

# **THE WELFARE REFORM BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department for Social Development in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Welfare Reform Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or Schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Bill makes provision for Northern Ireland corresponding to provision contained in the Welfare Reform Act 2012 (c. 5). It is part of the ongoing process of welfare reform and modernisation of the benefit system.
4. The major proposal for reform is the introduction of a new benefit, to be known as universal credit, which will replace existing in and out of work benefits. The Bill also makes provision for a new benefit, personal independence payment, which will replace the existing disability living allowance.
5. The following paragraphs summarise those Parts, and are followed by detailed explanations of the individual clauses and Schedules.

### **CONSULTATION**

6. In July 2010 the Westminster Government published a consultation document 21st Century Welfare (Cm7913) containing a range of options for reform of the welfare system. At the end of the consultation period, in November 2010, a White Paper -Universal Credit: welfare that works (Cm7957) was published, alongside the Government's responses to the consultation (Consultation responses to 21st Century Welfare (CM7971)). The White Paper detailed proposals for welfare reform, which include measures to simplify the benefits' system, improve work incentives and reduce administration costs.

Both policy documents were also issued for consultation in Northern Ireland.

## **OPTIONS CONSIDERED**

7. Details of the options considered are included in the Regulatory Impact Assessment.

## **GLOSSARY**

8. The following abbreviations are used for existing Acts and Orders:
- SSAA 1992 – Social Security Administration (Northern Ireland) Act 1992
  - SSCBA 1992 – Social Security Contributions and Benefits (Northern Ireland) Act 1992
  - JSO 1995 – Jobseekers (Northern Ireland) Order 1995
  - SSO 1998 – Social Security (Northern Ireland) Order 1998
  - SSFA 2001 – Social Security Fraud Act (Northern Ireland) 2001
  - SPCA 2002 – State Pension Credit Act (Northern Ireland) 2002
  - TCA 2002 – Tax Credits Act 2002
  - WRA 2007 – Welfare Reform Act (Northern Ireland) 2007
  - WRA 2010 – Welfare Reform Act (Northern Ireland) 2010
9. The following other abbreviations are used:
- JSA – jobseeker’s allowance
  - ESA – employment and support allowance
  - IS – income support
  - DSD – Department for Social Development
  - the Department – The Department for Social Development

- HMRC – Her Majesty’s Revenue and Customs

### **Part 1 – Universal credit**

10. This Part of the Bill contains provisions and confers regulation-making powers for an integrated working-age benefit to be called universal credit, which, depending on the claimant’s circumstances, will include a standard allowance (to cover basic living costs) along with additional elements for responsibility for children or young persons, housing costs and other particular needs.
11. Universal credit will be paid to people both in and out of work, replacing working tax credit (provided for in the Great Britain Welfare Reform Act 2012), child tax credit, housing benefit, IS, income-based JSA and income-related ESA (for details on provisions for housing benefit support, please see the note on clause 35). It will provide support for people between 18 (or younger in certain cases) and the qualifying age for state pension credit.
12. The aim of universal credit is to smooth the transition into work by reducing the support a person receives at a consistent rate as their earnings increase.
13. The financial support provided by universal credit will be underpinned by responsibilities which claimants may be required to meet. The level of those requirements will depend on the claimant’s particular circumstances.

### **Part 2 – Working-age benefits**

14. This Part of the Bill makes provision for changes to the responsibilities of claimants of JSA, ESA and IS in the period leading up to the introduction of universal credit and the abolition of income-based JSA, income-related ESA and IS (the interim period). In particular provision is made for the introduction of a claimant commitment. The claimant commitment will be a record of the requirements claimants are expected to meet in order to receive benefit and the consequences should they fail to do so.
15. Once universal credit is introduced, ESA and JSA will continue alongside universal credit as contributory benefits. As well as the changes to be made in the interim period, this Part also introduces longer-term reforms to align ESA and JSA more closely with the provisions for universal credit. *Clauses 50 and 58* insert new sections into the JSO 1995 and the WRA 2007 which replicate those for universal credit which relate to work-related requirements and sanctions, apart from where differences are necessary, so that what can be expected of a claimant of contributory JSA or ESA is the same as it would be for a similar claimant of universal credit.

### **Part 3 – Other benefits**

16. This Part of the Bill contains changes to a number of other social security benefits.

### **Part 4 – Personal Independence Payment**

17. In June 2010 the Westminster Government announced, as part of the Budget, its intention to reform disability living allowance from 2013-14. Subsequently, in December 2010, a consultation paper *Disability Living Allowance reform (Cm 7984)* was published in Great Britain and Northern Ireland. The consultation paper sets out the proposals to replace disability living allowance with a new benefit called personal independence payment. The provisions in Part 4 set out the framework for the new benefit, while the detailed design will be provided for in secondary legislation.

### **Part 5 – Social security: general**

18. This Part of the Bill contains provisions relating to the administration of social security benefits, including provisions relating to a cap on benefit payments; measures to deal with benefit fraud and enabling the Department to share data with other bodies.

### **Part 6 – Miscellaneous**

19. In January 2011 the Westminster Government published a consultation document *Strengthening families, promoting parental responsibility: the future of child maintenance (Cm 7990)*. The document set out the Government's view that parents should be encouraged and supported to make their own family-based arrangements for the maintenance of their children wherever possible, rather than using the statutory maintenance scheme. This will enable the Department to focus on those cases where it is not possible for parents to make those arrangements themselves. This Part of the Bill makes provision to implement proposals which support the principles in the consultation document (but did not form part of the consultation) and which require primary legislation.
20. Provision is also made for an amendment to the Insolvency (Northern Ireland) Order 1989 to put beyond doubt that arrears of child support are excluded from the debts which may be included in an individual voluntary arrangement.

## **Part 7 – Final**

21. Part 7 contains clauses relating to the extent of the Bill, commencement of provisions of the Bill, repeals and the short title.

## **OVERVIEW**

22. The Bill contains 139 clauses and 12 Schedules.

Part 1 – Universal credit

Part 2 – Working-age benefits

Part 3 – Other benefit changes

Part 4 – Personal independence payment

Part 5 – Social security: General

Part 6 – Miscellaneous

Part 7 – Final

## **COMMENTARY ON CLAUSES**

### **Part 1: Universal credit**

#### *Clause 1: Universal credit*

23. Part 1 creates the legislative framework for universal credit, a social security benefit available to people in and out of work.
24. Universal credit may include, depending on the claimant's circumstances, a standard allowance, an amount for responsibility for children or young persons, an amount for housing costs and amounts for other particular needs or circumstances.

#### *Clause 2: Claims*

25. *Clause 2* contains provisions about claims for universal credit. A claim may be made either by a single person or, in the case of a couple, jointly.

26. *Subsection (2)* enables the Department to make regulations setting out circumstances in which a member of a couple may make a single person claim. This may be used, for example, where one member of a couple does not have a right to reside in Northern Ireland, and so is not entitled to universal credit. The other member of the couple would then be able to make a claim as a single person.

***Clause 3: Entitlement***

27. A single person is entitled to universal credit if they meet both the basic conditions and the financial conditions. For couples, both claimants must meet the basic conditions and they must jointly meet the financial conditions.

***Clause 4: Basic conditions***

28. The basic conditions are that a claimant must be at least 18 years old, under the qualifying age for state pension credit, in Northern Ireland, and not receiving education. Since April 2010 the qualifying age for state pension credit has been increasing gradually from 60 to 65, in line with women's State Pension Age. The claimant must also accept a claimant commitment, which contains the requirements that a claimant will be expected to meet in return for receiving universal credit. These requirements are set out in clauses 15 to 18 and 23.
29. *Subsection (2)* allows for regulations to provide for exceptions to be made to the requirement to meet any of the basic conditions. In the case of joint claimants an exception may apply to either or both of the claimants.
30. *Subsection (3)* provides a regulation-making power to set out cases in which a different lower age limit will apply. This allows universal credit to be made available to people who are younger in specific circumstances, such as in the case of lone parents who are under 18 or young people who are estranged from their parents.
31. *Subsection (5)(a)* allows for regulations to specify whether or not a person is to be treated as being in Northern Ireland. For example, a person might be treated as being in Northern Ireland if they are employed on board a ship or working on an oil rig. Regulations may also specify when a person is to be treated as not in Northern Ireland because they are not considered to be habitually resident here. *Subsection (5)(b)* enables a claimant to continue to be entitled to universal credit if they leave the country temporarily. *Subsection (5)(c)* enables the universal credit provisions to be modified in relation to a person who leaves the country temporarily.

32. Under *subsection (6)*, regulations may be made setting out how receiving education is to be defined in relation to universal credit and to allow for provisions to treat people in particular circumstances as receiving or not receiving education. Under *subsection (7)* a person may be treated as having accepted or not accepted a claimant commitment in prescribed circumstances. The first regulations made under *subsection (7)* will be subject to the confirmatory procedure.

***Clause 5: Financial conditions***

33. *Clause 5* explains the financial conditions. *Subsection (1)* provides that entitlement is dependent on a claimant's capital and income. *Subsection (1)(a)* provides for the capital thresholds for entitlement to universal credit to be set out in regulations. *Subsection (1)(b)* also allows for regulations to prescribe a minimum amount of universal credit that is payable, below which there is no entitlement. This could be used so that a person who would be entitled to only a very small amount of universal credit would not be entitled.
34. *Subsection (2)* provides that in the case of joint claimants their combined capital and income must be below the prescribed thresholds, and provides an equivalent power to prescribe a minimum amount that is payable.
35. The first regulations made under *subsections (1)(a)* and *(2)(a)* will be subject to the confirmatory resolution procedure.

***Clause 6: Restrictions on entitlement***

36. *Clause 6* allows the Department to place certain restrictions on entitlement to universal credit.
37. Under *subsection (1)(a)* regulations may specify circumstances in which a person will not be entitled to universal credit even though they meet the conditions of entitlement. This will be used to prevent entitlement to universal credit arising in specific situations (for example, where it would be inappropriate such as in the case of prisoners).
38. *Subsection (1)(b)* prevents a person from being entitled to universal credit if they only meet the conditions of entitlement for a short period, to be prescribed in regulations.
39. *Subsection (1)(c)* provides that a person may not be entitled to universal credit for a short time after meeting the conditions of entitlement. This period will be determined in regulations. This recreates the waiting days that currently apply

in JSA and ESA, and is intended to avoid the administrative costs involved in making awards for very short periods of entitlement.

40. *Subsection (2)* ensures that the number of days prescribed under paragraphs *(1)(b)* or *(c)* can be no more than seven.
41. Regulations made under *subsection (3)* may set out circumstances in which the restrictions on entitlement in *subsections (1)(b)* and *(1)(c)* do not apply.

***Clause 7: Basis of awards***

42. *Clause 7* provides that an award of universal credit is to be payable in respect of an assessment period. This period will be prescribed in regulations. Under *subsection (3)* regulations will also allow for universal credit to be payable in respect of part of an assessment period, for example to deal with a part-period at the beginning or end of an award.

