed circumstances. 40
- (10) Regulations may make provision for the purposes of section 18C(6) –
- (a) prescribing the evidence which a person who is subject to a requirement imposed under section 18B needs to provide in order to show compliance with the requirement; 45

- (b) prescribing matters which are, or are not, to be taken into account in determining whether a person has complied with such a requirement.
- (11) Regulations may make provision for determining, for the purposes of this section, the day on which a person’s employment is to be regarded as starting.” 5
- 6 For sections 19 and 20 substitute –
- “19 Certain circumstances in which a jobseeker’s allowance is not payable**
- (1) This section applies in relation to a jobseeker’s allowance other than a joint-claim jobseeker’s allowance (as to which see section 20A). 10
- (2) In the case of a claimant whose claim to a jobseeker’s allowance is not based on meeting condition B in section 1A, a jobseeker’s allowance is not payable in respect of the claimant for the relevant period if the claimant is in breach of – 15
- (a) a jobseeker’s direction,
- (b) a training scheme requirement,
- (c) an employment programme requirement, or
- (d) an employment requirement,
- even though the claimant meets the conditions for entitlement to the allowance. 20
- (3) In the case of a claimant whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A, a jobseeker’s allowance is not payable in respect of the claimant for the relevant period if the claimant is in breach of – 25
- (a) a jobseeker’s direction,
- (b) a training scheme requirement, or
- (c) a work-related activity requirement,
- even though the claimant meets the conditions for entitlement to the allowance.
- (4) In this section “the relevant period” means – 30
- (a) in any case where the allowance is not payable because the claimant is in breach of an employment requirement, such period as may be determined by the Secretary of State; and
- (b) in any other case, such period as may be prescribed.
- (5) The period which may be determined or prescribed under subsection (4) must be at least one week but not more than 26 weeks. 35
- (6) Regulations may prescribe –
- (a) circumstances which the Secretary of State is to take into account, and
- (b) circumstances which the Secretary of State is not to take into account, 40
- in determining a period under subsection (4)(a).
- 20 Exemptions from section 19**
- (1) In such circumstances as may be prescribed, an income-based jobseeker’s allowance is payable in respect of a claimant even though 45

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- section 19 prevents payment of a jobseeker’s allowance to the claimant.
- (2) An income-based jobseeker’s allowance is payable by virtue of subsection (1) only if the claimant has complied with such requirements as to the provision of information as may be prescribed for the purposes of this subsection. 5
- (3) Regulations under subsection (1) may, in particular, provide for an income-based jobseeker’s allowance payable by virtue of that subsection to be – 10
- (a) payable at a prescribed rate;
 - (b) payable for a prescribed period (which may differ from the period fixed under section 19(4)).”
- 7 For sections 20A and 20B substitute –
- “20A Certain circumstances in which a joint-claim jobseeker’s allowance is not payable 15**
- (1) This section applies in relation to a joint-claim jobseeker’s allowance.
- (2) A member of a joint-claim couple is subject to sanctions for the purposes of this section for the relevant period if the member is in breach of – 20
- (a) a jobseeker’s direction,
 - (b) a training scheme requirement,
 - (c) an employment programme requirement, or
 - (d) an employment requirement.
- (3) In this section “the relevant period” means – 25
- (a) in any case where the member is subject to sanctions because the member is in breach of an employment requirement, such period as may be determined by the Secretary of State; and
 - (b) in any other case, such period as may be prescribed.
- (4) The period which may be determined or prescribed under subsection (3) must be at least one week but not more than 26 weeks. 30
- (5) Even though the couple meet the conditions for entitlement to a joint-claim jobseeker’s allowance – 35
- (a) the allowance is not payable for any period during which both members of the couple are subject to sanctions; and
 - (b) the amount of the allowance payable in respect of the couple for any period during which only one member of the couple is subject to sanctions is reduced to an amount calculated by the prescribed method (“the reduced amount”).
- (6) The method prescribed for calculating the reduced amount may, in particular, involve – 40
- (a) deducting amounts from, or making percentage reductions of, the amount which would be the amount of the allowance if neither member of the couple were subject to sanctions;
 - (b) disregarding portions of the applicable amount;
 - (c) treating amounts as being income or capital of the couple. 45

| | | |
|-------------------------|---|-----------|
| (7) | During any period for which the amount of a joint-claim jobseeker's allowance is the reduced amount, the allowance is payable to the member of the couple who is not subject to sanctions. | |
| (8) | Regulations may prescribe – | |
| (a) | circumstances which the Secretary of State is to take into account, and | 5 |
| (b) | circumstances which the Secretary of State is not to take into account, | |
| | in determining a period under subsection (3)(a). | |
| 20B | Exemptions from section 20A | 10 |
| (1) | In such circumstances as may be prescribed, a joint-claim jobseeker's allowance is payable in respect of a joint-claim couple even though section 20A(5)(a) prevents payment of the allowance to the couple. | |
| (2) | A jobseeker's allowance is payable by virtue of subsection (1) only if the couple have complied with such requirements as to the provision of information as may be prescribed for the purposes of this subsection. | 15 |
| (3) | Regulations under subsection (1) may, in particular, provide for a jobseeker's allowance payable by virtue of that subsection to be – | |
| (a) | payable at a prescribed rate; | 20 |
| (b) | payable for a prescribed period (which may differ from the period during which both members of the couple are subject to sanctions for the purposes of section 20A)." | |
| <i>Other amendments</i> | | |
| 8 | In section 1(4) (the jobseeker's allowance), for the definition of "a joint-claim jobseeker's allowance" substitute – "“a joint-claim jobseeker's allowance” means a jobseeker's allowance entitlement to which is based on section 1B.” | 25 |
| 9 | In section 2(1) (the contribution-based conditions), for "section 1(2)(d)" substitute "section 1A(1)(b)". | 30 |
| 10 | (1) Section 3 (the income-based conditions) is amended as follows. | |
| | (2) In subsection (1), for "section 1(2A)(b)" substitute "section 1A(3)(b)". | |
| | (3) After that subsection insert – | |
| | “(1A) The conditions referred to in section 1A(4)(d) are that the claimant – | |
| | (a) satisfies the conditions set out in subsection (1)(a), (b), (c), (dd), (de) and (e) above; | 35 |
| | (b) is not a member of a couple the other member of which is entitled to an income-based jobseeker's allowance; and | |
| | (c) is a person – | |
| | (i) who has reached the age of 18; or | 40 |
| | (ii) who has reached the age of 16 but not the age of 18 and falls within a prescribed description of person.” | |
| 11 | In section 3A(1) (the conditions for claims by joint-claim couples), for "section 1(2B)(c)" substitute "section 1B(1)(c)". | |

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- 12 In section 4(11A) (amount payable by way of a jobseeker’s allowance), for “section 1(2C)” substitute “section 1A(6)”.
- 13 In section 9 (the jobseeker’s agreement) –
- (a) in subsection (2), for “section 1” substitute “section 1A”,
 - (b) in subsection (5), for “section 1(2)(a) and (c)” substitute “section 1A(5)(a) and (c)”,
 - (c) in subsection (6)(a) –
 - (i) in sub-paragraph (i), for “section 1(2)(a)” substitute “section 1A(5)(a)”, and
 - (ii) in sub-paragraph (ii), for “section 1(2)(c)” substitute “section 1A(5)(c)”, and
 - (d) in subsection (10), for “section 1(2)(b)” substitute “section 1A(5)(b)”.
- 14 In section 10 (variation of jobseeker’s agreement) –
- (a) in subsection (4), for “section 1(2)(a) and (c)” substitute “section 1A(5)(a) and (c)”, and
 - (b) in subsection (5)(a) –
 - (i) in sub-paragraph (i), for “section 1(2)(a)” substitute “section 1A(5)(a)”, and
 - (ii) in sub-paragraph (ii), for “section 1(2)(c)” substitute “section 1A(5)(c)”.
- 15 (1) Section 14 (trade disputes) is amended as follows.
- (2) In subsection (1), at the beginning insert “Except in prescribed circumstances,”.
 - (3) In subsection (2), at the beginning insert “Except in prescribed circumstances,”.
 - (4) After subsection (2) insert –
 - “(2A) Subsections (1) and (2) do not apply to a person who is a member of a couple unless the other member of the couple is a person to whom either of those subsections apply (but see instead the provision made by section 15).”
- 16 (1) Section 15 (effect on other claimants) is amended as follows.
- (2) For subsection (1) substitute –
 - “(1) Except in prescribed circumstances, subsection (2) applies in relation to any person (“P”) who –
 - (a) is a member of a couple, and
 - (b) claims an income-based jobseeker’s allowance,
 in any case where, if subsection (2A) of section 14 were to be disregarded, either P or the other member of the couple (but not both) would be prevented by that section from being entitled to a jobseeker’s allowance.
 - (1A) In this section any reference to the relevant person is to the member of the couple concerned who would be prevented by that section from being so entitled (whether or not that person is also the claimant).”
 - (3) In subsection (2) –

- (a) in paragraph (a), for “A” substitute “the relevant person”,
 - (b) in paragraph (b), for the words from “where” to “them” substitute “any portion of the applicable amount which is included in respect of the couple”, and
 - (c) in paragraph (c), for “A” (in both places) substitute “the relevant person” and for “A’s” substitute “that person’s”. 5
- (4) In subsection (4), for “A” (in both places) substitute “the relevant person”.
- 17 (1) Section 15A (trade disputes: joint-claim couples) is amended as follows.
- (2) After subsection (1), insert –
“(1A) Section 14 shall apply as if subsection (2A) of that section were omitted.” 10
 - (3) In subsection (4), omit paragraph (b) (together with the “or” immediately before it).
 - (4) In subsection (5) –
 - (a) for paragraph (b) substitute – 15
“(b) references to the relevant person are to the person mentioned in subsection (4)(a) above;”, and
 - (b) omit paragraph (c) (but not the “and” at the end of it).
- 18 After section 15A insert –
- “15B Other provision relating to a person’s return to work” 20**
- (1) This section applies if a person (“P”) returns to work with the same employer after a period during which –
 - (a) P is, or would be, prevented by section 14 from being entitled to a jobseeker’s allowance, or
 - (b) section 15(2) applies in a case where (if subsection (2A) of section 14 were to be disregarded) P would be prevented by that section from being so entitled. 25
 - (2) It does not matter whether or not the return to work is before the end of the stoppage of work in question.
 - (3) In the case of a claim for an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance – 30
 - (a) P is to be treated as not engaged in remunerative work until the end of the period of 15 days beginning with the day on which P returns to work, and
 - (b) any sum paid by way of a jobseeker’s allowance for that period of 15 days to P or, if P is a member of a couple, to the other member of the couple is recoverable in accordance with regulations from the person to whom it was paid or from any prescribed person or, where the person to whom it was paid is a member of a couple, from the other member of the couple. 35
 - (4) In the case of a claim for a joint-claim jobseeker’s allowance –
 - (a) P is to be treated as meeting the jobseeking conditions, and as not engaged in remunerative work, until the end of the period of 15 days beginning with the day on which P returns to work, and 40
- 45

