

2020 No. 33

SOCIAL SECURITY

**The Employment and Support Allowance and Universal Credit
(Coronavirus) Regulations (Northern Ireland) 2020**

Made - - - - at 02:00 p.m. on 12th March 2020

Laid before Parliament at 04:00 p.m. on 12th March 2020

Coming into operation - 13th March 2020

The Secretary of State makes the following regulations in exercise of powers conferred by Articles 2, 11(3) and (6) and 74(1) of the Social Security (Northern Ireland) Order 1998(a) and sections 24(1) and 25(2) of, and paragraphs 1(a) and 2 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(b) and Articles 5, 13(3)(a) and (4), 43(6) and 48(2) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015(c).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020 and come into force on 13th March 2020.

(2) In these Regulations—

“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007;

“assessment period” has the meaning in regulation 22 of the Universal Credit Regulations (Northern Ireland) 2016(e);

“coronavirus” means COVID-19;

“employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007;

“existing award” means an award of universal credit or employment and support allowance that exists on the date on which these regulations come into force;

“isolation” in relation to a person, means the separation of that person from any other person in such a manner as to prevent infection or contamination with Coronavirus disease;

(a) S.R. 1998 No. 1506 (N.I. 10)

(b) 2007 c. 2 (N.I.1). Section 24(1) is cited for the meaning of “prescribed”.

(c) 2015 No. 2006 (N.I.1). Article 5 is cited for the meaning of “prescribed”.

(d) Article 4(1) was amended by Article 4(2)(a) of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)).

(e) S.R. 2016 No. 216

“qualifying young person” has the meaning in regulation 6 of the Universal Credit Regulations (Northern Ireland) 2016;

“universal credit” means universal credit payable under Part 2 of the Welfare Reform (Northern Ireland) Order 2015.

Waiting days

2.—(1) Paragraph 2 of Schedule 2 to the 2007 Act does not apply to a person to whom paragraph (2) applies.

(2) This paragraph applies to a person who is—

- (a) Infected, or contaminated, with Coronavirus disease;
- (b) in isolation; or
- (c) caring for a child or qualifying young person who is a member of the person’s household and who falls within paragraph (a) or (b),

and the Department is satisfied that paragraph 2 of Schedule 2 to the 2007 Act should not apply to the person.

Treating a person as having limited capability for work

3.—(1) This regulation applies to a person who makes a claim for universal credit or employment and support allowance or who has an existing award of universal credit or employment and support allowance.

(2) Where this regulation applies the person is to be treated as having limited capability for work(a) if the person is—

- (a) Infected, or contaminated, with Coronavirus;
- (b) in isolation; or
- (c) caring for a child or qualifying young person who is a member of the person’s household and who falls within paragraph (a) or (b),

and the Department is satisfied that the person should be treated as having limited capability for work.

(3) Regulation 26 and 35(6) to (9) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(b) applies to a determination that the person is to be treated as having limited capability for work in accordance with this regulation as if such a determination had been made under regulation 16 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 or Part 5 of the Universal Credit Regulations (Northern Ireland) 2016.

(4) Regulation 6(2)(q) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(c) applies to a determination that the person is to be treated as having limited capability for work in accordance with this regulation as if such a determination had been made under regulation 20 of the Employment and Support Allowance Regulations (Northern Ireland) 2008(d).

Suspension of the Minimum Income Floor

4. Where a person ceases to be treated as having limited capability for work under regulation 3, the Department may determine that regulation 63 of the Universal Credit Regulations (Northern

(a) See section 1(4) of the Welfare Reform Act (Northern Ireland) 2007 and section 43(1) of the Welfare Reform (Northern Ireland) Order 2015.

(b) S.R. 2016 No. 221

(c) S.R. 1999 No. 162; relevant amending Regulation is S.R. 2010 No. 200

(d) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2011 No. 357 and S.R. 2013 No. 246

Ireland) 2016(a) (minimum income floor) does not apply to the person for the assessment period in which they cease to be treated as having limited capability for work and the Department can further extend the period during which regulation 63 does not apply if the Department considers such an extension to be appropriate.

Expiry

5.—(1) The Secretary of State must keep the operation of these Regulations under review.

(2) These Regulations cease to have effect at the end of the period of eight months beginning on the day on which they come into force.

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

At 02:00 p.m. on 12th March 2020

Will Quince
Minister for Welfare Delivery
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations respond to the present outbreak of Coronavirus disease in Great Britain.

Under regulation 2, the Department has discretion to disapply the seven waiting days that would otherwise apply to a person who has made a claim for an employment and support allowance. This applies to both contributory and income-related employment and support allowance. The Department may exercise that discretion where a person is infected or contaminated with Coronavirus disease, is self-isolating to prevent the spread of Coronavirus disease, or is caring for a child (or qualifying young person) who falls into either of those categories.

Under regulation 3, the Department has discretion to decide that a person who makes a claim for, or is entitled to, universal credit or employment and support allowance may be treated as a person having limited capability for work. This again applies to both contributory and income-related employment and support allowance. The Department may exercise that discretion where a person is infected or contaminated with Coronavirus disease, is self-isolating to prevent the spread of Coronavirus disease, or is caring for a child (or qualifying young person) who falls into either of those categories.

Under regulation 4, the Department has discretion to disapply the minimum income floor where it applies to claimants who are self-employed. The Department may exercise that discretion once a person is no longer being treated as having limited capability for work under regulation 3 for the rest of the assessment period in which they were so treated. The Department may further exercise that discretion if the Department considers it appropriate.

Under regulation 5, the Department must keep the operation of these Regulations under review. These Regulations expire eight months after they come into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

(a) S.R. 2016 No. 216