***Clause 8: Calculation of awards***

43. *Clause 8* sets out how the amount of universal credit a claimant receives will be calculated. For each claimant there is a “maximum amount” made up of the different elements (set out at greater length in *clauses 9 to 12*). Sums may then be deducted from this maximum amount in respect of a claimant’s earned income, such as wages, and unearned income, such as pension income. Regulations will prescribe how income is calculated and taken into account for universal credit. *Paragraph 4 of Schedule 1* contains further provisions about the calculation of income and capital. Under universal credit earned and unearned income will be treated differently.
44. The amount of universal credit will be reduced in respect of a claimant’s earned income. Claimants may be allowed to receive a certain amount of earned income before their universal credit award begins to reduce. The amount of income to be disregarded may differ depending on a household’s circumstances. The level of these disregards will be set out in regulations under the powers provided in *paragraph 4 of Schedule 1*. Earnings disregards will be per household and where the conditions for more than one disregard are satisfied, people will get the highest disregard only.
45. Once earnings are above the level to be disregarded, the award of universal credit will be reduced at a constant rate for each extra pound earned. This rate will be determined in regulations made under *subsection (3)(a)*. The first regulations made under *subsection (3)* will be subject to the confirmatory resolution procedure.



46. Some unearned income, which may include income from other benefits such as disability living allowance or the new personal independence payment, may be completely disregarded and not affect the amount of a person's universal credit award. Other unearned income may reduce a claimant's award.

***Clause 9: Standard allowance***

47. *Clause 9* provides for universal credit to include a standard allowance which will provide an amount for basic living costs. Essentially, the standard allowance for universal credit is intended to mirror the comparable standard rates currently in JSA and ESA.
48. *Subsection (3)* allows for circumstances where an award will not include a standard allowance. For example, a standard allowance will not be included for prisoners on remand (but an amount in respect of housing costs could be included in an award for such a claimant).
49. The first regulations made under subsections (2) (amount of standard allowance) and (3) (exceptions) will be subject to the confirmatory procedure.

***Clause 10: Responsibility for children and young persons***

50. *Clause 10* provides that where claimants have responsibility for dependant children or qualifying young people, an amount per child in respect of extra living costs may be included in the universal credit award.
51. Under *subsection (2)* an extra amount may be included in respect of a disabled child or young person. The rate of the amount for children and young persons, and any extra amounts for disabled children, including any amount for more severely disabled children, will be prescribed in regulations under subsection (3). *Subsection (4)* allows for regulations to set out circumstances where an award will not include an amount in respect of responsibility for a child or qualifying young person.
52. The first regulations made under subsections (3) and (4) will be subject to the confirmatory resolution procedure.
53. A qualifying young person will be a person over the age of 16 who meets other conditions to be set out in regulations under *subsection (5)*. This will allow families to continue to receive support for young people over the age of 16 who are part of the household and continue in full-time, non-advanced education.

**Clause 11: Housing costs**

54. *Clause 11* provides for an amount to be included for housing costs. A person's maximum amount may include an amount for housing costs if the claimant is liable to make payments on their home. This could be in the form of rent, mortgage costs or other housing-related costs. Where the amount for housing relates to a liability to pay rent, it is intended that the amount will be calculated with reference to a claimant's household size and circumstances as well as their actual rent, as is the case currently in housing benefit. The detailed rules for calculating the amount will be set out in regulations under *subsection (4)*.
55. Regulations under *subsection (5)* may allow for circumstances where an award will not include an amount for housing at all, as well as for an amount for housing not to be included until a prescribed time or for its inclusion to end after a prescribed period. This may, for example, be used to prevent a person from receiving support for mortgage costs for a period at the beginning of their claim, as is currently the case in income support, or to maintain the current limit on how long a claimant may receive support for mortgage costs.
56. The first regulations made under this clause will be subject to the confirmatory resolution procedure.

**Clause 12: Other particular needs or circumstances**

57. *Clause 12* provides a regulation-making power to prescribe amounts to be included in the universal credit award for other needs or circumstances, which would be extra elements in addition to the standard allowance. It is intended to use these powers to include additional amounts for people who are at risk of having longer durations out of work, where a person is assessed as having limited capability for work or limited capability for work-related activity because of their physical or mental condition. An amount may also be included for carers, such as claimants who have regular and substantial caring responsibilities for a severely disabled person. It is also intended to provide an amount for working claimants who pay for formal childcare in respect of a qualifying child or children. Regulations may specify or provide for the determination or calculation of the rates of any such additional amounts.
58. Under *subsection (4)* additional amounts may be included in an award after a prescribed time or may not be included after a prescribed period. This may be used, for example, to prevent an award from including an amount in respect of limited capability for work or work-related activity until such time as a claimant has completed an assessment period and taken part in a work capability assessment. This is currently the case for the work-related activity component and the support component in ESA.

59. The first regulations made under this clause will be subject to the confirmatory resolution procedure.

***Clause 13: Work-related requirements: introductory***

60. *Clause 13* sets out the four different types of work-related requirements. The requirements which any particular claimant may be expected to meet depend on which of four groups they fall into. *Clauses 15 to 18* define the four different types of work-related requirements, and *clauses 19 to 22* set out which of these requirements may be imposed on different groups of claimants.
61. The requirements a claimant may be expected to meet will vary depending on their circumstances and capability for work. These circumstances will include being a responsible carer for a child of a particular age.

***Clause 14: Claimant commitment***

62. The responsibilities a claimant has to meet, including relevant work-related requirements, may be recorded in the claimant commitment, as set out in *clause 14*. The commitment may be updated and changed as necessary. To be entitled to universal credit, a claimant will normally need to accept a claimant commitment when they claim and whenever the commitment is changed.
63. Information that may be recorded in the claimant commitment, in addition to any work-related requirements, includes any information prescribed in regulations under *subsection (4)* or any other information specified by the Department or the Department for Employment and Learning. This may, for example, include the general duty to report changes of circumstance which affect the claimant's entitlement or rate of award.

***Clause 15: Work-focused interview requirement***

64. *Clause 15* defines the work-focused interview requirement. These interviews are to discuss the steps that a claimant might take (immediately or in the future) to increase their chances of getting work, increasing the number of hours they work or getting work that is better paid. Regulations under *subsection (2)* will set out in more detail the purpose of work-focused interviews.

***Clause 16: Work preparation requirement***

65. *Clause 16* defines the work preparation requirement as actions specified by the Department or the Department for Employment and Learning in order to increase a claimant's chances (immediately or in the future) of getting work,

increasing the number of hours they work or getting work that is better paid. *Subsection (3)* provides examples of the types of activities that could be specified, such as undertaking a work placement or work experience, participating in a training course or writing a CV, but this is not an exhaustive list. Regulations may set out other actions or provide more detail about the actions listed.

66. *Subsection (4)* makes clear that a work preparation requirement may include taking part in a work-focused health-related assessment. These will be carried out by a health care professional and will provide information about the claimant's capabilities and steps which might be taken to improve their mental or physical health. *Subsection (6)* defines what is meant by a health care professional.

***Clause 17: Work search requirement***

67. *Clause 17* defines the work search requirement. This requirement is in two parts: a general requirement to take all reasonable action to obtain paid work and a requirement to take any particular action specified by the Department or the Department for Employment and Learning, such as applying for a specific job or registering with a particular recruitment agency. *Subsection (3)* sets out examples of the kinds of actions a claimant may be required to undertake, and regulations may set out other actions or provide more detail about the actions listed. *Subsection (2)* allows the Department or the Department for Employment and Learning to specify an amount of time which must be devoted to an action.
68. Typically claimants in this group will be required to look for any reasonable employment. However, *subsection (4)* enables limitations to be placed on the work certain claimants in certain circumstances must look for. Limitations can either be indefinite or for a particular period. *Subsection (5)* includes examples of the types of limitations which may be applied. Limitations can be imposed through regulations or specified by the Department or the Department for Employment and Learning.

***Clause 18: Work availability requirement***

69. *Clause 18* defines the work availability requirement. This is a requirement that the claimant is able and willing immediately to take up paid work, increase the number of hours they work or get work that is better paid. *Subsection (3)* allows for regulations to place limitations on the work a claimant must be available for. These would match any limitations imposed on the work search requirement under *clause 17*. Again, limitations may be indefinite or for a particular period, and may be specified by the Department or the Department for Employment and Learning or imposed through regulations. *Subsection (5)*

provides for regulations to define what is meant by being able and willing immediately to take up work, allowing the work availability requirement to be relaxed where it would not be possible for the claimant to take up work straight away. The first regulations under subsections (3) to (5) will be subject to the confirmatory resolution procedure.

70. If a claimant moves from one group to another then any work-related requirements which may not be imposed on the group the claimant moves to automatically cease. For example, any work search, work availability and work preparation requirements would no longer apply if a claimant moves from the group subject to all work-related requirements to the group who may only be subject to work-focused interviews.

***Clause 19: Claimants subject to no work-related requirements***

71. Clause 19 sets out the groups of claimants on whom the Department cannot impose any work-related requirements. These include:-

- claimants who have limited capability for both work and work-related activity owing to a physical or mental condition. *Clause 38* contains further provisions on limited capability for work and work-related activity and their assessment (currently done through the work capability assessment);
- responsible carers of a child under the age of one; and
- any claimant with regular and substantial caring responsibilities for a severely disabled person.

72. *Subsection (2)(d)* allows for regulations to add additional categories of claimant to the group subject to no work-related requirements. This may include some groups who can currently claim income support and who are not required to prepare for work, such as people serving on a jury. The first regulations made under this subsection will be subject to the confirmatory resolution procedure.

73. *Subsection (3)* provides that these regulations may identify additional categories of claimant by reference to hours worked, earnings, income or the amount of universal credit paid (or any combination of these factors). This can be used to establish a “threshold” relating to a claimant’s level of employment. Regulations may provide that where a claimant falls above any such threshold the Department or the Department for Employment and Learning may not impose any work-related requirements on them.

74. *Subsection (4)(a)* makes clear that for claimants in a couple any such regulations can either be framed in relation to the individual claimant (such as the hours the individual works) or to the couple together (such as the hours both members of the couple work combined). *Subsection (3)(b)* ensures that regulations can enable the Department to determine any relevant matters such as hours, earnings, or the amount of universal credit on the basis of an estimate or calculation. For example, where a claimant has a variable working pattern, regulations may enable the Department to determine whether a claimant should be subject to no work-related requirements based on estimated earnings.
75. *Subsection (6) of clause 19* defines a responsible carer as either a lone parent or a member of a couple nominated as the lead carer. Regulations made under paragraph 5(2) of Schedule 1 may make provision about nominations.

***Clause 20: Claimants subject to work-focused interview requirement only***

76. *Clause 20* sets out the groups of claimants on whom the Department may only impose a work-focused interview requirement. A claimant will fall into this group if they are the responsible carer of a child who is at least one but below a prescribed age which may not be less than 3. Regulations may also specify other descriptions of claimants who would fall into this group.

***Clause 21: Claimants subject to work preparation requirement***

77. *Clause 21* sets out the groups of claimants on whom the Department may only impose work preparation and work-focused interview requirements. A claimant in this group may not be required to look for or be available for paid work. A claimant will fall into this group if it is determined that they have limited capability for work owing to a physical or mental condition, or if they fall into another description prescribed in regulations. Such regulations must include a responsible carer of a child aged 3 or 4 where such a person does not fall into the group which may only be subject to a work-focused interview requirement.