- (b) any sum paid by way of a joint-claim jobseeker’s allowance for that period of 15 days in respect of the couple is recoverable in accordance with regulations from each member of the couple or from any prescribed person.”
- 19 In – 5
- (a) section 17A(8) (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.), which is inserted by section 1 of this Act,
- (b) section 20C(7) (sanctions for violent conduct in connection with claim), which is inserted by section 22 of this Act, and 10
- (c) paragraph 7(4) of Schedule A1 (claimants dependent on drugs etc.), which is inserted by Schedule 3 to this Act,
 for “section 20B(4)” substitute “section 20B(1)”.
- 20 In section 22(2) (members of the forces), for “section 19(6)(b)” substitute “section 18C(5)(c)”. 15
- 21 In section 35(1) (interpretation) –
- (a) after the definition of “the applicable amount” insert –
 ““the basic conditions” means the conditions set out in section 1A(5);”, and
- (b) after the definition of “jobseeker’s agreement” insert – 20
 ““the jobseeking conditions” means the conditions set out in section 1A(5)(a) to (c);”.
- 22 In section 36(4A)(b) (regulations and orders), which is inserted by section 1 of this Act, after “section” insert “11A, 11C, 18B or”.
- 23 (1) Schedule 1 (supplementary provisions) is amended as follows. 25
- (2) In paragraph 2, at the end insert –
- “(3) Regulations may provide that the condition in section 1A(5)(e) (person not to have limited capability for work) is not to apply in prescribed circumstances to a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A.” 30
- (3) For paragraph 8 substitute –
- “8 Regulations may prescribe circumstances in which a person may be entitled to an income-based jobseeker’s allowance without being required to meet the jobseeking conditions in any case where the person would not otherwise be so entitled.” 35
- (4) In paragraph 8A(1), for “conditions referred to in section 1(2B)(b)” substitute “basic conditions”.
- (5) In paragraph 14 –
- (a) renumber the existing text as sub-paragraph (1), and
- (b) after that sub-paragraph (as renumbered) insert – 40
- “(2) Regulations may provide that the condition in section 1A(5)(f) (person not to be receiving relevant education) is not to apply in prescribed circumstances to a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A.” 45

(6) After paragraph 14 insert –

“Pensionable age

- 14A Regulations may provide that in prescribed circumstances the condition in section 1A(5)(g) (person to be under pensionable age) is to have effect in relation to a person whose claim to a jobseeker’s allowance is based on meeting condition B in section 1A as if for “pensionable age” there were substituted “the qualifying age for state pension credit (within the meaning of the State Pension Credit Act 2002)”.

PART 2 10

AMENDMENTS OF OTHER ACTS

Social Security Administration Act 1992 (c. 5)

- 24 In section 2A of the Social Security Administration Act 1992 (claim or full entitlement to certain benefits conditional on work-focused interview), at the end insert – 15

“(9) For the purposes of this section –

- (a) the references in subsections (3)(a) and (5)(c) to a relevant benefit include references to a jobseeker’s allowance in relation to which a person is required to take part in a work-focused interview by virtue of regulations made under section 11A of the Jobseekers Act 1995; 20
- (b) the reference in subsection (5)(c) to any reduction of the amount of benefit payable to any person under subsection (4)(b) includes a reference to any reduction of the amount of a jobseeker’s allowance payable in respect of that person by virtue of those regulations.” 25

Social Security Act 1998 (c. 14)

- 25 In paragraph 3(d) of Schedule 3 to the Social Security Act 1998 (decisions against which an appeal lies), after “section 19” insert “or 20A”.

Welfare Reform Act 2007 (c. 5) 30

- 26 In section 1(6) of the Welfare Reform Act 2007 (employment and support allowance), in the definition of “joint-claim jobseeker’s allowance”, for “section 1(2B)” substitute “section 1B”.

SCHEDULE 2

Section 7

ABOLITION OF INCOME SUPPORT: CONSEQUENTIAL AMENDMENTS 35

Magistrates’ Courts Act 1980 (c. 43)

- 1 In sections 89(2A) and 90(3A) of the Magistrates’ Courts Act 1980 (transfer of fine order), for “income support” substitute “jobseeker’s allowance etc”.

Criminal Justice Act 1991 (c. 53)

- 2 In section 24 of the Criminal Justice Act 1991 (recovery of fines etc. by deductions from income support), in the title, for “income support” substitute “jobseeker’s allowance etc”.

Social Security Administration Act 1992 (c. 5)

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- 3 In section 74 of the Social Security Administration Act 1992 (income support and other payments), in the title, for “Income support” substitute “Income-based jobseeker’s allowance”.

Local Government Finance Act 1992 (c. 14)

- 4 In paragraph 12(1) of Schedule 4 to the Local Government Finance Act 1992 (enforcement: relationship between remedies) –
- (a) in paragraph (b), for “income support” substitute “jobseeker’s allowance payable to any person whose claim to the allowance is based on meeting condition B in section 1A of the Jobseekers Act 1995”, and
- (b) in paragraph (d), for “income support” substitute “jobseeker’s allowance payable as mentioned in paragraph (b)”.

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Jobseekers Act 1995 (c. 18)

- 5 The Jobseekers Act 1995 is amended as follows.
- 6 In section 2(1) (the contribution-based conditions), at the end of paragraph (b) insert “and”.
- 7 In section 3A(1)(c) (the conditions for claims by joint-claim couples), for “any such family” substitute “a family of which the couple are members”.

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Immigration and Asylum Act 1999 (c. 33)

- 8 In section 97(5) of the Immigration and Asylum Act 1999 (persons for whom support may be provided: supplemental), for paragraph (a) (together with the “or” at the end of it) substitute –
- “(a) to such portion of the applicable amount in respect of an income-based jobseeker’s allowance provided under section 4 of the Jobseekers Act 1995, or”.

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

- 9 In section 62(2) of the Child Support, Pensions and Social Security Act 2000 (loss of benefit for commission of benefit offences), for “subsections (3)” substitute “subsections (4)”.

Social Security Fraud Act 2001 (c. 11)

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- 10 The Social Security Fraud Act 2001 is amended as follows.
- 11 In section 6B(5) (loss of benefit in case of conviction, penalty or caution for benefit offence), which is inserted by section 21 of this Act, for “subsections (6)” substitute “subsections (7)”.

- 12 In section 7(2) (loss of benefit for commission of benefit offences), for “subsections (3)” substitute “subsections (4)”.

Courts Act 2003 (c. 39)

- 13 The Courts Act 2003 is amended as follows.
- 14 In paragraph 10(a) of Schedule 5 (applications for benefit deductions), for “income support” substitute “jobseeker’s allowance”. 5
- 15 In paragraph 2(1)(a)(v) of Schedule 6 (discharge of fines by unpaid work), for “income support” substitute “jobseeker’s allowance”.

Child Trust Funds Act 2004 (c. 6)

- 16 In section 9(8)(a) of the Child Trust Funds Act 2004 (supplementary contribution by HMRC), for “income support, or income-based jobseeker’s allowance,” substitute “income-based jobseeker’s allowance”. 10

Age-Related Payments Act 2004 (c. 10)

- 17 In section 2(3)(b) of the Age-Related Payments Act 2004 (entitlement: basic cases), at the end of sub-paragraph (i) insert “or”. 15

Welfare Reform Act 2007 (c. 5)

- 18 In paragraph 11 of Schedule 4 to the Welfare Reform Act 2007 (transition relating to Part 1 of Act), after the definition of “incapacity benefit” insert –
““income support” means income support under section 124 of the Contributions and Benefits Act;”.

SCHEDULE 3

Section 9

CLAIMANTS DEPENDENT ON DRUGS ETC.

PART 1

JOBSEEKER’S ALLOWANCE

Requirements imposed on claimants dependent on drugs etc. 25

- 1 After section 17B of the Jobseekers Act 1995 (c. 18) (which is inserted by section 1 of this Act) insert –

“Persons dependent on drugs etc.

17C Persons dependent on drugs etc.

- (1) Schedule A1 makes provision for or in connection with imposing requirements on persons in cases where – 30
- (a) they are dependent on, or have a propensity to misuse, any drug, and

- (b) any such dependency or propensity is a factor affecting their prospects of obtaining or remaining in work.
- (2) That Schedule also contains a power for its provisions to apply in relation to alcohol.”
- 2 Before Schedule 1 to the Jobseekers Act 1995 (c. 18) insert – 5

“SCHEDULE A1

Section 17C

PERSONS DEPENDENT ON DRUGS ETC.

Requirements imposed in relation to use of drugs

- 1 (1) Regulations may make provision for or in connection with imposing on a claimant a requirement to attend at such time and place as may be determined in accordance with the regulations in order to answer questions within sub-paragraph (2). 10
- (2) A question is within this sub-paragraph if it is asked for the purpose of ascertaining –
- (a) whether the person required to answer it may be dependent on, or have a propensity to misuse, any drug, and 15
- (b) (if so) whether any such dependency or propensity may be a factor affecting that person’s prospects of obtaining or remaining in work. 20
- (3) Regulations under this paragraph may, in particular, make provision prescribing the questions which a person may be required to answer under the regulations (which may include questions relating to any use of the drug in question or any treatment connected with its use). 25
- (4) Regulations under this paragraph may not impose a requirement on a person at any time unless the person is required to meet the jobseeking conditions at that time.
- 2 (1) Regulations may make provision for or in connection with imposing on a person who is subject to a requirement imposed under paragraph 1 a requirement to take part in a substance-related assessment. 30
- (2) For the purposes of this paragraph –
- a “substance-related assessment” means an assessment by an approved person carried out for the purpose of assessing – 35
- (a) whether a person is dependent on, or has a propensity to misuse, any drug, and
- (b) (if so) whether the person’s dependency or propensity is such as requires and may be susceptible to treatment; 40
- an “approved person” means a person having the necessary qualifications or experience who is approved by the Secretary of State for the purposes of this paragraph.

- (3) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State has reasonable grounds for suspecting that—
- (a) the person may be dependent on, or have a propensity to misuse, any drug, and 5
 - (b) any such dependency or propensity may be a factor affecting the person's prospects of obtaining or remaining in work.
- (4) Regulations under this paragraph may, in particular, make provision—
- (a) for notifying a person of a requirement to take part in a substance-related assessment; 10
 - (b) for the determination, and notification, of the time and place of any substance-related assessment in which a person is required to take part. 15
- (5) Regulations under this paragraph may not impose a requirement on a person at any time unless the person is required to meet the jobseeking conditions at that time.
- 3 (1) Regulations may make provision for or in connection with imposing on a person who— 20
- (a) is subject to a requirement imposed under paragraph 2, and
 - (b) fails to comply with it without it being shown, within a prescribed period, that the person had good cause for the failure, 25
- a requirement to take part in one or more relevant tests for the purpose of ascertaining whether there is or has been any drug in the person's body.
- (2) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State is satisfied that the proposed test or tests will, or will be likely to, assist in determining whether the person is dependent on, or has a propensity to misuse, any drug. 30 35
- (3) Regulations under this paragraph must include provision for informing a person of the consequence of failing to comply with a requirement to take part in a relevant test.
- (4) Regulations under this paragraph may, in particular, make provision— 40
- (a) for notifying a person of a requirement to take part in a relevant test;
 - (b) for the determination, and notification, of the time and place of any relevant test in which a person is required to take part. 45
- (5) Regulations under this paragraph may not impose a requirement on a person at any time unless the person is required to meet the jobseeking conditions at that time.