***Clause 22: Claimants subject to all work-related requirements***

78. *Clause 22* provides that a claimant may be subject to all work-related requirements if they do not fall into one of the previous three groups. Except in prescribed circumstances a person in this group must always be subject to the requirements to search for work under *clause 17* and be immediately available and willing to take up work under *clause 18*. This is similar to the conditions that JSA claimants must currently meet.

**Clause 23: Connected requirements**

79. *Clause 23* provides for other requirements which can be placed on claimants in connection to the four work-related requirements. *Subsection (1)* allows the Department or the Department for Employment and Learning to require a claimant to participate in an interview at a particular time and place. This interview may be for any purpose relating to the imposition of a requirement, verification that a requirement is being met or helping the claimant to comply.
80. Under *subsection (3)* a claimant may be required to confirm their compliance in a particular way and provide evidence that requirements are being met. For claimants subject to work search and work availability requirements this can be used to require them to declare on a regular basis that they are meeting all the requirements placed upon them.
81. *Subsection (4)* provides that claimants may be required to report certain changes of circumstance which may affect the work-related requirements that are imposed on them, or that they should become subject to, such as leaving a job.

**Clause 24: Imposition of requirements**

82. *Clause 24* contains provisions about the imposition of requirements on claimants. *Subsection (1)(a)* allows for regulations to prescribe circumstances in which specific requirements must or must not be imposed on certain claimants. *Subsection (1)(b)* does the same for any action which may be specified by the Department or the Department for Employment and Learning. This can be used to prevent the imposition of requirements where it would be inappropriate to do so. *Subsection (1)(c)* allows for regulations to set parameters around the detail of any action that may be required by the Department or the Department for Employment and Learning. This may be used, for example, to prescribe a maximum number of interviews a claimant could be expected to attend in any given period.
83. *Subsection (2)* provides that when deciding whether a work-focused interview requirement or a particular action under a work preparation or work search requirement should be imposed the Department must take regard of any matters prescribed in regulations.
84. *Subsection (4)* allows for any requirement imposed or action to be specified to be changed or withdrawn. If a requirement or a change to a requirement is not included in the claimant commitment, the Department may determine how a claimant is to be notified under *subsection (6)*.

85. *Subsections (7)* allows for claimants who have been victims of, or threatened with, domestic violence within a prescribed period to be exempted for a period of 13 weeks from any work-related requirements applying to them. Further details of how domestic violence is to be defined and the circumstances in which this exemption may apply will be set out in regulations under subsection (8).

***Clause 25: Compliance with requirements***

86. Regulations under *clause 25* may set out the circumstances in which a person will be treated as having met or not met the requirements placed upon them. These regulations may set out, for example, the level of activity which the claimant will be required to demonstrate in order to be treated as meeting requirements (such as the time to be spent looking for work). The regulations may also provide that where a claimant does not engage properly with the requirement (for example by being disruptive or violent in an interview or on a training course, or where a claimant's behaviour or appearance undermines their chances of success in a job interview) they will not be treated as meeting that requirement.

***Clause 26: Higher-level sanctions***

87. *Clause 26* provides for a reduction of the amount of a claimant's award in the event of certain failures. A failure under this section may be sanctionable for up to three years.
88. *Subsection (2)* sets out the failures by those subject to all work-related requirements which may be sanctioned for up to this duration:
- failing to comply with a work preparation requirement to take part in a prescribed type of work placement, such as Work Experience and Mandatory Work Activity;
  - failing to comply with a work search requirement to apply for a particular vacancy when required to do so;
  - failing to comply with a work availability requirement to take up an offer of paid work; and
  - leaving paid work or reducing pay voluntarily or because of misconduct.
89. *Subsection (3)* allows for a sanction to be applied under this section when a claimant who is in work at a level above a threshold set by regulations under clause 19(3) leaves their job or reduces their pay through misconduct or



voluntarily, and as a result moves into the group subject to all work-related requirements.

90. *Subsection (4) allows for* a sanction to be applied under this section when a claimant leaves their job or reduces their pay voluntarily and without good reason or as a result of misconduct, or fails to take up an offer of paid work without good reason, if such failures occur before they make a claim for universal credit and when the resulting award is made they fall into the group who may be subject to all work-related requirements.
91. In all cases (except leaving work through misconduct), a claimant will not be sanctioned if they can demonstrate that they had good reason for the failure. Regulations under *paragraph 7 of Schedule 1* may set out the circumstances in which a person is to be treated as having or not having a good reason and the matters which are or are not to be taken into account in determining whether a claimant has good reason.
92. Under *subsection (5)(a)* regulations may prescribe circumstances in which a person is to be treated as not having ceased work or reduced pay voluntarily or because of misconduct. *Subsection (5)(b)* allows for reductions in pay below a prescribed level to be disregarded.
93. Regulations under *subsection (6)(a)* will set out the amount by which a claimant's award will be reduced. *Subsection (6)(b)* allows for regulations to prescribe the duration of a sanction, up to the 18 month maximum for any single failure.
94. *Subsection (7)* provides that regulations setting the duration of sanctions under this section may in particular allow for it to be decided with reference to any other failures and the period between failures. For example, regulations may provide that second and third failures after a first will result in a longer-lasting reduction if they occur within a particular period of time after the previous one.
95. *Subsection (8)(a)* provides for regulations to prescribe circumstances in which a sanction will not be applied. *Subsection (8)(b)* makes provision for a sanction to be carried over if a person's award ceases during the period of sanction and a new award is made within a prescribed period.
96. Regulations under *subsection (8)(c)* may allow for a sanction to be suspended or terminated in certain circumstances, such as if the work-related requirements that the claimant may be subject to change. Where a sanction is suspended, it may be reinstated in accordance with regulations.

97. To impose a sanction, a decision under Article 11 of the SSO 1998 will be made to supersede the original award decision so as to reduce the award amount for a particular period. This superseding decision will be appealable under Article 13(1)(a) of that Order. Other determinations made before the sanction decision (such as the imposition of work-related or connected requirements, or whether the claimant has good reason for a failure) and which are made under the relevant clauses of this Order, are not appealable. This is the case currently in relation to, for example, JSA.
98. The first regulations made under this clause will be subject to the confirmatory resolution procedure.

***Clause 27: Other sanctions***

99. *Clause 27* provides for a reduction in the amount of a claimant's award where they have failed without good reason to meet a work-related requirement or a requirement under *clause 23*, such as participating in an interview with an adviser. Any failure which is sanctionable under *clause 26* cannot also be sanctioned under *clause 27*.
100. The amount by which an award of universal credit may be reduced, and the duration of any reduction will be set out in regulations under *subsection (4)*.
101. *Subsection (5)* provides that regulations under *subsection (4)* may allow for a reduction to continue until a claimant meets specified compliance conditions, or to last for a fixed period of up to 26 weeks (in relation to any single failure), or a combination of the two (for example, an open-ended period until the claimant meets the compliance conditions followed by a particular fixed period).
102. *Subsection (6)* defines a compliance condition to mean a condition to comply with the original requirement or a condition relating to future compliance with a requirement (for example, to comply with a new requirement or to take an action that should lead to the claimant meeting a requirement). The Department or the Department for Employment and Learning may specify that the claimant must meet more than one requirement and take more than one action to have met the compliance condition.
103. *Subsection (7)* allows a compliance condition to be varied or revoked, and enables the Department to notify a claimant of a condition in such manner as the Department determines.
104. *Subsection (8)* enables the duration of a fixed period sanction to be decided with reference to any previous failures and the period between the failures. For example, as with higher-level sanctions, the second and third failures after a

first may result in a longer-lasting reduction if they occur within a particular period after the previous one.

105. *Subsection (9)* has the same effect as *subsection (8)* of *clause 26*.
106. The first regulations made under this clause will be subject to the confirmatory resolution procedure.

***Clause 28: Hardship payments***

107. *Clause 28* enables regulations to make provision for universal credit payments to be made to claimants who have been sanctioned under *clauses 26* or *27* and can demonstrate that they are or will be in hardship. In particular, regulations may prescribe the circumstances in which a person will be treated as being in hardship, the amounts and duration of any payments and conditions which claimants will have to satisfy to become and remain eligible. It also enables regulations to make provision for such payments to be recoverable. Where such payments are recoverable *clause 103* (which amends the SSAA 1992) deals with the methods through which recovery can be made (for example, by deduction from future benefit payments).
108. The first regulations made under this clause will be subject to the confirmatory resolution procedure.

***Clause 29: Concurrent exercise of certain functions by Department for Employment and Learning***

109. *Clause 29* allows the functions of the Department, which are specified in *subsection (2)*, to be exercised either by the Department or the Department for Employment and Learning.

***Clause 30: Delegation and contracting out***

110. *Clause 30* allows for contracted providers in the private and voluntary sectors to exercise functions of the Department or the Department for Employment and Learning relating to work-related and connected requirements.
111. It is envisaged that providers will be permitted to exercise such functions so as to deliver employment programmes such as the Steps to Work programme or the replacement Into Employment Programme. The Department, using the power to impose work preparation requirements under *clause 16*, may require claimants to participate in the Steps to Work Programme or the Into Employment Programme. In reliance on *clause 30*, Steps to Work programme or the Into Employment Programme providers will be authorised to carry out

the functions of the Department or the Department for Employment and Learning under clauses 13 to 25 which relate to work-related and connected requirements. Steps to Work programme or Into Employment Programme providers will therefore be able to impose relevant requirements on claimants, for example a work-preparation requirement to participate in particular training.

112. Any functions contracted out in this way will be subject to the same restrictions that apply to the Department or the Department for Employment and Learning. For example, a person in the group subject only to work-focused interview and work preparation requirements could not be expected to search for work or be available to take a job.
113. Where a claimant fails to comply with a requirement imposed by a provider, the Department will determine whether a sanction ought to apply. Functions relating to sanctions cannot be contracted out.

***Clause 31: Supplementary regulation-making powers***

114. *Clause 31* and *Schedule 1* provide for further regulation-making powers relating to universal credit.

***Schedule 1: Universal credit: supplementary regulation-making powers***

115. *Paragraph 1* enables regulations to provide for circumstances in which a couple may be entitled to universal credit without both members of the couple meeting the basic entitlement conditions.
116. *Paragraph 2* allows for two periods of entitlement separated by a short gap to be treated as a single continuous period. This may be used, for example, to prevent a person having to go through a second qualifying period for an additional element. Regulations will prescribe the number of days allowable between periods of entitlement for linking rules to apply.
117. *Paragraph 3* makes provision relating to couples. Regulations under *sub-paragraph (1)* may provide for circumstances in which a joint claim may be treated as a claim by either or both members as single people and where claims made individually by members of a couple may be treated as a joint claim.
118. *Paragraph 3(2)* provides regulation-making powers relating to claimants becoming or ceasing to be members of a couple. This provides that a joint award may be converted into one or two single awards, or a joint award with someone else, when a couple separate, without a new claim having to be

made. It also enables a joint award to be made without a claim when a single claimant becomes a member of a couple. This may be used in cases where it is administratively simpler to continue the award and treat a couple separating or entering into a new relationship as a change of circumstance rather than requiring either party to make a new claim. Under *sub-paragraph (2)(c)*, regulations may set out the procedure to be followed when an award is converted and the information that a claimant may be required to provide.