- (6) For the purposes of this paragraph a person takes part in a relevant test if the person provides a permissible sample in accordance with instructions given by an approved person (within the meaning of paragraph 2).
- (7) In sub-paragraph (6) “permissible sample”, in relation to any drug, means— 5
- (a) a sample of urine, or
 - (b) such sample (other than an intimate sample) as may be prescribed in relation to that drug.
- (8) In sub-paragraph (7)(b) “intimate sample” means— 10
- (a) a sample of blood, semen or any other tissue fluid or pubic hair;
 - (b) a dental impression;
 - (c) a swab taken from any part of a person’s genitals (including pubic hair) or from a person’s body orifice other than the mouth. 15
- Paragraphs 1 to 3: supplementary*
- 4 (1) A person must comply with a requirement imposed by regulations under any of paragraphs 1 to 3 even if doing so might constitute evidence that the person has committed an offence. 20
- (2) But in criminal proceedings in which a person is charged with an offence—
- (a) no evidence relating to any answer given, or anything else done, in pursuance of the regulations may be adduced by or on behalf of the prosecution, and 25
 - (b) no question relating to those matters may be asked by or on behalf of the prosecution,
- unless evidence relating to those matters is adduced, or a question relating to those matters is asked, in the proceedings by or on behalf of the person. 30
- (3) Sub-paragraph (2) does not apply to—
- (a) an offence under section 112 of the Administration Act;
 - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath in England and Wales); or 35
 - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (corresponding provision for Scotland).
- 5 (1) Regulations may make provision for or in connection with authorising the supply of information held by— 40
- (a) a police force,
 - (b) the probation service, or
 - (c) such other person as may be prescribed,
- to the Secretary of State, or to a person providing services to the Secretary of State, for the purpose of checking the accuracy of information supplied in pursuance of regulations under paragraph 1. 45

- (2) Regulations under this paragraph may, in particular, make provision as to the circumstances in which, and the extent (if any) to which, information supplied under the regulations may be supplied by the recipient to others.
- (3) Regulations under this paragraph may, in particular, authorise information supplied to a person under the regulations –
 - (a) to be used for the purpose of amending or supplementing other information held by that person; and
 - (b) if it is so used, to be supplied to any other person, and used for any purpose, to whom and for which that other information could be supplied or used.
- (4) In this paragraph “the probation service” means –
 - (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services;
 - (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968.

Requirement to comply with a rehabilitation plan

- 6 (1) Regulations may make provision for or in connection with imposing on a person a requirement to comply with a rehabilitation plan.
- (2) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if, as a result of an assessment carried out under regulations under paragraph 2, the Secretary of State is satisfied that –
 - (a) the person is dependent on, or has a propensity to misuse, any drug,
 - (b) the person’s dependency or propensity is such as requires and may be susceptible to treatment, and
 - (c) the person’s dependency or propensity is a factor affecting the person’s prospects of obtaining or remaining in work.
- (3) For the purposes of this paragraph a “rehabilitation plan” is a document –
 - (a) which is provided to the person by the Secretary of State, and
 - (b) which contains one or more of the following requirements.
- (4) The requirements are that during the specified period (which may not exceed 52 weeks or, if the case is exceptional, 104 weeks) the person –
 - (a) must submit to treatment by or under the direction of a person having the necessary qualifications or experience,
 - (b) must take part in specified interviews, and specified assessments, at specified places and times, and
 - (c) must take such other steps (if any) as may be specified, with a view to the reduction or elimination of the person’s dependency on, or propensity to misuse, the drug in question.

- (5) The required treatment for any particular period must be –
- (a) treatment as a resident in a specified institution or place, or
 - (b) treatment as a non-resident at a specified institution or place, and at specified intervals;
- but the nature of the treatment must not otherwise be specified. 5
- (6) Regulations under this paragraph may, in particular, make provision –
- (a) for securing that a person who is required to comply with a rehabilitation plan is not required to meet the jobseeking conditions; 10
 - (b) for suspending any jobseeker’s agreement to which a person is a party for any period during which the person is required to comply with a rehabilitation plan;
 - (c) for securing that a person is not required to submit to treatment of a prescribed description without the person’s consent; 15
 - (d) as to the involvement of a person in determining the particular requirements to be contained in a rehabilitation plan with which the person is to be required to comply;
 - (e) about the form of rehabilitation plans (including provision as to the signing of rehabilitation plans); 20
 - (f) about the review of rehabilitation plans;
 - (g) about the variation of rehabilitation plans;
 - (h) about the revocation of rehabilitation plans before the end of the specified period; 25
 - (i) for securing that a person who is required to comply with a rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan.
- (7) A jobseeker’s allowance may also be known as a “treatment allowance” at any time when – 30
- (a) it is payable in respect of a person who is required to comply with a rehabilitation plan (or would be so payable if compliance with the plan is assumed), or
 - (b) it is payable in respect of a joint-claim couple both members of which are required to comply with a rehabilitation plan (or would be so payable if compliance with the plans is assumed). 35
- (8) Regulations under this paragraph may not impose a requirement on a person at any time unless the person would (apart from the regulations) be required to meet the jobseeking conditions at that time. 40
- (9) In this paragraph “specified”, in relation to a rehabilitation plan, means specified in or determined in accordance with the plan.

Sanctions

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

- (a) for securing that the appropriate consequence follows if a person has failed to comply with any requirement imposed by any such regulations and it is not shown, within a prescribed period, that the person had good cause for the failure; 5
 - (b) prescribing matters which are, or are not, to be taken into account in determining whether a person has good cause for any failure to comply with any such requirement;
 - (c) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any failure to comply with any such requirement. 10
- (2) In the case of a jobseeker’s allowance other than a joint-claim jobseeker’s allowance, the appropriate consequence for the purposes of sub-paragraph (1)(a) is that the allowance is not payable for such period (of at least one week but not more than 26 weeks) as may be prescribed. 15
- (3) In the case of a joint-claim jobseeker’s allowance, the appropriate consequence for the purposes of sub-paragraph (1)(a) is that the person is to be treated as subject to sanctions for the purposes of section 20A for such period (of at least one week but not more than 26 weeks) as may be prescribed. 20
- (4) Regulations under paragraph 1, 2, 3 or 6 may make provision for an income-based jobseeker’s allowance to be payable in prescribed circumstances even though other provision made by the regulations prevents payment of it. 25
This sub-paragraph does not apply in the case of a joint-claim jobseeker’s allowance (corresponding provision for which is made by section 20B(4)).
- (5) The provision that may be made by the regulations by virtue of sub-paragraph (4) includes, in particular, provision for the allowance to be – 30
- (a) payable only if prescribed requirements as to the provision of information are complied with;
 - (b) payable at a prescribed rate;
 - (c) payable for a prescribed period (which may differ from any period mentioned in sub-paragraph (2)). 35

Interpretation

- 8 In this Schedule –
- “drug” means such controlled drug (as defined by section 2 of the Misuse of Drugs Act 1971) as may be prescribed; 40
 - “the jobseeking conditions” means the conditions set out in section 1(2)(a) to (c).

Power to extend provisions to alcohol

- 9 (1) If regulations so provide and subject as follows, the preceding paragraphs of this Schedule are to apply in relation to alcohol as they apply in relation to drugs. 45

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

Consequential amendments

- | | | |
|---|--|----|
| 3 | (1) The Jobseekers Act 1995 (c. 18) is amended as follows. | 5 |
| | (2) In section 36(4A)(a) and (b) (regulations and orders), which is inserted by section 1 of this Act, after “17A” insert “or Schedule A1”. | |
| | (3) In section 37(1)(c) (regulations subject to the affirmative resolution procedure), after “section 35(1)” insert “, any paragraph of Schedule A1”. | |
| 4 | In paragraph 3(da) of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies), which is inserted by section 1 of this Act, after “17A of” insert “, or Schedule A1 to,”. | 10 |

Report on initial operation of drugs provisions

- | | | |
|---|--|----|
| 5 | (1) The Secretary of State must prepare a report on the operation of the first set of regulations made under paragraphs 1, 2, 3 and 6 of Schedule A1 to the Jobseekers Act 1995 during the review period. | 15 |
| | (2) “The review period” is the period of 24 months beginning with the day on which those regulations come into force. | |
| | (3) The Secretary of State must – | |
| | (a) prepare the report, and | 20 |
| | (b) lay it before Parliament, | |
| | within 6 months from the end of the review period. | |
| | (4) The continued effect of the drugs provisions depends on whether the Secretary of State makes an order under this sub-paragraph within the relevant period providing for those provisions to continue to have effect. | 25 |
| | (5) “The relevant period” means the period of 30 days beginning with the day on which the report is laid before Parliament; and, in reckoning this period, no account is to be taken of any time during which Parliament – | |
| | (a) is dissolved or prorogued, or | |
| | (b) is adjourned for more than 4 days. | 30 |
| | (6) If no order is made as mentioned in sub-paragraph (4), the Secretary of State must instead make an order under this sub-paragraph providing for the repeal of the drugs provisions on a date specified in the order. | |
| | (7) An order under sub-paragraph (6) may contain transitional provision or savings. | 35 |
| | (8) Any power to make an order under this paragraph is exercisable by statutory instrument. | |
| | (9) An order under sub-paragraph (4) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament. | 40 |

- (10) A statutory instrument containing an order under sub-paragraph (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this paragraph “the drugs provisions” means –
- (a) section 17C of, and Schedule A1 to, the Jobseekers Act 1995 (c. 18),
 - (b) the words inserted into that Act, and the Social Security Act 1998 (c. 14), by paragraphs 3 and 4 of this Schedule, and
 - (c) paragraphs 1 to 4 of this Schedule.
- (12) This paragraph applies whether or not the regulations mentioned in sub-paragraph (1) are, by virtue of section 29 of the Jobseekers Act 1995 (pilot schemes), made so as to have effect for a limited period.

PART 2

EMPLOYMENT AND SUPPORT ALLOWANCE

Requirements imposed on persons dependent on drugs etc.

- 6 After section 15 of the Welfare Reform Act 2007 (c. 5) insert – 15

“Persons dependent on drugs etc.

15A Persons dependent on drugs etc.

- (1) Schedule 1A makes provision for or in connection with imposing requirements on persons in cases where –
- (a) they are dependent on, or have a propensity to misuse, any drug, and
 - (b) any such dependency or propensity is a factor affecting their prospects of obtaining or remaining in work.
- (2) That Schedule also contains a power for its provisions to apply in relation to alcohol.”
- 7 After Schedule 1 to the Welfare Reform Act 2007 insert –

“SCHEDULE 1A

Section 15A

PERSONS DEPENDENT ON DRUGS ETC.