119. *Paragraph 4* provides for regulations to set out how the income and capital of a claimant or joint claimants is to be calculated for the purposes of the universal credit. The first regulations made under this paragraph will be subject to the confirmatory resolution procedure.
120. The intention is that the treatment of capital will be similar to that under income support currently. Capital below a certain level will be fully disregarded. Where a claimant has capital above a certain level, they will not meet the financial conditions and will not be entitled to universal credit. If they have capital between the lower and upper limits a nominal income from this will be calculated and taken into account as unearned income, reducing the universal credit award accordingly. Earned income will reduce a claimant's award at a constant rate for each extra pound earned, as set out in *clause 8*.
121. *Sub-paragraph (2)* provides that regulations may allow income and capital to be calculated by reference to an average over a certain period. This could be used in cases where a claimant's income fluctuates and cannot easily be taken into account otherwise.
122. Under *sub-paragraph (3)(a)* regulations may set out when a person is to be treated as having or not having capital or income. This may be used, for example, if a person deliberately disposes of capital to increase their entitlement to universal credit. *Sub-paragraph (3)(b)* provides for income to be treated as capital or capital as income. This allows for one-off payments to be dealt with in the most appropriate way. For example, a payment such as royalties would be considered capital but under this power could be treated as income. *Sub-paragraph (3)(c)* enables unearned income to be treated as earned income or earned income as unearned income, for example to allow for certain other benefits to be treated as earned income and taken into account with the earned income taper when calculating the amount of an award.
123. *Sub-paragraph (3)(d)* allows for regulations to prescribe an assumed level of income from a person's capital. This will be used to reduce a claimant's award of universal credit if they have capital above a certain level and below an upper limit. *Sub-paragraph (3)(e)* enables the capital or income of one member of a couple to be treated as being the other member's.

124. Regulations may be made under *sub-paragraph (4)* specifying groups of people who may be regarded as having a certain level of income.
125. *Sub-paragraph (5)* provides that where there are joint claimants the income and capital of both will be taken into account, although under *sub-paragraph (6)* regulations may specify circumstances in which the income and capital of either member may be disregarded.
126. *Paragraph 5* allows for regulations to specify when a person is to be regarded as responsible or not responsible for a child or qualifying young person, and makes provision in relation to a couple nominating which member is the responsible carer for a child (see clause 19(6)(b)(ii)).
127. *Paragraph 6* allows for regulations to provide for liability to pay all or part of an award to be discharged by the provision of a voucher. In such cases, entitlement to the amount of universal credit in relation to which the voucher is provided is extinguished.
128. Regulations may only provide for payment by voucher in cases where the calculation of the award includes an amount in respect of particular costs which the claimant may incur (referred to here as claimant costs). The amount of the award to be paid as a voucher may be determined in regulations but must not be more than the amount included in the calculation of the award in respect of claimant costs.
129. Vouchers under this paragraph may include not only physical documents but also any electronic code, authorisation or other non-cash means by which a claimant may meet claimant costs of a particular description.
130. A voucher may be limited in relation to the particular people who will accept it (such as authorised providers of services), the particular costs in relation to which it may be used and the period for which it will remain valid.
131. *Paragraph 7* allows for regulations to provide that claimants who have a right to reside in the UK under EU treaties, and who would otherwise fall within clauses 19, 20 or 21, may be treated as not falling into such groups, with the consequence that they will fall within clause 22.
132. *Paragraph 8* provides for regulations to set out the circumstances in which there is or is not to be good reason and the factors which must or must not be considered when determining whether or not a person had good reason for a particular act or omission, such as failing to meet a requirement placed upon them. A determination as to whether a claimant has good reason is not appealable, as is the case under the current benefits system.

**Clause 32: Supplementary and consequential amendments**

133. *Clause 32 gives effect to Schedule 2.*

**Schedule 2 – Universal credit: amendments**

134. *Schedule 2 makes consequential amendments relating to the introduction of universal credit. This includes amendments to allow some universal credit claimants to receive other benefits such as free school meals or legal aid.*
135. *Paragraph 1 makes amendments to the Education Reform (Northern Ireland) Order 1989 relating to school trips. Under Article 131 of the Order a pupil's parents are excluded from paying for board and lodging on school trips if they are in receipt of IS, income-based JSA or prescribed elements of tax credits. Paragraph 1 amends this so that eligibility will be based on receipt of universal credit and other prescribed circumstances.*
136. *Paragraph 2 amends the Child Support (Northern Ireland) Order 1991 so that where a person is paid universal credit and meets other prescribed conditions they will be taken to have no assessable income for the purposes of calculating maintenance payments.*
137. *In particular, Paragraphs 3 to 26 amend SSAA 1992 to apply the provisions that relate to other benefits in respect of claims and payments to universal credit and to make other consequential amendments.*
138. *Paragraphs 14 to 17 make further provision relating to the supply of information for universal credit purposes.*
139. *Paragraph 19 allows for a person's universal credit award to be increased due to them reaching a particular age without a further decision. Paragraph 20 makes consequential changes to existing financial provisions.*
140. *Paragraph 28 amends Article 4(3C) of the JSO 1995, as inserted by section 11(5) of the WRA 2010, so that a person may be taken to have met the first contribution condition for contributory JSA in prescribed circumstances when they have been in receipt of universal credit.*
141. *Paragraphs 30 and 31 apply the provisions of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 to universal credit, so that if a person is awarded damages to compensate for wrongful dismissal or personal injury which has resulted in a claim to universal credit the amount of damages received may be reduced by the amount of benefit paid.*

142. The amendments in *paragraphs 32 to 39* apply provisions in the SSO 1998 relating to the making, supersession and revision of benefit decisions to universal credit.
143. Paragraph 40 makes amendments to the Immigration and Asylum Act 1999 so that people subject to immigration control cannot claim universal credit, except in prescribed circumstances.
144. Paragraph 41 amends the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 to enable the Department to make discretionary housing payments to universal credit claimants.
145. Paragraphs 42 to 48 amend the SSFA 2001 to apply its provisions to universal credit.
146. Paragraph 49 amends the SPCA 2002 so that a member of a couple who has attained the qualifying age for state pension credit may not receive state pension credit if the other member of the couple has not attained that qualifying age. This is to ensure that all claimants who have not attained the qualifying age for state pension credit are required to claim universal credit and, if appropriate, be subject to work-related conditions of entitlement.
147. *Paragraph 50* amends paragraph 1(5) of Schedule 1 of the WRA 2007 so that a person may be taken to have met the first contribution condition for contributory ESA in prescribed circumstances when they have been in receipt of universal credit.

***Clause 33: Power to make supplementary and consequential provision etc***

148. *Clause 33* enables the Department in relation to reserved or excepted matters, in relation to provision that falls within its devolved legislative competence, to make consequential, supplementary, incidental or transitional provision relating to universal credit.
149. Regulations under this clause may amend, repeal or revoke any relevant statutory provision.

***Clause 34: Abolition of benefits***

150. *Clause 34* provides for the abolition of income-based JSA, income-related ESA, IS and housing benefit. *Schedule 3* makes consequential amendments relating to the abolition of these benefits. Abolition will happen once all claimants have been transferred to universal credit. The repeals in *Part 1 of Schedule 12* are consequential on this.



***Schedule 3 – Abolition of benefits: consequential amendments***

151. *Schedule 3* makes amendments consequential to the abolition of the benefits listed under *clause 33*. For the most part these changes remove references to contributory ESA or JSA, as these will be unnecessary once ESA and JSA are contributory benefits only, and update references to other legislation which has been amended.

***Clause 35: Universal credit and state pension credit***

152. *Clause 35* and *Schedule 4* provide for a new housing credit element of state pension credit to replace housing benefit for claimants above the qualifying age for state pension credit.

***Schedule 4: Housing credit element of state pension credit***

153. State pension credit is currently made up of two elements: the guarantee credit and the savings credit. *Schedule 4* amends SPCA 2002 to create a new credit to cover housing costs. This will provide support for people who have reached the qualifying age for state pension credit (for couples where both members have reached the qualifying age) once housing benefit is no longer available following the introduction of universal credit.
154. *Paragraph 1 and 2 of Schedule 4* amend SPCA 2002 to provide that a person is entitled to state pension credit if, in addition to being in Northern Ireland and having attained the qualifying age, that person satisfies the conditions for entitlement to the new housing credit element. A person may be eligible for the housing credit without being entitled to either of the other elements of state pension credit, or may receive more than one element if they meet the relevant conditions.
155. *Paragraph 3* inserts a new *section 3A* into SPCA 2002. Section 3A sets out the conditions of entitlement to the housing credit and provides the powers to set out the structure of the housing credit in regulations. *Subsections (1) and (2)* of section 3A outline the specific conditions which a claimant must meet along with basic conditions which need to be satisfied in order to be entitled to the housing credit. *Subsection (1)* provides that, as with housing benefit, a claimant must be liable to make payments in respect of the accommodation they occupy as their home. *Subsection (2)* provides that a claimant will not be entitled to housing credit if the amount payable is below a certain level, to be prescribed in regulations, once the claimant's income and capital has been taken into account. This calculation will be specific to the housing credit and will not be the same as the income rules for the other elements of state pension credit.

156. *Subsection (3)* of the new section allows the Department to prescribe in regulations the method by which the rate of the housing credit will be determined or calculated. The amount may be zero to allow entitlement to be restricted in specific circumstances outside of the core entitlement conditions. The intention is that claimants will be entitled to broadly the same amount of support under the housing credit as they would have been entitled to by way of housing benefit.
157. *Subsections (4) and (5)* of the new section specify types of accommodation in respect of which a housing credit may be claimed and allow the Department to make provision through regulations to determine when a claimant is treated as liable or not liable for payments in respect of the accommodation. *Subsection (6)* enables different provision to be made for different areas.
158. Assessed income periods in state pension credit are set periods in which changes to retirement provision, such as income from retirement pensions, annuities or capital, do not need to be reported, thereby fixing the amount of retirement provision. Provision in respect of fixing a claimant's retirement provision is provided by section 7 of the SPCA 2002. *Paragraph 4* of the Schedule amends section 7 so as to give the Department the power to prescribe in regulations circumstances in which retirement provision will not be fixed for the purpose of determining entitlement to the housing credit.
159. *Paragraph 5* amends section 12 of the SPCA 2002 to enable regulations to modify provisions relating to the housing credit where a claim is made by members of a polygamous marriage. *Paragraph 6* inserts a definition of housing credit into the interpretation section of the SPCA 2002.
160. *Part 2* of the Schedule makes consequential amendments to other legislation as a result of the replacement of housing benefit with the housing credit.

***Clause 36: Universal credit and working-age benefits***

161. This clause and *Schedule 5* make provision about the relationship between universal credit, JSA and ESA.

***Schedule 5: Universal credit and other working-age benefits***

162. *Paragraph 2* of *Schedule 5* enables the Department to make provision in regulations for circumstances where a claimant is entitled to universal credit and either ESA or JSA. After the introduction of universal credit, ESA and JSA will continue to be available as contributory benefits.

163. *Sub-paragraph (1)* allows for regulations to determine the amount of ESA or JSA payable where a claimant is entitled to universal credit as well as one of the contributory benefits. Under *sub-paragraph (2)* this may include paying no amount of ESA or JSA.
164. Regulations may also make provision for how work-related requirements and sanctions will apply where a person is entitled to either JSA or ESA and universal credit. This may include treating compliance with a requirement for the purposes of one benefit as compliance for the other, or not applying work-related requirements in certain circumstances.
165. *Sub-paragraph (5)* enables regulations to provide for the order in which sanctions are applied when a person is entitled to more than one benefit and provide that, if both benefits are payable, a reduction in one as a result of a sanction does not lead to an increase in the other.
166. *Paragraph 3* allows regulations to provide that sanctions imposed on a universal credit claimant may be applied to an award of ESA or JSA if the award of universal credit ceases and the claimant moves onto one of these benefits.
167. Similarly, regulations may provide that sanctions imposed on JSA or ESA claimants may be applied to an award of universal credit. In certain circumstances, these rules may not apply (which may include, for example, certain changes in a claimant's circumstances such as severe ill health).
168. *Paragraph 4* allows for regulations under *clause 28* to provide for hardship JSA or ESA and universal credit, or where a sanction imposed on a JSA or ESA claimant has been applied to a subsequent award of universal credit.
169. *Paragraph 5* amends the JSO 1995 and paragraph 6 amends the WRA 2007 to allow for the introduction of an earnings taper, so that ESA and JSA will be reduced at a constant rate as earnings increase in the same way as universal credit. This rate will be prescribed in regulations.

***Clause 37: Migration to universal credit***

170. *Clause 37* gives effect to *Schedule 6* which makes provision relating to the replacement of the benefits that will be abolished under *clause 34*, as well as any other prescribed benefits.

**Schedule 6 – Migration to universal credit**

171. *Schedule 6* provides for the migration of existing benefit claimants onto universal credit. *Paragraph 1(1)* provides a general regulation-making power for this purpose, and the rest of the Schedule sets out illustrative examples of how this power may be used. The first regulations made under this sub-paragraph will be subject to the confirmatory resolution procedure, where they are making provision under *paragraphs 4 and 5* of this Schedule. *Paragraph 1(3)* defines the ‘appointed day’, which is referred to in many of the illustrative provisions, as the day on which *section 1* (and therefore the universal credit provisions) come into operation.
172. *Paragraph 2* contains provisions relating to claims made before universal credit provisions come into effect. *Sub-paragraph (1)(a)* enables a claim for universal credit to be made before the universal credit provisions are introduced. *Sub-paragraph (1)(b)* allows a claim for universal credit made before the appointed day to be treated as a claim for the appropriate existing benefits. This may be used if the person making the claim fell into a group which had yet to begin the transition process. *Sub-paragraph (1)(c)* allows for a claim for an existing benefit to be treated as a claim for universal credit.
173. *Sub-paragraph (2)* allows for an award of universal credit to be made in respect of a period before universal credit is introduced. This might be used if a person made a claim to one of the existing benefits shortly before the introduction of universal credit. In these circumstances, it could make sense to treat their claim as a claim to universal credit, making an award for the whole period.
174. *Paragraph 3* contains provisions relating to claims made after the ‘appointed day’ on which the universal credit provisions come into effect. It allows for a phased transition from existing benefits to universal credit.
175. Claimants may not be able to move voluntarily from an existing benefit to universal credit. *Sub-paragraph (1)(a)* provides that regulations may exclude temporarily or permanently anyone receiving one of the relevant existing benefits from making a claim for universal credit. The power to exclude a person permanently could be used, for example, where a claimant is approaching state pension age and so will soon not meet the conditions of entitlement for universal credit.
176. *Sub-paragraph (1)(b)* allows for a temporary delay before a person can make a claim for universal credit. *Sub-paragraph (1)(c)* allows for a person to be excluded from entitlement for a temporary period.

177. *Sub-paragraph (1)(d)* allows claims for universal credit to be treated as claims for an existing benefit. This may apply particularly in cases where the claimant is excluded from claiming universal credit under *sub-paragraph (1)(a)*. *Sub-paragraph (1)(e)* enables a claim for an existing benefit to be treated as a claim for universal credit during this transitional period.
178. *Sub-paragraph (2)* allows for an award of universal credit to be made in respect of a period before the universal credit provisions come into effect. This follows the provision in *paragraph 2(2)* with the same effect for claims during the transitional period.
179. *Paragraph 4* enables regulations to make provisions relating to ongoing awards of the existing benefits and the making of awards for universal credit.
180. *Sub-paragraph (1)* allows for the termination of an award of an existing benefit and the making of an award of universal credit in its place. An award of universal credit may be made without the claimant having to apply.
181. Under *sub-paragraphs (2)(a)* and *(b)* regulations may require claimants to follow a certain procedure, provide information or undergo an assessment when the new award of universal credit begins, and to set out the consequences if a person fails to do so.
182. *Sub-paragraph (2)(c)* allows for regulations to temporarily or permanently alter the conditions of entitlement for people moving onto universal credit and determine the amount of their award. This means that some people who are entitled to an existing benefit but would not otherwise meet the conditions of entitlement for the universal credit could be entitled to universal credit.
183. The sub-paragraph also allows in certain circumstances for people who have taken a work capability assessment for the purposes of an existing benefit to be exempted from the requirement to undertake an assessment for universal credit.
184. *Sub-paragraph (2)(d)* enables regulations to make provision for the amount of an award. *Sub-paragraph (2)(e)* enables the fulfilment of certain conditions of entitlement for an existing benefit to be treated as fulfilment of the same condition for universal credit.
185. *Sub-paragraph (3)* allows for the amount of universal credit a claimant will receive to be linked to the amount of benefit they receive under the current system, so that their amount of universal credit is the same as or not more than a prescribed amount less than their current award. It also enables the amount of a person's universal credit award to be linked to the amount of an existing

benefit award even where there is a short gap in entitlement before their universal credit award begins.

186. *Paragraph 5* includes transitional provisions relating to the imposition of work-related requirements and sanctions. This includes provisions under *sub-paragraphs (2)(a) and (b)* to allow claimant commitments or requirements that claimants have accepted in relation to JSA, ESA or IS to be treated as being for universal credit. *Sub-paragraph (2)(c)* allows compliance with a requirement for one of these benefits to be treated as compliance for universal credit. Under *sub-paragraph (2)(d)* requirements may also be withdrawn or not applied temporarily for the purposes of transition.
187. *Sub-paragraph (3)* makes provision relating to sanctions. In particular, *sub-paragraph (3)(a)* allows for a sanction applied to an existing award of JSA, ESA or IS to be continued when a person moves to universal credit. Under *sub-paragraph (3)(c)* provisions relating to universal credit sanctions may be disapplied temporarily.
188. *Sub-paragraph (4)* sets out the work-related requirements and sanctions to which these provisions may apply.
189. *Paragraph 6* provides for regulations which will allow these transitional provisions to operate even if there is a gap in entitlement which would otherwise mean that they could not be used.

***Clause 38: Capability for work or work-related activity***

190. *Clause 38* provides powers relating to the determination of limited capability for work and limited capability for work-related activity owing to a physical or mental condition. A person's capability for work may affect the amount of a claimant's universal credit award and may determine the work-related requirements which may be imposed under chapter 2. The section allows for the same provision as for ESA in sections 8 and 9 of WRA 2007.
191. *Subsections (1) and (2)* define limited capability for work and limited capability for work-related activity for the purposes of universal credit. Regulations under *subsections (3), (4) and (5)* will set out how a person's capability for work is to be determined and provides powers for an assessment to be carried out, including a medical examination if required. It is intended that the work capability assessment will continue to be used to determine limited capability for work and limited capability for work-related activity for universal credit, as is currently the case for employment and support allowance.

192. Under *subsection (6)* regulations may provide for a claimant to be treated as having or not having limited capability for work or work-related activity. In particular, a claimant may be treated as not having limited capability for work or work-related activity if they fail without good reason to provide any evidence or information requested in the prescribed manner or to attend a medical examination when required to do so. Provisions on good reason are contained in *paragraph 8 of Schedule 1*.
193. *Subsection (8)* enables a person to be treated as having limited capability for work before they undertake an assessment or a decision is made to treat them as not having limited capability for work (if, for example, they fail to attend a work capability assessment). This will allow a claimant's work-related requirements to be decided initially on the basis of medical certificates while the assessment process is carried out. The intention is that this provision has the same effect as section 8(5) of the WRA 2007.
194. *Subsection (9)* allows for an assessment of a person's capability for work to be made whilst they are being treated under *subsection (6)* as having limited capability for work or work-related activity.

***Clause 39: Information***

195. *Clause 39* ensures that, where there may otherwise be some doubt, certain information is to be considered social security information. The clause covers information relating to a claimant's work-related requirements (for example, information on employment which a claimant has given in the course of an interview) or medical information gathered on claimants whose capability for work or work-related activity has been assessed under *clause 38*.

***Clause 40: Couples***

196. *Clause 40* sets out how a couple is to be defined for the purposes of universal credit. Regulations under *subsection (3)* may prescribe circumstances in which a married couple are to be treated as single people and in which two people are to be treated as living together as man and wife or civil partners or treated as being or not being in the same household.

***Clause 41: Interpretation of Part 1***

197. *Clause 41* provides details of how certain other terms are to be interpreted for the purposes of Part 1. In particular, regulations under this clause may prescribe what is meant by disabled or severely disabled and regular and substantial caring responsibilities.

**Clause 42: Pilot schemes**

198. *Clause 42* provides for pilot schemes of any regulations under Part 1 of this Bill or regulations relating to universal credit under the SSAA 1992 or the SSO 1998. The purpose of these pilot schemes is to test whether the regulations would:
- Make universal credit simpler to understand or administer;
  - Help people to remain in work, obtain work or increase their pay or hours;  
or
  - Affect the behaviour of claimants or others.
199. Pilot schemes under this clause will in the first instance be limited to three years, although this could be extended. Regulations under this clause will be subject to the confirmatory resolution procedure.

**Clause 43: Regulations**

200. *Clause 43* makes provision about the ways in which the powers to make regulations included in this Part may be used.
201. *Subsection (2)* enables regulations to make different provision through regulations for different cases or purposes and in relation to all or some particular cases or purposes. *Subsection (4)* allows for any amount that is to be set in regulations under Part 1 to be zero. This will, for example, enable the rates of any of the amounts to be included in a person's maximum amount to be zero or for the amount of a sanction to be zero. Amounts may be different for single people and couples or varied according to a person's age, as a result of *subsection (5)*.
202. *Subsection (6)* allows for regulations relating to the housing costs element or the element for other particular needs or circumstances to make different provision for different areas. For example regulations relating to support for housing costs will reflect the relative housing costs in different geographical areas in Northern Ireland.

**Clause 44: Assembly Control**

203. *Clause 44* provides that regulations made under Part 1 are subject to the negative resolution procedure, with certain exceptions. Regulations made under specified provisions will be subject, in the first instance, to the confirmatory resolution procedure. Regulations made by the Department may



be subject to the confirmatory procedure if they relate to a pilot scheme under *clause 42(1)* or if they are combined in a single statutory rule with any other provision attracting the confirmatory procedure.