Requirements imposed in relation to use of drugs

- 1 (1) Regulations may make provision for or in connection with imposing on a person who is –
- (a) entitled to an employment and support allowance, and
 - (b) not a member of the support group,
- a requirement to answer questions within sub-paragraph (2) as a condition of continuing to be entitled to the full amount payable to the person in respect of the allowance apart from the regulations.
- (2) A question is within this sub-paragraph if it is asked for the purpose of ascertaining –

-
- 5
- (a) whether the person may be dependent on, or have a propensity to misuse, any drug, and
- (b) (if so) whether any such dependency or propensity may be a factor affecting the person’s prospects of obtaining or remaining in work.
- (3) Regulations under this paragraph may, in particular, make provision –
- 10
- (a) prescribing the questions which a person may be required to answer under the regulations (which may include questions relating to any use of the drug in question or any treatment connected with its use);
- (b) for notifying a person of any requirement to answer questions under the regulations;
- (c) for the determination, and notification, of the time and place at which a person is required to answer questions under the regulations. 15
- (4) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group.
- 2 (1) Regulations may make provision for or in connection with imposing on a person who is subject to a requirement imposed under paragraph 1 a requirement to take part in a substance-related assessment as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations. 20
- 25
- (2) For the purposes of this paragraph –
- 30
- a “substance-related assessment” means an assessment by an approved person carried out for the purpose of assessing –
- (a) whether a person is dependent on, or has a propensity to misuse, any drug, and
- (b) (if so) whether the person’s dependency or propensity is such as requires and may be susceptible to treatment;
- 35
- an “approved person” means a person having the necessary qualifications or experience who is approved by the Secretary of State for the purposes of this paragraph.
- (3) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State has reasonable grounds for suspecting that – 40
- (a) the person may be dependent on, or have a propensity to misuse, any drug, and
- (b) any such dependency or propensity may be a factor affecting the person’s prospects of obtaining or remaining in work. 45
- (4) Regulations under this paragraph may, in particular, make provision –

- (a) for notifying a person of a requirement to take part in a substance-related assessment;
 - (b) for the determination, and notification, of the time and place of any substance-related assessment in which a person is required to take part. 5
 - (5) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group.
- 3 (1) Regulations may make provision for or in connection with imposing on a person who – 10
 - (a) is subject to a requirement imposed under paragraph 2, and
 - (b) fails to comply with it without showing, within a prescribed period, good cause for the failure, 15a requirement to take part in one or more relevant tests as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations.
- (2) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if the Secretary of State is satisfied that the proposed test or tests will, or will be likely to, assist in determining whether the person is dependent on, or has a propensity to misuse, any drug. 20
- (3) Regulations under this paragraph must include provision for informing a person of the consequence of failing to comply with a requirement to take part in a relevant test. 25
- (4) Regulations under this paragraph may, in particular, make provision –
 - (a) for notifying a person of a requirement to take part in a relevant test; 30
 - (b) for the determination, and notification, of the time and place of any relevant test in which a person is required to take part.
- (5) Regulations under this paragraph must include provision for a requirement imposed on a person by the regulations to cease to have effect if the person becomes a member of the support group. 35
- (6) For the purposes of this paragraph a person takes part in a relevant test if the person provides a permissible sample in accordance with instructions given by an approved person (within the meaning of paragraph 2) for the purpose of ascertaining whether there is or has been any drug in the person’s body. 40
- (7) In sub-paragraph (6) “permissible sample”, in relation to any drug, means –
 - (a) a sample of urine, or 45
 - (b) such sample (other than an intimate sample) as may be prescribed in relation to that drug.
- (8) In sub-paragraph (7)(b) “intimate sample” means –

- (a) a sample of blood, semen or any other tissue fluid or pubic hair;
- (b) a dental impression;
- (c) a swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth. 5

Paragraphs 1 to 3: supplementary

- 4 (1) A person must comply with a requirement imposed by regulations under any of paragraphs 1 to 3 even if doing so might constitute evidence that the person has committed an offence. 10
- (2) But in criminal proceedings in which a person is charged with an offence –
- (a) no evidence relating to any answer given, or anything else done, in pursuance of the regulations may be adduced by or on behalf of the prosecution, and 15
 - (b) no question relating to those matters may be asked by or on behalf of the prosecution,
- unless evidence relating to those matters is adduced, or a question relating to those matters is asked, in the proceedings by or on behalf of the person. 20
- (3) Sub-paragraph (2) does not apply to –
- (a) an offence under section 112 of the Administration Act;
 - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath in England and Wales); or 25
 - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (corresponding provision for Scotland).
- 5 (1) Regulations may make provision for or in connection with authorising the supply of information held by – 30
- (a) a police force,
 - (b) the probation service, or
 - (c) such other person as may be prescribed,
- to the Secretary of State, or to a person providing services to the Secretary of State, for the purpose of checking the accuracy of information supplied in pursuance of regulations under paragraph 1. 35
- (2) Regulations under this paragraph may, in particular, make provision as to the circumstances in which, and the extent (if any) to which, information supplied under the regulations may be supplied by the recipient to others. 40
- (3) Regulations under this paragraph may, in particular, authorise information supplied to a person under the regulations –
- (a) to be used for the purpose of amending or supplementing other information held by that person; and 45

- (b) if it is so used, to be supplied to any other person, and used for any purpose, to whom and for which that other information could be supplied or used.
- (4) In this paragraph “the probation service” means –
 - (a) in England and Wales, a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 or a provider of probation services; 5
 - (b) in Scotland, a local authority within the meaning of the Social Work (Scotland) Act 1968.

Requirement to comply with a rehabilitation plan 10

- 6
- (1) Regulations may make provision for or in connection with imposing on a person a requirement to comply with a rehabilitation plan as a condition of continuing to be entitled to the full amount payable to the person in respect of an employment and support allowance apart from the regulations. 15
 - (2) Regulations under this paragraph must include provision for the requirement mentioned in sub-paragraph (1) to be imposed on a person only if, as a result of an assessment carried out under regulations under paragraph 2, the Secretary of State is satisfied that – 20
 - (a) the person is dependent on, or has a propensity to misuse, any drug,
 - (b) the person’s dependency or propensity is such as requires and may be susceptible to treatment, and
 - (c) the person’s dependency or propensity is a factor affecting the person’s prospects of obtaining or remaining in work. 25
 - (3) For the purposes of this paragraph a “rehabilitation plan” is a document –
 - (a) which is provided to the person by the Secretary of State, and 30
 - (b) which contains one or more of the following requirements.
 - (4) The requirements are that during the specified period (which may not exceed 52 weeks or, if the case is exceptional, 104 weeks) the person –
 - (a) must submit to treatment by or under the direction of a person having the necessary qualifications or experience, 35
 - (b) must take part in specified interviews, and specified assessments, at specified places and times, and
 - (c) must take such other steps (if any) as may be specified, with a view to the reduction or elimination of the person’s dependency on, or propensity to misuse, the drug in question. 40
 - (5) The required treatment for any particular period must be –
 - (a) treatment as a resident in a specified institution or place, or
 - (b) treatment as a non-resident at a specified institution or place, and at specified intervals; 45but the nature of the treatment must not otherwise be specified.

-
- (6) Regulations under this paragraph may, in particular, make provision –
- (a) for securing that a person is not required to submit to treatment of a prescribed description without the person’s consent; 5
 - (b) as to the involvement of a person in determining the particular requirements to be contained in a rehabilitation plan with which the person is to be required to comply;
 - (c) about the form of rehabilitation plans (including provision as to the signing of rehabilitation plans); 10
 - (d) about the review of rehabilitation plans;
 - (e) about the variation of rehabilitation plans;
 - (f) about the revocation of rehabilitation plans before the end of the specified period;
 - (g) for securing that a person who is required to comply with a rehabilitation plan provides information, and such evidence as may be prescribed, as to compliance with the plan. 15
- (7) Regulations under this paragraph must include provision for a requirement imposed on a person to comply with a rehabilitation plan to cease to have effect if the person becomes a member of the support group. 20
- (8) An employment and support allowance may also be known as a “treatment allowance” at any time when it is payable to a person who is required to comply with a rehabilitation plan (or would be payable if compliance with the plan is assumed). 25
- (9) In this paragraph “specified”, in relation to a rehabilitation plan, means specified in or determined in accordance with the plan.

Sanctions

- 7 (1) Regulations under paragraph 1, 2, 3 or 6 may, in particular, make provision – 30
- (a) for securing that the appropriate consequence follows if a person has failed to comply with any requirement imposed by any such regulations and the person does not show, within a prescribed period, good cause for the failure; 35
 - (b) prescribing matters which are, or are not, to be taken into account in determining whether a person has good cause for any failure to comply with any such requirement;
 - (c) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any failure to comply with any such requirement. 40
- (2) The appropriate consequence for the purposes of sub-paragraph (1)(a) is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with the regulations. 45
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision for determining –

- (a) the amount by which an allowance is to be reduced,
 - (b) when the reduction is to start, and
 - (c) how long it is to continue,
- and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

5

Interpretation

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

Power to extend provisions to alcohol

- 9 (1) If regulations so provide and subject as follows, the preceding paragraphs of this Schedule are to apply in relation to alcohol as they apply in relation to drugs. 10
- (2) Regulations under this paragraph may provide for a different definition of a “relevant test” to apply in relation to alcohol for the purposes of paragraph 3.” 15

Consequential amendments

- 8 (1) Part 1 of the Welfare Reform Act 2007 (c. 5) (employment and support allowance) is amended as follows.
- (2) In section 16 (contracting out) –
- (a) in subsection (1), at the end insert – 20
 - “(d) asking questions under paragraph 1 of Schedule 1A;
 - (e) making decisions under paragraph 2 or 3 of that Schedule;
 - (f) exercising any functions in relation to rehabilitation plans under paragraph 6 of that Schedule.”, 25
 - (b) in subsection (2)(a), after “15” insert “or Schedule 1A”, and
 - (c) in subsection (3)(a), after “13” insert “or Schedule 1A”.
- (3) In section 25(6) (regulations), after “15” insert “or Schedule 1A”.
- (4) In section 26(1) (regulations subject to the affirmative resolution procedure), after paragraph (c) insert – 30
 - “(d) regulations under any paragraph of Schedule 1A.”
- (5) In Schedule 2 (employment and support allowance: supplementary provisions) –
- (a) in paragraph 12(c), after “13,” insert – 35
 - “(ca) Schedule 1A,” and
 - (b) in paragraph 13, after “13” insert “or Schedule 1A”.

Report on the initial operation of drugs provisions

- 9 (1) The Secretary of State must prepare a report on the operation of the first set of regulations made under paragraphs 1, 2, 3 and 6 of Schedule 1A to the Welfare Reform Act 2007 during the review period. 40

-
- (2) “The review period” is the period of 24 months beginning with the day on which those regulations come into force.
- (3) The Secretary of State must –
- (a) prepare the report, and
 - (b) lay it before Parliament,
- 5
- within 6 months from the end of the review period.
- (4) The continued effect of the drugs provisions depends on whether the Secretary of State makes an order under this sub-paragraph within the relevant period providing for those provisions to continue to have effect.
- (5) “The relevant period” means the period of 30 days beginning with the day on which the report is laid before Parliament; and, in reckoning this period, no account is to be taken of any time during which Parliament –
- (a) is dissolved or prorogued, or
 - (b) is adjourned for more than 4 days.
- 10
- (6) If no order is made as mentioned in sub-paragraph (4), the Secretary of State must instead make an order under this sub-paragraph providing for the repeal of the drugs provisions on a date specified in the order.
- 15
- (7) An order under sub-paragraph (6) may contain transitional provision or savings.
- (8) Any power to make an order under this paragraph is exercisable by statutory instrument.
- 20
- (9) An order under sub-paragraph (4) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- 25
- (11) In this paragraph “the drugs provisions” means –
- (a) section 15A of, and Schedule 1A to, the Welfare Reform Act 2007 (c. 5),
 - (b) the words inserted into that Act by paragraph 8 of this Schedule, and
 - (c) paragraphs 6 to 8 of this Schedule.
- 30
- (12) This paragraph applies whether or not the regulations mentioned in sub-paragraph (1) are, by virtue of section 19 of the Welfare Reform Act 2007 (pilot schemes), made so as to have effect for a limited period.
- 35