## **Part 2: Working-age benefits**

### ***Clause 45: Claimant commitment for jobseeker's allowance***

204. The claimant commitment will be introduced across JSA, ESA and IS before the introduction of universal credit, and will be a record of the responsibilities the claimant has to meet, including any requirements relating to work. Accepting a claimant commitment will be a condition of entitlement for all three benefits.
205. *Clause 45* makes amendments to the JSO 1995 to introduce claimant commitments for people claiming JSA, replacing jobseeker's agreements.
206. *Subsection (3)* amends Article 3(2)(b) of the JSO 1995 to make accepting a claimant commitment a condition of entitlement to JSA.
207. *Subsection (4)* substitutes a new *Article 11* into the JSO 1995 which explains the claimant commitment. As in universal credit, the claimant commitment will be a record of the responsibilities a claimant has to meet. Paragraph (2) of the new Article 11 explains that the commitment must be prepared by an employment officer and may include information prescribed in regulations and any other information the employment officer considers it appropriate to include.
208. *Paragraph (3)(b)* of Article 11 provides that, in particular, the commitment may include details of any requirements placed upon a claimant under Article 10 or 19A of the JSO 1995, or under a jobseeker's direction. Article 10 relates to attendance at interviews with advisers and provision of evidence that they are meeting the jobseeking conditions, and Article 19A allows for claimants to be required to take part in employment programmes or schemes.
209. *Paragraph (3)(c)* of Article 11 provides that the commitment may also contain details of the sanctions that result if any of the requirements are not met without good reason.
210. *Paragraph (4)* of Article 11 ensures that a claimant will only be asked to accept a claimant commitment if the employment officer is satisfied the claimant would meet the conditions of entitlement set out in Article 3(2)(a) and (c) of the JSO 1995, to be available for employment and actively seeking employment, if they meet the requirements recorded within it.

211. *Paragraphs (5) and (6)* make provision for the employment officer to refer, or the claimant to request a referral, of a claimant commitment to the Department to determine whether the claimant would meet the requirements to be available for and actively seeking work if they comply with the proposed claimant commitment, and whether it is reasonable to expect the claimant to comply with the commitment in relation to meeting those conditions.
212. *Paragraph (7)* enables the Department, following such a referral, to give directions about the terms on which the claimant commitment must be accepted and to direct that the proposed claimant commitment is to be treated as having been accepted by the claimant on a date specified in the direction (if the claimant has accepted the commitment).
213. *Paragraph (8)* enables regulations to set out the matters which the Department must take into account when giving a direction to treat the claimant commitment as having been accepted on a certain date, and the persons who must be notified of the Department's decision or any directions given by Department.
214. *Paragraph (9)* enables regulations to set out circumstances in which a person could be treated as having accepted a claimant commitment. This might be necessary if the claimant has satisfied all the other criteria, but is temporarily unable to formally accept the claimant commitment in the manner set out in regulations. In such circumstances, regulations could enable an adviser to treat the claimant as if they have met the condition of entitlement that they have accepted a claimant commitment. Payment of benefit could therefore begin immediately and the claimant could confirm acceptance in the prescribed manner as soon as they are able to do so.
215. *Paragraph (10)* provides that a claimant must accept the most up-to-date version of a claimant commitment, and do so in the prescribed manner, to meet the relevant entitlement condition.
216. *Subsection (5) of clause 44* substitutes a new Article 12 into the JSO 1995 to allow for the commitment to be varied by the employment officer. Only in the case of variations relating to the jobseeking conditions is there a right of referral.
217. *Paragraph (2) of the new Article 12* makes equivalent provision to paragraph (4) of new Article 11 where an employment officer proposes to vary a claimant commitment.
218. If a variation to a claimant commitment is proposed relating to the jobseeking conditions, the employment officer must notify the claimant. The employment officer may, and if the claimant so requests, refer the proposed variation to the

Department. The unvaried claimant commitment will continue to have effect until such time as the referral is concluded.

219. *Paragraphs (5) to (7) of the new Article 12 make equivalent provision to paragraphs (5) to (8) of new Article 11 relating to referrals of proposed variations. On a referral, the Department will have the same powers as under Article 11 to give directions. Similarly, regulations may prescribe matters to be taken into account by the Department and who a determination or direction made under Article 12 must be notified to.*

***Clause 46: Interviews***

220. *Clause 46 amends Article 10 of the JSO 1995, which allows an employment officer to require a claimant to attend at a certain time and place. The clause amends Article 10 so that the Department or the Department for Employment and Learning may require a claimant to participate in an interview in other ways therefore allowing interviews to be conducted remotely.*

***Clause 47: Sanctions***

221. *Clause 47(1) inserts new Articles 21, 21A and 21B into the JSO 1995, to replace current sanctions provisions, and provide for a new sanctions system which may be applied to claimants or joint claimants of JSA in the event that they fail to meet requirements. It also inserts new Article 21C which enables regulations to be made providing for hardship payments to be payable where JSA is reduced under Articles 21 to 21B.*
222. *These changes will take effect until income-based JSA is superseded by universal credit.*
223. *New Article 21 of the JSO 1995 provides for a claimant's award of jobseeker's allowance or joint-claim jobseeker's allowance to be reduced for up to 18 months in respect of any one failure where they have failed to meet the most important requirements placed upon them.*
224. *The failures which may be sanctioned for up to this duration are:*
- *losing a job through misconduct or leaving voluntarily;*
  - *refusing or failing to apply for or accept a job of which an employment officer has informed the claimant;*

- neglecting to avail themselves of a reasonable opportunity of employment, (for example, people who do not take an opportunity to return to work after being temporarily laid off); and
  - failing to participate in prescribed schemes to assist them to obtain employment under Article 19A(1) of the JSO 1995, inserted by section 1 of the WRA 2010.
225. In all cases except losing a job through misconduct, a claimant will not be sanctioned if they can demonstrate good reason for the failure. A person will be treated as not having left work voluntarily in prescribed circumstances, which will include cases where the person has accepted voluntary redundancy.
226. The amount by which a claimant's award may be reduced, and the duration of any reduction will be specified in regulations under *paragraph (4)* of the new Article 21. A reduction for any single failure under this Article may not last for longer than three years. The duration of a reduction may be determined by reference to previous failures within a prescribed period under *paragraph (5)*. For example, regulations may provide that second and third failures will result in a longer-lasting reduction if they occur within a particular period of time after the previous failure.
227. Regulations under *paragraph (6)* may set out circumstances in which a claimant's benefit will not be reduced despite a sanctionable failure, and may allow for a sanction to be transferred to a new award of jobseeker's allowance if a claimant's award is terminated.
228. *Paragraph (7)* makes provision for cases where joint-claim jobseeker's allowance is to be reduced under paragraph (1), enabling a reduced amount of JSA to be paid to the other member of the couple where one member of the couple has been sanctioned for a failure. New Article 21A allows for a claimant's or joint-claimants' award to be reduced in the event that they fail to meet other requirements.
229. Failures which may be sanctionable under this provision are:
- failing to attend an interview or to provide information or evidence relating to the claimant's circumstances, availability for work and efforts to find work under Article 10(1) or (1A) of the JSO 1995;
  - failing to participate in schemes to assist them to obtain employment under Article 19A, other than any schemes prescribed under the new Article 21;
  - refusing or failing to comply with a reasonable jobseeker's direction;

- neglecting to avail themselves of a reasonable opportunity to take part in a training scheme or employment programme;
  - refusing or failing to apply for or accept a place on such a scheme which has been notified to him by an employment officer; or
  - giving up a place or failing to attend a training scheme or employment programme, or losing a place through misconduct.
230. As with requirements under the new Article 21, a sanction will not be applied if the claimant can demonstrate good reason for the failure (except in cases where the claimant loses a place on a training scheme or employment programme through misconduct). Any requirement which is sanctionable under Article 21 cannot also be sanctioned under this section.
231. The amount of any reduction will be set out in regulations, along with the period for which a reduction is to apply. A sanction may be applied for an open-ended period until a claimant meets a particular compliance condition, for a fixed period up to a maximum of 26 weeks, or a combination of the two. The compliance condition may be to meet the original requirement; or relate to future compliance with a jobseeker's direction or any requirement under Article 10(1),(1A) or 19A; or relate to future avoidance of a failure which would be sanctionable under Articles 21A(2)(d) to (g). For example, a person may be required to attend a training course and ensure that they do not give up their place or lose it as a result of their behaviour. This condition may be revoked or varied, and will be notified to the claimant in such manner as the Department may determine.
232. Under *paragraph (8)* of section 21A the duration of a fixed period sanction may be determined by reference to previous failures under this section and the period between these failures. It is envisaged that second and third failures will result in a longer-lasting reduction, up to a maximum of 26 weeks for a single failure, if they occur within a particular period after the previous failure.
233. *Paragraph (9)* makes equivalent provision to that in Article 21(6) so that regulations may provide for a reduction not to be applied despite a sanctionable failure, and for a reduction period to apply to a new award of JSA made within a prescribed period, if the original award is terminated for any reason.
234. *Paragraph (10)* makes equivalent provision to that in Article 21(7) relating to sanctions applied to joint-claim couples.
235. The new *Article 21B* allows for regulations to specify circumstances in which a claimant or joint claimant's award is to be reduced if, under a previous award

as a single person or part of a joint-claim couple, they were disentitled for failing to comply with the jobseeking conditions to be available for and actively seeking employment.

236. The amount and period of a sanction will be set out in regulations. A reduction under this section cannot continue for longer than 13 weeks from the day on which the claimant's previous entitlement ceased.
237. Under *paragraph (6)* of Article 21B the duration of a fixed period sanction may be determined by reference to previous failures under this section and the period between these failures. It is envisaged that second failures will result in a longer-lasting reduction.
238. *Paragraph (7)* makes provision for a reduction period to apply to a new award of JSA made within a prescribed period, where the original award was terminated.
239. New *Article 21C* enables regulations to make provision for payments of JSA to be made in cases where a claimant or joint-claimant's award has been reduced under Articles 21 to 21B and they can demonstrate that they are, or will be, in hardship. As with the universal credit provisions in *clause 28*, regulations may provide for circumstances in which such payments will be recoverable. This replaces the current provisions for payment of hardship payments in circumstances where a person is subject to a sanction under the JSO 1995.
240. *Paragraph (2)* amends Article 37 of JSO 1995 to provide that the first regulations made under Articles 21 to 21C will be subject to the confirmatory resolution procedure.
241. *Paragraph (3)* of the clause inserts a new *paragraph 14AA* into Schedule 1 of the JSO 1995 to provide for regulations to prescribe factors to be considered when determining whether or not a person had good reason for a particular act or omission. This replaces current provisions in the JSO 1995 and changes references to good cause, to good reason to align with the rules for the universal credit. Regulations may also prescribe circumstances in which a person is to be treated as having or not having good reason.
242. *Paragraph (4)* repeals provisions in Schedule 3 of the SSO 1998. Schedule 3 lists decisions against which an appeal lies and includes decisions to impose a sanction pursuant to Article 21 or 19A of the JSO 1995. Sanctions imposed under the new provisions will still be appealable under Article 13(1)(a) of the SSO 1998.

***Clause 48: Procedure for regulation-making powers***

243. *Clause 48* amends Article 37 of the JSO 1995 so that regulations under Articles 8 and 9, relating to the condition that a claimant must be actively seeking and available for employment, are no longer subject to the confirmatory resolution procedure. The amendment would ensure that the Assembly procedure in relation to these aspects of JSA will be consistent with the similar regulations that may be made in relation to universal credit, so they will be subject to negative resolution.

***Clause 49: Consequential amendments***

244. Clause 49 gives effect to Schedule 7.

***Schedule 7: Jobseeker's allowance in interim period: consequential amendments***

245. *Schedule 7* makes consequential amendments relating to the interim changes made to JSA. In particular, *paragraph 6* repeals Article 22C and 22D of JSO 1995, inserted by section 20 of the WRA 2010, which relate to sanctions for violent conduct in relation to a claim.

***Clause 50: Claimant responsibilities for jobseeker's allowance***

246. *Clause 50* replaces provisions in the JSO 1995 that relate to the responsibilities that JSA claimants must meet and the imposition of sanctions where JSA claimants fail to meet those responsibilities. These changes will be brought into operation at the same time as universal credit and will relate only to contribution-based JSA.
247. The amendments ensure that the provisions to impose requirements on JSA claimants are the same as those for claimants who are subject to all work-related requirements in universal credit. The intention is that the provisions in this clause and *clause 58* will create a single system of claimant responsibilities which are consistent across JSA, ESA and universal credit.
248. *Subsection (3)* repeals the provisions that make actively seeking and being available for work conditions of entitlement to JSA. This is to ensure parity with the approach under universal credit where claimants in the group subject to all work-related requirements are required to meet work search and work availability requirements (in all but prescribed circumstances) but these are not conditions of entitlement.
249. *Subsection (4)* inserts new sections into the JSO 1995 which mirror the provisions for universal credit in *Chapter 2 of Part 1* other than where there

are necessary changes. These replace the jobseeking conditions in Articles 8 to 12 of the JSO 1995.

250. New *Articles 8B to 8E* set out the work-related requirements that can be imposed on a JSA claimant: a work-focused interview requirement, a work preparation requirement, a work search requirement and a work availability requirement. *Clauses 15 to 18* make the same provision in relation to universal credit. *Article 8F(1)* provides that, in all but prescribed circumstances, claimants must be subject to work search and work availability requirements. Under *Article 8F(2)* the Department may also impose work-focused interview or work preparation requirements.
251. Work-related requirements may be recorded in the claimant commitment under *Article 8A*. *Article 8G* provides for other requirements which can be placed on claimants in connection to the work-related requirements, which include requiring claimants to participate in an interview with an adviser or providing evidence that they are meeting their work-related requirements. These provisions are the same as those which relate to universal credit in *clauses 14 and 23*.
252. *Articles 8J and 8K* make equivalent provision to that in *clauses 26 and 27* which set out the sanctions which may result if a claimant fails without good reason to meet the requirements placed upon them. *Article 8J* covers the most serious failures, which may result in a sanction for up to 18 months. *Article 8K* allows for a claimant's benefit to be reduced for other failures, for an open-ended period until a compliance condition is met, for a fixed period of up to 26 weeks or a combination of both.
253. *Article 8L* makes equivalent provision to that in *clause 29*.
254. *Article 8M* allows for functions relating to the imposition of work-related and connected requirements to be contracted out. This power does not extend to functions relating to sanctions. *Article 8M* replicates *clause 30* which allows for contracting out in relation to universal credit.
255. Article 37 of the JSO 1995 is amended to provide that the first regulations made under new Article 8J or 8K is subject to the confirmatory resolution procedure.

***Clause 51: Dual entitlement***

256. *Clause 51* inserts a new *subsection (6A)* into section 1 of the WRA 2007 to ensure that people who have limited capability for work may be entitled to contributory ESA in some circumstances where they are, at the same time, a member of a couple entitled to joint-claim JSA.



257. Section 1(3)(f) of the WRA 2007 provides that a person is not entitled to ESA if they are a member of a couple who are entitled to joint-claim JSA.
258. The new *subsection (6A)* ensures that, for the purposes of section 1(3)(f), the reference to a couple does not include any couple entitled to joint-claim JSA by virtue of regulations made under paragraph 8A of Schedule 1 to the JSO 1995.
259. Paragraph 8A of Schedule 1 to the JSO 1995 allows for regulations to prescribe circumstances in which a joint-claim couple may be entitled to joint-claim JSA without both members meeting the basic conditions of entitlement for JSA (for example, if one member of the couple has limited capability for work).
260. *Subsection (2)* of the clause has the effect that where ESA had been paid to a person before the amendment to section 1 of the WRA 2007 came into operation, and they were a member of a joint-claim couple by virtue of regulations made under paragraph 8A of Schedule 1 of the JSO 1995, the change should be treated as having already been in operation. This will have the effect of regularising such payments, which should not have been made because the claimant was a member of a couple entitled to joint-claim JSA.

***Clause 52: Period of entitlement to contributory allowance***

261. *Clause 52(1)* inserts a new section 1A into WRA 2007. This provision limits an award of contributory ESA to a maximum period of 365 days.
262. *New subsection (1)* of new section 1A provides that a period of entitlement to contributory ESA shall not exceed the relevant maximum number of days, even if the period of limited capability for work exceeds this period. The “relevant maximum number of days” is defined (in subsection (2)) as being 365 days or a greater number of days if the Department so specifies by order.
263. *Subsection (3)* of *new section 1A* provides that where an award has ended due to *new subsection (1)*, a person may begin a new period of entitlement to contributory ESA if they satisfy all of the national insurance contribution conditions in Part 1 of Schedule 1 to WRA 2007, and the two tax years for which the claimant satisfies these conditions (to give rise to this new entitlement) include at least one tax year which is later than the second of the two tax years which gave rise to the previous entitlement.
264. *Subsection (4)* of new section 1A provides that where a person is entitled to a contributory allowance by virtue of the third condition set out in Part 1 of Schedule 1 (ESA on the grounds of youth) the period of entitlement to contributory ESA shall not exceed 365 days. As with new subsection (2) of

new section 1A, this number of days of entitlement may be increased by the Department to a greater number, by order.

265. *New subsection (5)* restricts the application of new subsections (1) and (4) in the case of claimants whose capability for work-related activity is most severely affected by their health conditions. It does this by specifying days which do not count towards the 365 day limit.
266. *Subsection (5)(a)* excludes days in which the person is a member of the Support Group. *Subsection (5)(b)* deals with the situation where a claimant successfully appeals a decision arising from their initial work capability assessment to place them in the work-related activity group. In this case the days in respect of which the claimant was not in the support group, but is entitled to the support component as a result of the appeal, are excluded from the days counting towards the time limit. *Subsection (5)(c)* deals with the situation where, immediately following the assessment phase, the claimant is placed in the support group, or is entitled to the support component as a result of an appeal as mentioned above. In this case the days in the assessment phase are excluded from the time limit.
267. *New subsection (6)* provides that claimants who are already receiving contributory ESA (including those entitled on the grounds of youth) when the time limit is introduced will have the period that they have already spent on the benefit counted towards their 365 days of entitlement. For example, if a person had been entitled for six months before the introduction of the time limit then their entitlement would end after another six months.
268. *Subsections (2) and (3)* of section 51 amend sections 25 and 26 of WRA 2007 respectively, so as to provide that the order-making power is exercisable by statutory rule which will be subject to negative resolution procedure.
269. *Subsection (4)* of the section amends Schedule 4 to WRA 2007 so as to allow regulations to modify the application of *new section 1A* when applied to ESA awards made to people previously entitled to an existing award of incapacity benefit or severe disablement allowance under transitional provisions in the WRA 2007. This regulation making power could be used, for example, to ensure that the 365 day time limit created by section 1A would also apply to those people who are transferred from incapacity benefit or severe disablement allowance to contributory ESA, including dealing with the point at which it would start.

**Clause 53: Further entitlement after time-limiting**

270. *Clause 53* inserts a new *section 1B* after section 1A of the WRA 2007 (as inserted by section 52). This provides for further entitlement to an award of contributory ESA after time limiting under section 51.
271. New *subsection (1)* of new *section 1B* provides that where entitlement to contributory ESA (including on the grounds of youth) has ceased as a result of time limiting, a person may become entitled to a further award if since that cessation-
- The person has not ceased to have (or be treated as having) limited capability for work;
  - The person satisfies the basic conditions; and
  - The person has (or is treated as having) limited capability for work-related activity.
272. This means that where a person's contributory ESA ceases as a result of time limiting, and their health condition deteriorates to such a degree that they are later placed in the support group, they will be able to re-qualify for an award of contributory ESA if the above conditions were satisfied.
273. The entitlement to the award only exists for as long as the person has (or is treated as having) limited capability for work-related activity (and so falls into the Support Group). If the person goes through a subsequent work capability assessment and is placed into the work related activity group, then entitlement to an award arising by virtue of section 1B would cease.
274. *New subsection (2)* of new section 1B provides that this further entitlement is to be regarded as a contributory allowance.
275. *Subsection (2)* of clause 52 inserts a reference to section 1B(2) into section 1 of WRA 2007 so as to clarify that the definition of "contributory allowance" in section 1(7) is to be read with section 1B(2) of WRA 2007.

**Clause 54: Condition relating to youth**

276. Until the coming into operation of *clause 54*, it is possible for certain claimants to be entitled to contributory ESA on the grounds of youth (set out in full in paragraph 4 of Schedule 1 to the WRA 2007). This allows claimants to qualify for contributory ESA without meeting the usual paid National Insurance contribution conditions. A claimant must be under 20 (or in

prescribed cases, 25) when the relevant period of limited capability for work began, not be receiving full-time education, must satisfy such conditions as may be prescribed with respect to residence and presence in Northern Ireland and must have limited capability for work for 196 consecutive days.

277. *Clause 54* inserts a *new subsection (3A)* into section 1 of the WRA 2007. This new sub-section provides that no new claims for contributory ESA on the grounds of youth may be made after the coming into operation of that section.
278. This means that those claimants who would have been entitled on those grounds will instead be required to meet the usual National Insurance contribution conditions for a claim for contributory ESA as set out in paragraphs 1 to 3 of Part 1 of Schedule 1 to the WRA 2007, or the conditions of entitlement for income-related ESA.

***Clause 55: Claimant commitment for employment and support allowance***

279. *Clause 55* amends the WRA 2007 to introduce claimant commitments for people claiming ESA.
280. Accepting a claimant commitment is a condition of entitlement for ESA under *subsection (2)*
281. *Subsection (3)* inserts *new section 1C* into the WRA 2007. Section 1C provides that the claimant commitment is a record of the claimant's responsibilities and may contain particular prescribed information as well as any other information the Department or the Department for Employment and Learning considers it appropriate to include. This may include information about any requirement which can be imposed on a claimant of ESA, such as the requirement to take part in a work-focused interview or undertake work-related activity and the consequences of failing to comply with these requirements.
282. *Subsections (2) and (5)* of the new section 1C allow for the commitment to be reviewed and updated by the Department or the Department for Employment and Learning and provide that to meet the conditions of entitlement the claimant must accept the most up-to-date version. *Subsection (6)* enables the Department to make regulations setting out circumstances in which a person may be treated as having accepted a claimant commitment.
283. *Subsection (4)* of *clause 55* amends section 15(2)(b) of the WRA 2007, inserted by section 10 of the WRA 2010, to enable the Department or the Department for Employment and Learning to include directions about work-related activity in the claimant commitment or in an action plan or

communicate them in such other manner as the Department or the Department for Employment and Learning thinks fit.