SCHEDULE 4

Section 21

LOSS OF BENEFIT PROVISIONS: FURTHER AMENDMENTS

PART 1

FURTHER AMENDMENTS OF SOCIAL SECURITY FRAUD ACT 2001

- | | | |
|---|---|----|
| 1 | In this Part of this Schedule “the 2001 Act” means the Social Security Fraud Act 2001 (c. 11). | 5 |
| 2 | (1) Section 7 of the 2001 Act (loss of benefit for commission of benefit offences) is amended as follows. | |
| | (2) In subsection (8) – | |
| | (a) after the definition of “benefit offence” insert – | 10 |
| | “ “post-commencement offence” means an offence committed on or after 1 April 2002 (the day on which this section came into force).”, and | |
| | (b) omit the definitions of “disqualifying benefit” and “sanctionable benefit”. | 15 |
| | (3) In subsection (9) – | |
| | (a) in paragraph (a), after “sentenced)” insert “or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge”, and | |
| | (b) for paragraph (b) substitute – | |
| | “(b) references to a conviction include references to – | 20 |
| | (i) a conviction in relation to which the court makes an order for absolute or conditional discharge or a court in Scotland makes a probation order, | |
| | (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and | 25 |
| | (iii) a conviction in Northern Ireland.”. | 30 |
| | (4) Omit subsection (11). | |
| | (5) In the heading, for “commission of benefit offences” substitute “second or subsequent conviction of benefit offence”. | |
| 3 | (1) Section 8 of the 2001 Act (effect of offence on joint-claim jobseeker’s allowance) is amended as follows. | 35 |
| | (2) In subsection (1)(b), for “the restriction in subsection (2) of section 7” substitute “an offence-related restriction”. | |
| | (3) After subsection (1) insert – | |
| | “(1A) In this section – | |
| | (a) “an offence-related restriction” means the restriction in subsection (5) of section 6B or the restriction in subsection (2) of section 7, and | 40 |

- (b) in relation to an offence-related restriction, any reference to the relevant period is a reference to a period which is the disqualification period for the purposes of section 6B or section 7, as the case requires.”
- (4) In subsection (2) – 5
- (a) for “the disqualification period” substitute “the relevant period”,
- (b) in paragraph (a), for “the restriction in subsection (2) of section 7” substitute “an offence-related restriction”, and
- (c) in paragraph (b), for “that restriction” substitute “an offence-related restriction”. 10
- (5) In subsection (3) –
- (a) for “the disqualification period” substitute “the relevant period”, and
- (b) in paragraph (b), for “convictions section 7” substitute “conduct section 6B or 7”.
- (6) In subsection (4), for “the disqualification period” substitute “the relevant period”. 15
- (7) After subsection (6) insert –
- “(7) Where, after the agreement of any member of a couple (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section – 20
- (a) M’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due, 25
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty. 30
- (8) Where, after the agreement (“the old agreement”) of any member of a couple (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 – 35
- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M’s agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4)(a), and 40
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty. 45

- (9) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).”
- 4 (1) Section 9 of the 2001 Act (effect of offence on benefits for members of offender’s family) is amended as follows.
- (2) In subsection (2)(b), for “section 7” substitute “section 6B or 7”. 5
- (3) After subsection (6) insert –
- “(7) Where, after the agreement of any member of a person’s family (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section – 10
- (a) M’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due, 15
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed that could not have been imposed had M not agreed to pay the penalty.
- (8) Where, after the agreement (“the old agreement”) of any member of a person’s family (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 – 20
- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M’s agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4)(a), and 30
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty. 35
- (9) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).” 40
- 5 (1) Section 10 of the 2001 Act (power to supplement and mitigate loss of benefit provisions) is amended as follows.
- (2) In subsection (1), for “sections 7 to 9” substitute “sections 6A to 9”.
- (3) In subsection (2), after “section” insert “6B,”.
- 6 (1) Section 11 of the 2001 Act (loss of benefit regulations) is amended as follows. 45
- (2) In subsections (1) and (2), for “sections 7 to 10” substitute “sections 6B to 10”.

- (3) In subsection (3) –
- (a) in paragraph (a), after “section” insert “6B or”,
 - (b) in paragraph (b), after “section” insert “6B(6),” and
 - (c) in paragraph (c), after “section” insert “6B(7), (8), (9) or (10),”.
- (4) In subsections (4) and (5), for “sections 7 to 10” substitute “sections 6B to 10”. 5
- 7 (1) Section 13 of the 2001 Act (interpretation of sections 7 to 12) is amended as follows.
- (2) For the words “sections 7 to 12”, both in the section and in the heading to the section, substitute “sections 6A to 12”.
- (3) After the definition of “benefit” insert – 10
- ““cautioned”, in relation to any person and any offence, means cautioned after the person concerned has admitted the offence; and “caution” is to be interpreted accordingly;”.
- (4) Omit the definitions of “disqualification period” and “post-commencement offence”. 15
- (5) In the definition of “sanctionable benefit”, for “section 7(8)” substitute “section 6A(1)”.
- 8 In section 21(2) of the of the 2001 Act (extent), after “sections 5(2),” insert “6A, 6B and 6C”.

PART 2 20

RELATED AMENDMENTS OF OTHER ACTS

Social Security Administration Act 1992 (c. 5)

- 9 In section 170 of the Social Security Administration Act 1992 (functions of Social Security Advisory Committee in relation to the relevant enactments and the relevant Northern Ireland enactments), in subsection (5) – 25
- (a) in the definition of the “relevant enactments”, in paragraph (ag), for “sections 7 to 11” substitute “sections 6A to 11”, and
 - (b) in the definition of “the relevant Northern Ireland enactments”, in paragraph (ag), for “sections 7 to 11” substitute “sections 6A to 11”.

Social Security Act 1998 (c. 14) 30

- 10 In paragraph 3 of Schedule 3 to the Social Security Act 1998 (decisions against which an appeal lies), in paragraph (f), after “section” insert “6B,”.

SCHEDULE 5

Section 42

SECTION 42: CONSEQUENTIAL AMENDMENTS ETC.

Child Support Act 1991 (c. 48) 35

- 1 The Child Support Act 1991 is amended as follows.

-
- 2 In section 39B (disqualification for holding or obtaining travel authorisation), in the title, after “**obtaining**” insert “**driving licence or**”.
- 3 (1) Section 39C (period for which orders under section 39B are to have effect) is amended as follows.
- (2) In subsection (2) – 5
- (a) for “an order under section 39B, the court” substitute “a disqualification order, the Commission”, and
- (b) for “as the court” substitute “as the Commission”.
- (3) In subsection (3) – 10
- (a) for “such an order the court” substitute “a disqualification order, the Commission”, and
- (b) for “as the court” substitute “as the Commission”.
- (4) In subsection (4) – 15
- (a) for “court” (in both places) substitute “Commission”, and
- (b) in paragraph (a), for “the order under section 39B” substitute “the disqualification order”.
- (5) In subsection (5) – 20
- (a) for “application under section 39B” substitute “disqualification order”, and
- (b) for “an order under that section” substitute “a previous disqualification order”.
- (6) In the title, for “**orders under section 39B**” substitute “**disqualification orders**”.
- 4 In section 39D (power to order search), for subsections (1) and (2) substitute – 25
- “(1) On an appeal under section 39CB the court may order the person against whom the disqualification order was made to be searched.
- (2) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of any amount that would otherwise, on the affirmation or variation of the order, be substituted under section 39CB(8) for the amount specified under section 39B(5); and the balance (if any) shall be returned to the person searched.” 30
- 5 (1) Section 39E (variation and revocation of orders following payment) is amended as follows.
- (2) In subsection (1) – 35
- (a) for “an order under section 39B” substitute “a disqualification order”,
- (b) for “court” substitute “Commission”,
- (c) omit “the Commission or”, and
- (d) in paragraphs (a) and (b), for “the order under section 39B” substitute “the disqualification order”. 40
- (3) After that subsection insert –
- “(1A) The power conferred by subsection (1) shall be exercisable by the court instead of by the Commission at any time when an appeal

- brought under section 39CB against the order has not been determined, withdrawn or discontinued.”
- (4) In subsection (2) –
- (a) for “an order under section 39B” substitute “a disqualification order”,
 - (b) for “court” substitute “Commission”,
 - (c) omit “the Commission or”, and
 - (d) for “the order under section 39B” substitute “the disqualification order”.
- (5) Omit subsections (3) to (5).
- 6 For section 39F substitute –
- “39F Power to make supplementary provision**
- (1) The Secretary of State may by regulations make provision with respect to –
- (a) disqualification orders;
 - (b) appeals against disqualification orders; and
 - (c) orders under section 39DA.
- (2) The regulations may, in particular, make provision –
- (a) as to the form and content of a disqualification order;
 - (b) as to the surrender of documents under section 39CA and their return when the period for which a disqualification order has effect is suspended or has ended;
 - (c) that a statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of the person’s employer, shall be evidence (or, in Scotland, sufficient evidence) of the facts stated for the purposes of an appeal under section 39CB;
 - (d) permitting or requiring the court to dismiss an appeal brought under that section where the person who brought it fails to appear at the hearing;
 - (e) requiring the court to send notice to the Commission of any order made on an appeal under that section;
 - (f) as to the exercise by the Commission and the court of the power conferred by section 39E(1);
 - (g) as to the revival of a disqualification order in such circumstances as may be prescribed;
 - (h) for sections 39C to 39E to have effect with prescribed modifications in cases where a person against whom a disqualification order has effect is outside the United Kingdom.”
- 7 Omit section 39G (application of sections 39B and 39F to Scotland).
- 8 Omit section 40B (disqualification for holding or obtaining driving licence).
- 9 In section 52(2A)(b) (regulations and orders: affirmative resolution procedure), after “under section” insert “39CA(4), 39CB(3)(b),”.

Child Maintenance and Other Payments Act 2008 (c. 6)

- 10 In section 59(5) and (6) of the Child Maintenance and Other Payments Act 2008 (transition), after “39B,” insert “39CB,”.

SCHEDULE 6

Section 46

REGISTRATION OF BIRTHS

5

PART 1

AMENDMENTS OF BIRTHS AND DEATHS REGISTRATION ACT 1953

- 1 In this Schedule “the 1953 Act” means the Births and Deaths Registration Act 1953 (c. 20).
- 2 (1) Section 1 of the 1953 Act (particulars of births required to be registered) is amended as follows. 10
- (2) In subsection (2), for paragraph (a) substitute –
- “(a) the mother of the child;
- (aa) the father of the child where –
- (i) the child is one whose father and mother were married to each other at the time of the child’s birth, or 15
- (ii) the father is a qualified informant by virtue of subsection (2)(a) of section 10 (registration of father where parents not married or of second female parent where parents not civil partners) or by virtue of regulations under subsection (6)(b) of section 2E (scientific tests);”.
- 20
- (3) For subsection (3) substitute –
- “(3) In subsection (2)(aa) – 25
- (a) the first reference to the father is, in the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, to be read as a reference to the woman who is a parent by virtue of that section, 30
- (b) the reference in sub-paragraph (ii) to the father being a qualified informant by virtue of section 10(2)(a) is, in the case of a child who has a parent by virtue of section 43 of that Act, to be read as a reference to that parent being a qualified informant by virtue of section 10(2A)(a).” 35
- (4) After subsection (3) insert –
- “(4) In this Part, references to a child whose father and mother were, or were not, married to each other at the time of the child’s birth are to be read in accordance with section 1 of the Family Law Reform Act 1987 (which extends the cases in which a person is treated as being a person whose father and mother were married to each other at the time of the person’s birth).” 40

- 3 (1) Section 2 of the 1953 Act (information concerning birth to be given to registrar within 42 days) is amended as follows.
- (2) In subsection (1), after “every birth” insert “of a child whose father and mother were married to each other at the time of the child’s birth”.
- (3) In subsection (2), for “subsection (1)” substitute “subsection (1)(a) and (b)”. 5
- (4) In the title, for the words from “to be given” onwards substitute “of child whose parents are married”.
- 4 After section 2 of the 1953 Act insert –
- “2A Information concerning birth of child whose parents are not married**
- (1) In the case of every birth of a child whose father and mother were not married to each other at the time of the birth, it shall be the duty – 10
- (a) of the mother of the child, and
- (b) in the case of the death or inability of the mother, of each qualified informant falling within section 1(2)(b) to (e),
- to give to the registrar, before the expiration of a period of 42 days from the date of the birth, information of the particulars required to be registered concerning the birth, together with any other information required by section 2B(1), and in the presence of the registrar to sign the register. 15
- (2) The giving of information and the signing of the register by any one qualified informant shall act as a discharge of any duty under this section of every other qualified informant, but this does not affect – 20
- (a) any duty of the father by virtue of regulations under section 2C (confirmation of parentage information given by mother), or
- (b) any duty by virtue of regulations under section 2E (scientific tests). 25
- (3) This section ceases to apply if, before the end of the period mentioned in subsection (1) and before the birth has been registered, an inquest is held at which the child is found to have been still-born. 30
- (4) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, the reference in subsection (2)(a) to the father is to be read as a reference to the woman who is a parent by virtue of that section.
- 2B Duties of unmarried mother when acting alone** 35
- (1) Where no request for the entry of a person’s name as the father of the child is made by virtue of any of paragraphs (a) to (g) of section 10(1) (registration of father where parents are not married) or by virtue of regulations under section 2E (scientific tests), the information to be given under section 2A(1) by the mother includes such information relating to the father as may be prescribed for the purposes of this subsection, which may include information that is not intended to be entered on the register. 40
- (2) The Registrar General may by regulations authorise or require the information relating to the father to be provided in a prescribed form or manner. 45

- (3) Subsection (1) does not require the mother to provide information relating to the father if she makes in the presence of the registrar a declaration in the prescribed form stating that one or more of the following conditions is met.
- (4) Those conditions are – 5
- (a) that by virtue of section 41 of the Human Fertilisation and Embryology Act 2008 the child has no father,
 - (b) that the father has died,
 - (c) that the mother does not know the father’s identity,
 - (d) that the mother does not know the father’s whereabouts, 10
 - (e) that the father lacks capacity (within the meaning of the Mental Capacity Act 2005) in relation to decisions under this Part,
 - (f) that the mother has reason to fear for her safety or that of the child if the father is contacted in relation to the registration of the birth, and 15
 - (g) any other conditions prescribed by regulations made by the Minister.
- (5) Subsection (1) does not apply –
- (a) in the case of a still-birth, 20
 - (b) if the child has died, or
 - (c) if the mother acknowledges in accordance with regulations made by virtue of subsection (2)(b) of section 2D (declaration before registration by person claiming to be other parent) that a person who has previously given notice by virtue of subsection (2)(a) of that section is the other parent of the child. 25
- (6) If, in relation to the birth of a child, the mother of the child gives information relating to the father as required by subsection (1), then, except in such cases as may be prescribed by regulations made by the Minister, the registrar must not register the birth of the child until such day as may be so prescribed, unless before that day the person named by the mother gives information in accordance with regulations made by virtue of subsection (2)(b) of section 2C (confirmation of parentage information given by mother). 30 35
- (7) No information relating to the father is to be entered in the register merely because it is given by the mother by virtue of subsection (1).
- (8) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 –
- (a) references in this section to the father are to be read as references to the woman who is a parent by virtue of that section, 40
 - (b) the reference in subsection (1) to paragraphs (a) to (g) of section 10(1) is to be read as a reference to paragraphs (a) to (f) of section 10(1B), and 45
 - (c) paragraphs (a) and (c) of subsection (4) do not apply.

2C Confirmation of parentage information given by mother

- (1) The Minister may by regulations provide for a procedure under which a person may be registered as the father of a child in a case where information relating to that person is given by virtue of section 2B(1) by the mother of the child and is subsequently confirmed by that person. 5
- (2) Regulations under this section may in particular –
- (a) enable or require the registrar by notice to require the person in relation to whom information has been given by virtue of section 2B(1) by the mother (“the alleged father”) to state whether or not he acknowledges that he is the father of the child, 10
 - (b) where the alleged father acknowledges that he is the father of the child, require the alleged father to give prescribed information to the registrar, and 15
 - (c) where the alleged father gives that information to the registrar, require the registrar to enter the alleged father’s name in the register as the father of the child or, where the birth has already been registered, to re-register the birth so as to show the alleged father as the father. 20
- (3) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsection (1) or (2) to the father are to be read as references to the woman who is a parent by virtue of that section (and references to the alleged father have a corresponding meaning). 25
- (4) Regulations under this section may –
- (a) require anything to be done in a prescribed form or manner or in the presence of the registrar,
 - (b) make provision as to the time within which anything is required or authorised to be done. 30
- (5) In this section “prescribed” means prescribed by regulations made under this section by the Minister.

2D Declaration before registration by person claiming to be other parent

- (1) The Minister may by regulations provide for a procedure under which a person may be registered as the father of a child whose father and mother were not married to each other at the time of the child’s birth, on the basis of information that is – 35
- (a) given by that person (in the absence of the mother) before the birth is registered, and
 - (b) confirmed by the mother when she provides information of the particulars required to be registered concerning the birth. 40
- (2) Regulations under this section may in particular –
- (a) enable a person who believes himself to be the father of a child to make a declaration to that effect to the registrar before the birth of the child is registered, 45
 - (b) require the mother of the child, on giving information concerning the birth of the child or in such other circumstances as may be prescribed, to state whether or not

- she acknowledges that the person is the father of the child,
and
- (c) where the mother acknowledges that the person is the father of the child, require the registrar to enter the person’s name on the register as the father of the child. 5
- (3) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsections (1) and (2) to the father (except in the reference in subsection (1) to a child whose father and mother were not married to each other at the time of the child’s birth) are to be read as references to the woman who is a parent by virtue of that section. 10
- (4) Regulations under this section may –
- (a) require anything to be done in a prescribed form or manner or in the presence of the registrar,
- (b) make provision as to the time within which anything is required or authorised to be done. 15
- (5) This section does not apply –
- (a) in relation to a still-birth, or
- (b) if the child has died.
- (6) In this section “prescribed” means prescribed by regulations made under this section by the Minister. 20

2E Use of scientific tests with consent of parties

- (1) The Minister may by regulations make provision enabling a report of a qualifying scientific test to be used in connection with the registration or re-registration under this Act of the birth of a child in cases where –
- (a) the birth has not been registered under this Act, or
- (b) the birth has been registered but no person has been registered as the father of the child (or as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008). 25 30
- (2) A qualifying scientific test is a scientific test that complies with prescribed requirements and is carried out by a person who is accredited by the Minister for the purposes of this section in accordance with the regulations. 35
- (3) The regulations may not require any person to participate in a qualifying scientific test.
- (4) The regulations may not enable or require a report of a qualifying scientific test to be used as mentioned in subsection (1) unless, before the test is carried out, the mother and the man to whom the test relates –
- (a) consent to the carrying out of the test, and
- (b) agree in the prescribed manner that if the report of the test is positive the man’s name will be entered in the register as the father of the child. 40 45
- (5) For the purposes of this section, the report of a qualifying scientific test is positive if the report states that the result of the test indicates

- to a prescribed degree of certainty that the man concerned is the father of the child.
- (6) Regulations under this section may –
- (a) enable or require the mother or the man, if the report of the qualifying scientific test is positive, to apply for the registration (or re-registration) of the birth so as to show the man as the father, 5
 - (b) provide that where the regulations enable or require the man to apply for registration, the man is to be treated for the purposes of this Part as a qualified informant concerning the birth of the child, 10
 - (c) impose obligations on the registrar in relation to the registration (or re-registration) of the birth,
 - (d) require anything to be done in a prescribed form or manner or in the presence of the registrar, 15
 - (e) make provision as to the time within which anything is required or authorised to be done.
- (7) The regulations may not require the registrar to enter a man’s name in the register as the father of a child if it appears to the registrar that by virtue of any provision of sections 35 to 47 of the Human Fertilisation and Embryology Act 2008 the man is not the father of the child. 20
- (8) This section does not apply in relation to a still-birth.
- (9) In this section “prescribed” means prescribed by regulations made under this section by the Minister.” 25
- 5 In section 4 of the 1953 Act (registrar’s power to require information concerning birth), in paragraph (a), for “three months” substitute “12 months”.
- 6 In section 5 of the 1953 Act (registration of births free of charge) for “three months” substitute “12 months”. 30
- 7 Omit section 6 of the 1953 Act (which makes special provision about registration between 3 and 12 months from the date of birth).
- 8 In section 7 of the 1953 Act (registration after twelve months from date of birth) omit subsection (3) (which excludes still-births).
- 9 In section 8 of the 1953 Act (penalty for improper registration after 3 months from date of birth) – 35
- (a) for “the two last foregoing sections” substitute “section 7”, and
 - (b) for “three months” (both in the section and in the title) substitute “12 months”.
- 10 (1) Section 9 of the 1953 Act (giving of information to a person other than the registrar) is amended as follows. 40
- (2) After subsection (3) insert –
- “(3A) Anything that section 2B (duties of unmarried mother when acting alone) requires to be done in the presence of, or in relation to, the registrar may, in prescribed cases, be done in the presence of, or in relation to, such officer as may be prescribed.” 45

- (3) After subsection (5) insert—
- “(6) Regulations under section 2C, 2D, 2E, 10B or 10C may enable anything that would otherwise be required or authorised to be done under the regulations in the presence of, or in relation to, the registrar to be done instead in the presence of, or in relation to, such officer as may be prescribed by the regulations.” 5
- 11 (1) Section 10 of the 1953 Act (registration of father where parents not married or of second female parent where parents not civil partners) is amended as follows.
- (2) In subsection (1)— 10
- (a) for the words from the beginning to “the registrar” substitute “In the case of a child whose father and mother were not married to each other at the time of the child’s birth, no person shall as father of the child be required to give information concerning the birth of the child except by virtue of regulations under section 2C or 2E, and the registrar”, 15
- (b) in paragraph (b) for sub-paragraph (ii) substitute—
- “(ii) a declaration in the prescribed form which is made by that person, states himself to be the father of the child, and is countersigned by a prescribed person; or”, 20
- (c) in paragraph (c) for sub-paragraph (ii) substitute—
- “(ii) a declaration in the prescribed form which is made by the mother, states that that person is the father of the child, and is countersigned by a prescribed person; or”, and 25
- (d) at the end of paragraph (g) insert “or
- (h) in accordance with regulations made under section 2C (confirmation of parentage information given by mother), section 2D (declaration before registration by person claiming to be other parent) or section 2E (scientific tests)”. 30
- (3) In subsection (1B)—
- (a) for the words from the beginning to “that section” substitute “In the case of a child to whom section 1(3) of the Family Law Reform Act 1987 does not apply, no woman shall as parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 be required to give information concerning the birth of the child except by virtue of regulations under section 2C, and the registrar shall not enter the name of any woman as a parent of the child by virtue of that section”, 35
- (b) in paragraph (b) for sub-paragraph (ii) substitute—
- “(ii) a declaration in the prescribed form which is made by the woman concerned, states herself to be a parent of the child by virtue of section 43 of that Act, and is countersigned by a prescribed person; or”, 45
- (c) in paragraph (c) for sub-paragraph (ii) substitute—
- “(ii) a declaration in the prescribed form which is made by the mother, states that the woman 50

- concerned is a parent of the child by virtue of section 43 of that Act, and is countersigned by a prescribed person; or”, and
- (d) at the end of paragraph (f) insert “or
- (g) in accordance with regulations made under section 2C (confirmation of parentage information given by mother) or section 2D (declaration before registration by person claiming to be other parent)”. 5
- (4) After subsection (1B) insert –
- “(1C) Subsections (1) and (1B) have effect subject to section 10ZA.” 10
- (5) In subsections (2)(b) and (2A)(b), for “section 2” substitute “section 2A”.
- (6) Omit subsection (3).
- 12 (1) Section 10A of the 1953 Act (Re-registration where parents neither married nor civil partners) is amended as follows.
- (2) In subsection (1) – 15
- (a) in paragraph (b) for sub-paragraph (ii) substitute –
- “(ii) a declaration in the prescribed form which is made by that person, states himself to be the father of the child, and is countersigned by a prescribed person; or”, 20
- (b) in paragraph (c) for sub-paragraph (ii) substitute –
- “(ii) a declaration in the prescribed form which is made by the mother, states that that person is the father of the child, and is countersigned by a prescribed person; or”. 25
- (3) In subsection (1B) –
- (a) in paragraph (b) for sub-paragraph (ii) substitute –
- “(ii) a declaration in the prescribed form which is made by the woman concerned, states herself to be a parent of the child by virtue of section 43 of that Act, and is countersigned by a prescribed person; or”, 30
- (b) in paragraph (c) for sub-paragraph (ii) substitute –
- “(ii) a declaration in the prescribed form which is made by the mother, states that the woman concerned is a parent of the child by virtue of section 43 of that Act, and is countersigned by a prescribed person; or”. 35
- (4) In subsection (2), omit paragraph (d) (requirement for signature by superintendent registrar where re-registration takes place more than 3 months after the birth) and the word “and” immediately before it. 40
- 13 After section 10A of the 1953 Act insert –
- “10B Re-registration after sole registration: information provided by other parent and confirmed by mother**
- (1) The Minister may by regulations make provision for the re-registration of a birth to show a person as the father of a relevant 45

- child, on the basis of information given by that person after the birth is registered and confirmed by the mother.
- (2) In this section a “relevant child” means a child –
- (a) whose father and mother were not married to each other at the time of the child’s birth, and 5
 - (b) whose birth has been registered before or after the commencement of this section without any person being registered as the father of the child (or as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008). 10
- (3) Regulations under subsection (1) may –
- (a) enable a person who believes himself to be the father of a relevant child to make a declaration to that effect to the registrar, 15
 - (b) enable or require the registrar by notice to require the mother to state whether or not she acknowledges that the person is the father of the child, and
 - (c) where the mother acknowledges that the person is the father, require the registrar to re-register the birth so as to show the person as the father. 20
- (4) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsections (1) and (3) to the father are to be read as references to the woman who is a parent by virtue of that section.
- (5) Regulations under this section may – 25
- (a) require anything to be done in a prescribed form or manner or in the presence of the registrar,
 - (b) make provision as to the time within which anything is required or authorised to be done.
- (6) Regulations under this section may not provide for any birth to be re-registered except with the authority of the Registrar General. 30
- (7) In this section “prescribed” means prescribed by regulations made under this section by the Minister.
- 10C Re-registration after sole registration: information provided by mother and confirmed by other parent 35**
- (1) The Minister may by regulations make provision for the re-registration of a birth to show a person as the father of a relevant child, on the basis of information given by the mother after the birth is registered and confirmed by that person.
- (2) In this section a “relevant child” means a child – 40
- (a) whose father and mother were not married to each other at the time of the child’s birth, and
 - (b) whose birth has been registered before or after the commencement of this section without any person being registered as the father of the child (or as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008). 45

-
- (3) Regulations under subsection (1) may –
- (a) enable the mother of a relevant child to make a declaration to the registrar stating that a specified person (“the alleged father”) is the father of the child,
 - (b) enable or require the registrar by notice to require the alleged father to state whether or not he acknowledges that he is the father of the child, 5
 - (c) where the alleged father acknowledges that he is the father of the child, require the alleged father to give prescribed information to the registrar, and 10
 - (d) where the alleged father gives that information to the registrar, require the registrar to re-register the birth so as to show the alleged father as the father.
- (4) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsections (1) and (3) to the father are to be read as references to the woman who is a parent by virtue of that section (and references to the alleged father have a corresponding meaning). 15
- (5) Regulations under this section may –
- (a) require anything to be done in a prescribed form or manner or in the presence of the registrar, 20
 - (b) make provision as to the time within which anything is required or authorised to be done.
- (6) Regulations under this section may not provide for any birth to be re-registered except with the authority of the Registrar General. 25
- (7) In this section “prescribed” means prescribed by regulations made under this section by the Minister.”
- 14 In section 34 of the 1953 Act (entry in register as evidence of birth or death), in subsection (3), for paragraph (a) substitute –
- “(a) if it appears that not more than 12 months have so intervened – 30
 - (i) the original entry was made after the commencement of paragraph 7 of Schedule 6 to the Welfare Reform Act 2009, or
 - (ii) the entry purports either to be signed by the superintendent registrar as well as by the registrar or to have been made with the authority of the Registrar General;” 35
- 15 In section 36 of the 1953 Act (penalties for failure to give information) after paragraph (a) insert – 40
- “(aa) if, being required by regulations under section 2C, 2D, 2E, 10B or 10C to do anything within a particular time, he refuses or fails without reasonable excuse to do so;”
- 16 In section 39 of the 1953 Act (regulations), in paragraph (a), for “this Act” substitute “any provision of this Act other than sections 2B(4) and (6), 2C, 2D, 2E, 10B and 10C”. 45

17 After section 39 of the 1953 Act insert –

“39A Regulations made by the Minister: further provisions

- (1) Regulations made by the Minister under the relevant provisions may –
- (a) make different provision for different cases or areas, 5
 - (b) provide for exemptions from any of the provisions of the regulations, and
 - (c) contain such incidental, supplemental and transitional provision as the Minister considers appropriate.
- (2) Before making regulations under the relevant provisions, the Minister must consult the Registrar General. 10
- (3) Any power of the Minister to make regulations under the relevant provisions is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations made by the Minister under the relevant provisions is subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (5) In this section “the relevant provisions” means sections 2B(4) and (6), 2C, 2D, 2E, 10B and 10C.”
- 18 In section 41 of the 1953 Act (interpretation), in the definition of “prescribed” after ““prescribed””, insert “(except in sections 2B(4) and (6), 2C, 2D, 2E, 10B and 10C)”. 20

PART 2

OTHER AMENDMENTS

Perjury Act 1911 (c. 6)

- 19 In section 4 of the Perjury Act 1911 (false statements, etc, as to births or deaths) after subsection (1) insert – 25
- “(1A) For the purposes of subsection (1)(a), information which a person is required to provide to a registrar of births or deaths for the purposes of subsection (1) of section 2B of the Births and Deaths Registration Act 1953 (duties of unmarried mother when acting alone) is to be taken to be information concerning a birth.” 30

Population (Statistics) Act 1938 (c. 12)

- 20 (1) In the Schedule to the Population (Statistics) Act 1938 (particulars which may be required on registration of a birth), in paragraph 1 – 35
- (a) for paragraph (a) substitute –
- “(a) in all cases –
 - (i) the age of the mother;
 - (ii) the number of previous children of the mother, and how many of them were born alive or were still-born;” 40

-
- (b) for paragraph (c) substitute—
- “(c) where the birth is of a child whose father and mother were married to each other at the time of the child’s birth (or is by reason of any marriage of the child’s parents treated by section 1(2) of the Family Law Reform Act 1987 as such a child for the purposes of that Act)—
- 5
- (i) the date of the marriage, and
- (ii) whether the mother had been married, or had formed a civil partnership, before her marriage to the child’s father;
- 10
- (d) where the birth is of a child to whom section 1(3) of that Act applies by reason of any civil partnership between the child’s parents—
- (i) the date of the formation of the civil partnership, and
- (ii) whether the mother had been married, or had formed a civil partnership, before she formed the civil partnership with the child’s other parent;
- 15
- 20
- (e) where the birth does not fall within paragraph (c) or (d), whether at any time before the birth the mother had been married or had formed a civil partnership.”
- (2) This paragraph does not extend to Scotland. 25
- Children Act 1989 (c. 41)*
- 21 (1) Section 4 of the Children Act 1989 (acquisition of parental responsibility by father) is amended as follows.
- (2) At the beginning of subsection (1)(a) insert “except where subsection (1C) applies,”. 30
- (3) In subsection (1A), after paragraph (a) insert—
- “(aa) regulations under section 2C, 2D, 2E, 10B or 10C of the Births and Deaths Registration Act 1953;”.
- (4) After subsection (1B) insert—
- “(1C) The father of a child does not acquire parental responsibility by virtue of subsection (1)(a) if, before he became registered as the child’s father under the enactment in question—
- (a) the court considered an application by him for an order under subsection (1)(c) in relation to the child but did not make such an order, or
- (b) in a case where he had previously acquired parental responsibility for the child, the court ordered that he was to cease to have that responsibility.”
- 35
- 40
- 22 (1) Section 4ZA of the Children Act 1989 (acquisition of parental responsibility by second female parent) is amended as follows. 45
- (2) At the beginning of subsection (1)(a) insert “except where subsection (3A) applies,”.

(3) In subsection (2), after paragraph (a) insert –
“(aa) regulations under section 2C, 2D, 10B or 10C of the Births and Deaths Registration Act 1953;”.

(4) After subsection (3) insert –

“(3A) A person who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 does not acquire parental responsibility by virtue of subsection (1)(a) if, before she became registered as a parent of the child under the enactment in question –
(a) the court considered an application by her for an order under subsection (1)(c) in relation to the child but did not make such an order, or
(b) in a case where she had previously acquired parental responsibility for the child, the court ordered that she was to cease to have that responsibility.”

Child Support Act 1991 (c. 48)

23 In section 26 of the Child Support Act 1991 (disputes about parentage), in subsection (2), in Case A2, in paragraph (b), after “10 or 10A of” insert “, or regulations made under section 2C, 2D, 2E, 10B or 10C of,”.

Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))

24 In Article 27 of the Child Support (Northern Ireland) Order 1991 (disputes about parentage), in paragraph (2), in Case A2, in paragraph (b), after “10 or 10A of” insert “, or regulations made under section 2C, 2D, 2E, 10B or 10C of,”.

Children (Scotland) Act 1995 (c. 36)

25 In section 3 of the Children (Scotland) Act 1995 (provisions relating both to parental responsibilities and parental rights), in subsection (3A), after paragraph (b) insert –
“(ba) regulations under section 2C, 2D, 10B or 10C of the Births and Deaths Registration Act 1953;”.

Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

26 (1) Article 7 of the Children (Northern Ireland) Order 1995 (acquisition of parental responsibility) is amended as follows.

(2) In paragraph (2A) for the “or” at the end of paragraph (b) substitute –
“(ba) regulations under section 2C, 2D, 2E, 10B or 10C of the Births and Deaths Registration Act 1953; or”.

(3) In paragraph (2B), for the “or” at the end of paragraph (b) substitute –
“(ba) regulations under section 2C, 2D, 10B or 10C of the Births and Deaths Registration Act 1953; or”.

SCHEDULE 7

Section 48

REPEALS AND REVOCATIONS

PART 1

ABOLITION OF INCOME SUPPORT

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|--|---|----|
| Maintenance Orders Act 1950 (c. 37) | In section 4 – (a) subsection (1)(d), and (b) in subsection (2), the words “or the said section 106”. | 5 |
| | In section 9 – (a) subsection (1)(d), and (b) in subsection (2), the words “or the said section 106”. | 10 |
| Transport Act 1982 (c. 49) | In section 70(2)(b), the words “income support”. | 15 |
| Social Security Act 1986 (c. 50) | In Schedule 10, paragraphs 35 and 36. | |
| Children Act 1989 (c. 41) | In section 17(9), the words “of income support under Part VII of the Social Security Contributions and Benefits Act 1992”. | |
| | In section 17A(5)(b), the words “of income support under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4)”. | 20 |
| | In section 29(3) and (3A), the words “of income support under Part VII of the Social Security Contributions and Benefits Act 1992”. | 25 |
| | In Schedule 2, in paragraph 21(4), the words “of income support under Part VII of the Social Security Contributions and Benefits Act 1992”. | |
| Child Support Act 1991 (c. 48) | In section 54(1), the definition of “income support”. | 30 |
| | In Schedule 1 (as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (c. 6)), in paragraph 5(4), the words “income support”. | 35 |
| Criminal Justice Act 1991 (c. 53) | In section 24 – (a) in subsections (1) and (2)(d), the words “income support”, and (b) in subsection (4), the definition of “income support”. | 40 |
| Social Security Contributions and Benefits Act 1992 (c. 4) | Section 123(1)(a) and (2). Section 124. Sections 126 and 127. | |
| Social Security Administration Act 1992 (c. 5) | Section 2A(2)(a). Section 2AA(2)(a). Section 2D(1) and (3)(a). Section 2E(2)(a). | 45 |

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|---|---|--|
| Social Security Administration Act 1992 (c. 5) – <i>cont.</i> | Section 5(2)(b). In section 15A – | |
| | (a) in subsection (1), the words “income support,” in each place, and | 5 |
| | (b) in subsection (4), in the definition of “qualifying associate”, the words “income support,” and, in the definition of “relevant benefits”, paragraph (b). | |
| | Section 71(11)(b). In section 74 – | 10 |
| | (a) in subsections (1)(b), (2)(b) and (3)(b)(i) and (ii), the words “income support,” | |
| | (b) in subsection (3)(c), the words “the income support or”, and | 15 |
| | (c) in subsection (3), in the words following paragraph (c), the words “income support” and the words “the income support or”. | |
| | In section 74A(7), the words “income support,”. In section 78(6)(d), the words “income support or”. | 20 |
| | In section 105(1)(b), the words “income support,”. | |
| | Section 106. Section 108. | 25 |
| | In section 109(1), the words “income support or” in both places. Section 124(2)(b). In section 126(1), the words “income support,”. | 30 |
| | Sections 159 and 160. Section 163(2)(d)(i). Section 179(5)(a). In section 191, in the definition of “income-related benefit”, paragraph (a). | 35 |
| | Social Security (Consequential Provisions) Act 1992 (c. 6) | In Schedule 2, paragraphs 3(1)(a) and (b) and (2) and 108. |
| Local Government Finance Act 1992 (c. 14) | In Schedule 4, in paragraph 6(1) and (2)(b), the words “income support,”. | |
| | In Schedule 8, in paragraph 6(1) and (2)(b), the words “income support,”. | 40 |
| Jobseekers Act 1995 (c. 18) | In section 2(1), paragraph (d) (together with the “and” immediately before it). In section 3 – | |
| | (a) in subsection (1)(b), the words “income support,” | 45 |
| | (b) subsection (1)(c), and | |
| | (c) in subsection (1A)(a), the word “(c),”. | |
| | Section 3A(1)(b). In section 16(1)(a)(ii), the words “or to income support”. | 50 |

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|---|--|----|
| Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/ 3929) | In Schedule 3, paragraph 24. | |
| State Pension Credit Act 2002 (c. 16) | In Schedule 2, paragraph 2. | 5 |
| Tax Credits Act 2002 (c. 21) | In Schedule 3, paragraphs 16(2)(a), 18(a) and 20(a). | |
| Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397) | In Schedule 1, paragraph 7. | 10 |
| Income Tax (Earnings and Pensions) Act 2003 (c. 1) | In Schedule 6, paragraph 179. | |
| Age-Related Payments Act 2004 (c. 10) | In section 2(3)(b), sub-paragraph (iii) (together with the “or” immediately before it). In section 8(1), the definition of “income support”. | 15 |
| Civil Partnership Act 2004 (c. 33) | In Schedule 24, paragraphs 42 to 44 and 123. | 20 |
| Welfare Reform Act 2007 (c. 5) | In section 1(3), paragraph (e) (but not the “and” at the end of it). In section 24(1), the definition of “income support”. In Schedule 1, in paragraph 6(1)(d), the words “, income support”. In Schedule 3, paragraph 9(9) and (10). | 25 |
| Pensions Act 2007 (c. 22) | In Schedule 1, paragraph 25. | |
| Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/ 1655) | In the Schedule, paragraph 16. | 30 |
| Child Maintenance and Other Payments Act 2008 (c. 6) | In Schedule 7, paragraph 2(2). | |
| This Act. | Section 4(1). In Schedule 4, paragraph 6(3)(b). | 35 |

The repeals and revocations made by this Part of this Schedule have effect in accordance with provision made by an order under section 7.

PART 2

ABOLITION OF ADULT DEPENDENCY INCREASES

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|--|--|------------------|
| Social Security Contributions and Benefits Act 1992 (c. 4) | In section 20(1)(d), the words “(with increase for adult dependants)”. In section 63(c), the words “(with increase for adult dependants)”. Section 82. | 40 45 |

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|---|---|----|
| Social Security Contributions and Benefits Act 1992 (c. 4) – <i>cont.</i> | Sections 88 to 92. In section 114(4), the word “82”. In Part 4 of Schedule 4, paragraphs 3 and 9. | |
| Social Security (Incapacity for Work) Act 1994 (c. 18) | In Schedule 1, paragraphs 25 to 27. | 5 |
| Jobseekers Act 1995 (c. 18) | In Schedule 2, paragraphs 24 and 27. | |
| Welfare Reform and Pensions Act 1999 (c. 30) | In Schedule 8, paragraph 26. | |
| Tax Credits Act 2002 (c. 21) | In Schedule 3, paragraph 34. | 10 |
| Regulatory Reform (Carer’s Allowance) Order 2002 (S.I. 2002/ 1457) | In the Schedule, paragraph 2(d). | |
| Civil Partnership Act 2004 (c. 33) | In Schedule 24, paragraph 35. | 15 |
| Child Benefit Act 2005 (c. 6) | In Schedule 1, paragraph 5. | |
| Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006 (S.I. 2006/343) | In the Schedule, paragraph 1(2). | 20 |
| Welfare Reform Act 2007 (c. 5) | In Schedule 3, paragraph 9(7) and (8). | |
| Pensions Act 2007 (c. 22) | In Schedule 1, paragraphs 14 and 15. | |

PART 3

SOCIAL SECURITY: OTHER REPEALS AND REVOCATIONS 25

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|--|---|----|
| Social Security Administration Act 1992 (c. 5) | In section 2A(8), in the definition of “the designated authority”, paragraph (b). In section 2AA(7), in the definition of “designated authority”, paragraph (b). Section 2B. Section 5(1)(r). In section 170(5) – | 30 |
| | (a) in paragraph (ae) of the definition of “the relevant enactments”, the word “60,” and | 35 |
| | (b) in paragraph (ae) of the definition of “the relevant Northern Ireland enactments”, the word “60,”. | |
| Jobseekers Act 1995 (c. 18) | Section 8(3). Section 9(13). In section 15A – | 40 |
| | (a) in subsection (4), paragraph (b) (together with the “or” immediately before it), and | |
| | (b) in subsection (5), paragraph (c) (but not the “and” at the end of it). | 45 |

| <i>Reference</i> | <i>Extent of repeal or revocation</i> | |
|--|---|----|
| Jobseekers Act 1995 (c. 18) – <i>cont.</i> | In section 16(4), the definition of “employment officer”. | |
| | In section 17A(10), the definition of “the jobseeking conditions”. | 5 |
| | Section 19(10)(a). | |
| | In section 36(1), the words “, other than an order under section 8(3), 9(13), 16(4) or 19(10)(a),”. | |
| | In Schedule A1, in paragraph 8, the definition of “the jobseeking conditions”. | 10 |
| Employment Rights Act 1996 (c. 18) | In Schedule 1, in paragraph 67(2), paragraph (b) (together with the “and” immediately before it). | |
| Social Security Act 1998 (c. 14) | In Schedule 2, paragraph 5A (together with the italic heading immediately before it). | 15 |
| | In Schedule 7, paragraphs 141, 142 and 145. | |
| Welfare Reform and Pensions Act 1999 (c. 30) | Section 60. | |
| | Section 72(3)(b). | |
| | In section 83(8) and (9), the words “60 or”. | |
| | In Schedule 7, paragraphs 2(2), (3) and (4)(b), 3, 4(1), 7(5) to (7), 12 and 13. | 20 |
| | In Schedule 8, paragraph 29(3), (5) and (6). | |
| | In Schedule 12, paragraph 87. | |
| Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2000 (S.I. 2000/1563) | Article 4. | 25 |
| Social Security Fraud Act 2001 (c. 11) | In section 7 – | |
| | (a) in subsection (8), the definitions of “disqualifying benefit” and “sanctionable benefit”, and | 30 |
| | (b) subsection (11). | |
| | In section 13, the definitions of “disqualification period” and “post-commencement offence”. | |
| State Pension Credit Act 2002 (c. 16) | In Schedule 2, paragraph 45(3). | 35 |
| Employment Act 2002 (c. 22) | In Schedule 7, paragraphs 9, 51 and 55. | |
| Civil Partnership Act 2004 (c. 33) | In Schedule 24, paragraphs 118, 120 and 121. | |
| Welfare Reform Act 2007 (c. 5) | In Schedule 3, paragraphs 12(2) and 23(3). | 40 |
| Transfer of Tribunal Functions Order 2008 (S.I. 2008/ 2833) | In Schedule 3, paragraph 102. | |

PART 4

CHILD MAINTENANCE

| <i>Reference</i> | <i>Extent of repeal</i> | 45 |
|-------------------------------|---|----|
| Road Traffic Act 1988 (c. 52) | In section 164(5), the words “, section 40B of the Child Support Act 1991”. | |

| <i>Reference</i> | <i>Extent of repeal</i> | |
|---|---|----|
| Road Traffic Offenders Act 1988 (c. 53) | In section 27(3), the words from “, or if the holder” to “Child Support Act 1991, then,”. | |
| Child Support Act 1991 (c. 48) | In section 39E – (a) in subsections (1) and (2), the words “the Commission or”, and (b) subsections (3) to (5). Section 39G. Section 40B. | 5 |
| Child Support, Pensions and Social Security Act 2000 (c. 6) | Section 16(3) to (5). | 10 |
| Road Safety Act 2006 (c. 49) | In Schedule 2, paragraph 33. In Schedule 3, paragraph 65(3)(b). | |
| Child Maintenance and Other Payments Act 2008 (c. 6) | Section 30. In section 59(5) and (6), the word “, 40B”. In Schedule 3, paragraph 42. In Schedule 7, paragraph 1(15) to (18). | 15 |

PART 5

BIRTH REGISTRATION

| <i>Reference</i> | <i>Extent of repeal</i> | <i>20</i> |
|---|--|-----------|
| Births and Deaths Registration Act 1953 (c. 20) | Section 6. Section 7(3). Section 10(3). In section 10A(2), paragraph (d) (together with the “and” immediately before it). | 25 |

Welfare Reform Bill

A

B I L L

To amend the law relating to social security; to make provision enabling disabled people to be given greater control over the way in which certain public services are provided for them; to amend the law relating to child support; to make provision about the registration of births; and for connected purposes.

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