284. *Subsection (5)* allows for any function relating to claimant commitments to be carried out by third party providers.
285. *Subsection (6)* inserts a new *paragraph 4A* into Schedule 2 of the WRA 2007 to enable the Department to make regulations setting out circumstances in which a person can be entitled to ESA without having accepted a claimant commitment.
286. *Subsection (7)* amends the WRA 2010 so that the wellbeing of any child affected must be considered when a claimant commitment is prepared.

***Clause 56: Work experience etc***

287. *Clause 56* amends section 13 of the WRA 2007 to make clear that a claimant with limited capability for work may be required to undertake work experience or a work placement. Any requirement imposed under this provision will need to be reasonable in the claimant's circumstances.

***Clause 57: Hardship payments***

288. *Clause 57* enables regulations to provide for circumstances in which payments will be made to a claimant where their benefit has been reduced as a result of a failure to take part in a work-focused interview, a work-focused health-related assessment, or work-related activity and they are or will be in hardship. In particular, regulations may prescribe the circumstances in which a person will be treated as being in hardship and the amounts and duration of any payments and conditions which claimants will have to satisfy to become and remain eligible. Hardship payments for ESA will not be recoverable.

***Clause 58: Claimant responsibilities for employment and support allowance***

289. *Clause 58* makes equivalent amendments to the WRA 2007 as *clause 50* does to the JSO 1995. As with the changes to JSA, these will be introduced in respect of any claimant once ESA is only available to them as a contributory benefit as a result of universal credit coming into operation.
290. *Subsection (2)* inserts new sections which replace sections 11 to 16 of the WRA 2007. In general these new sections mirror the provisions for universal credit claimants who are assessed as having limited capability for work or limited capability for work-related activity. No ESA claimant will be required to look for or be available for work so the new sections do not include a work

search or work availability requirement. As a result the higher level sanctions which apply under universal credit (set out in *clause 26*), do not apply to ESA.

291. *Sections 11B and 11C* set out the work-related requirements which may be imposed on a claimant: a work-focused interview requirement or a work preparation requirement. These mirror the equivalent provisions in universal credit.
292. *Sections 11D, 11E and 11F* explain what requirements may be imposed on different groups of ESA claimants. *Section 11D* provides that the Department may not impose either requirement on any claimant with limited capability for work and limited capability for work-related activity, lone parents with a child under one and any other group prescribed in regulations. The first regulations made under this new section will be subject to the confirmatory resolution procedure. *Section 11E* provides that lone parents with a child who is at least one but below a prescribed age which may not be less than three can only be subject to a work-focused interview requirement, as well as any other prescribed categories of people. Under *section 11F* the Department may impose a work preparation requirement and a work-focused interview requirement on any claimant who does not fall into *section 11D or 11E*. In effect this will be claimants who have limited capability for work (but not those with limited capability for work-related activity).
293. Work-related requirements may be recorded in the claimant commitment under *section 11A*. *Section 11G* provides for other requirements which can be placed on claimants in connection to the work-related requirements, which include requiring claimants to participate in an interview with an adviser or providing evidence that they are meeting their work-related requirements. These provisions are the same as those which relate to universal credit in *clauses 14 and 23*.
294. *Section 11J*, which mirrors *clause 27*, provides for a claimant's award to be sanctioned if they fail without good reason to meet the requirements placed upon them. Claimants receiving ESA may be subject to a sanction for an open-ended period until a compliance condition is met, for a fixed period of up to 26 weeks or a combination of both. The first regulations made under this new section will be subject to the confirmatory resolution procedure.
295. *Section 11K* makes equivalent provision to that in *clause 29*.
296. *Section 11L* allows for functions relating to the imposition of work-related and connected requirements to be contracted out. *Section 11L* replicates *clause 30* which allows for contracting out in relation to universal credit.

297. *Subsection (3) of clause 58* amends the piloting provision in the WRA 2007 to the effect that the purpose of a pilot scheme must be to test whether the provision being piloted is likely to promote people increasing their hours or finding better-paid work, as well as remaining in or obtaining work, or being able to do so. This mirrors the purpose of pilot schemes in relation to universal credit, set out in *clause 42*.
298. *Subsection (7)* inserts a new paragraph 10ZA into Schedule 2 of the WRA 2007 which makes provision for regulations to set out the circumstances in which there is or is not be good reason and the factors which must or must not be considered when determining whether or not a person had good reason for a particular act or omission. This replaces similar provisions in the WRA 2007 but changes references to good cause to good reason to be consistent with universal credit provisions.

***Clause 59: Entitlement of lone parents to income support etc***

299. *Clause 59* amends provisions in WRA 2010 concerning lone parents.
300. Section 3(1) of that Act inserted a new subsection (1A) into section 123 of the SSCBA 1992 so that regulations must provide for IS to be available on grounds of lone parenthood where a lone parent has a child under seven. *Subsection (1)* amends section 123(1A) to provide for IS to be available on the grounds of lone parenthood where a lone parent has a child under five. Lone parents who wish to continue receiving an income-replacement benefit after that point will need to claim JSA, if they are capable of work, or ESA, if they have limited capability for work, unless they qualify for IS on some other ground such as receiving Carer's Allowance.
301. *Section 8(1)* of the WRA 2010 requires that regulations which impose a requirement to undertake work-related activity on a lone parent with a child under seven are subject to the confirmatory resolution procedure. This requirement applies to regulations made under section 2D(1) of the SSAA 1992, Article 20B of the JSO 1995 and section 13 of the WRA 2007 before 13 August 2015. *Subsection (2)* amends this so that the requirement applies to regulations which affect a lone parent with a child under five.

***Clause 60: Claimant commitment for income support***

302. *Clause 60* amends the SSCBA 1992 and the SSAA 1992 to introduce claimant commitments for people claiming IS.
303. *Subsection (2)* amends section 123 of the SSCBA 1992 to make accepting a claimant commitment a condition of entitlement for IS. Regulations may allow

for circumstances in which a claimant may be entitled without having accepted a claimant commitment.

304. *Subsection (3)* inserts a new section 123A into the SSCBA 1992 which provides that the claimant commitment is a record of the claimant's responsibilities and may contain particular prescribed information as well as any other information that the Department of the Department for Employment and Learning considers it appropriate to include. This may include information about any requirement which may be imposed on a claimant of IS, such as a requirement to take part in work-focused interviews.
305. New *subsection (2)* provides that the claimant commitment may be reviewed and updated by the Department or the Department for Employment and Learning. Under new *subsection (5)* the claimant must accept the most up-to-date version of the claimant commitment to meet the condition of entitlement.
306. *Subsection (6)* of the new section 123A provides that regulations can set out circumstances in which a claimant is to be treated as having accepted a claimant commitment (and therefore meeting the relevant condition of entitlement).
307. *Subsection (4)* of the clause amends section 2F(3)(b) of the SSAA 1992 to the effect that directions about work-related activity for claimants of IS may be notified to a claimant in such manner as the Department thinks fit. This enables any such directions to be notified through the claimant commitment.
308. *Subsection (5)* amends section 2G of the SSAA 1992 to enable functions relating to the claimant commitment to be contracted out.

***Clause 61: Entitlement to work: jobseeker's allowance***

309. *Clause 61* introduces a requirement for claimants of JSA to have an entitlement to work in the United Kingdom. The intention is to prevent people from accessing contributory benefits if they do not have a current entitlement to work in the United Kingdom. This requirement will apply after the introduction of the universal credit, once JSA is a contributions-based benefit.
310. *Clause 61* amends the JSO 1995 to create a new condition of entitlement for JSA, requiring a claimant to be entitled to be in employment in the United Kingdom. *Subsection (2)* inserts this requirement into the conditions of entitlement for JSA set out in Article 3(2) of the JSO 1995.
311. *Subsection (3)* inserts new *paragraph (3A)* into the JSO 1995 which provides that a person is entitled to be in employment if they are either not subject to



immigration controls or have leave to enter or remain in the United Kingdom which is not subject to any restrictions preventing them from taking up work.

312. *Subsection (4)* allows for regulations to prescribe circumstances in which exceptions may be made to this condition.

***Clause 62: Entitlement to work: employment and support allowance***

313. *Clause 62* introduces a requirement for ESA claimants to have an entitlement to work in the United Kingdom. The intention is to prevent people from accessing contributory benefits if they do not have a current entitlement to work in the United Kingdom. This requirement will apply after the introduction of the universal credit, once ESA becomes a contributions-based benefit.

314. *Subsection (2)* inserts this requirement into the conditions of entitlement for ESA set out in section 1(3) of the WRA 2007.

315. *Subsection (3)* inserts new *subsection (3A)* into the WRA 2007 which provides that a person is entitled to be in employment if they are either not subject to immigration controls or have leave to enter or remain in the United Kingdom which is not subject to any restrictions preventing them from taking up work.

316. *Subsection (4)* allows for regulations to prescribe circumstances in which exceptions may be made to this condition.

***Clause 63: Entitlement to work: maternity allowance and statutory payments***

317. *Clause 63* makes amendments to the SSCBA 1992 to introduce a new condition of entitlement into statutory payments and maternity allowance, ensuring that a claimant must be entitled to be in employment in the United Kingdom.

***Clause 64: Entitlement to work: statutory shared parental pay***

318. *Clause 64* makes amendments to the SSCBA 1992 to introduce a new condition of entitlement into statutory shared parental pay, ensuring that a claimant must be entitled to be in employment in the United Kingdom.

### **Part 3: Other benefit changes**

#### ***Clause 65: Injuries arising before 5<sup>th</sup> July 1948***

319. *Clause 65* repeals the legislation that maintains the existence of two separate schemes for providing State compensation for work injuries occurring before 1948.
320. At present there is separate provision for State compensation to be paid for accidents and diseases at work occurring before 5th July 1948 through the Workmen's Compensation (Supplementation) Scheme 1982. This scheme is known as the "pre-1948 scheme". This legislation was left in place when the Industrial Injuries scheme was introduced in 1948.
321. This clause will mean that all claims for State 'no-fault' compensation for work injuries will be dealt with as claims under the main Industrial Injuries Disablement Benefit (IIDB) scheme regardless of when the disease or accident occurred.
322. *Subsection (3)* enables the Department to provide in regulations for all claims – new and outstanding – under the pre-1948 scheme to be treated as claims under the equivalent IIDB scheme. It is intended that such regulations will result in all claims being made, decided and appealed under the same rules that apply to IIDB.

#### ***Clause 66: Persons under 18***

323. *Clause 66* will remove the significance of age 18 in Industrial Injuries Benefits legislation. This means all successful claims - existing and new - by under 18s will be paid at the normal IIDB scheme rate after the coming into operation of the clause.

#### ***Clause 67: Trainees***

324. *Clause 67* means that from the commencement date trainees will be paid under the main IIDB scheme rather than by the current separate 'analogous' scheme that exists solely for trainees.
325. As trainees are not 'employed earners' they are not currently entitled to IIDB through the main scheme. A separate scheme for trainees who suffer an accident at work whilst participating in certain training schemes or courses, is provided for by the Industrial Training (Northern Ireland) Order 1984.

326. *Subsection (1)* inserts a new *section 95A* into the SSCBA 1992 which will treat trainees as if they were in employed earner's employment. This means that any trainees, who are injured by accident or disease whilst participating in prescribed training schemes or courses, will be able to access benefit under the main IIDB scheme.
327. *Subsection (2)* removes the powers in Article 33(1) of the Industrial Training (Northern Ireland) Order 1984 to make payments equivalent to those which might be paid for by IIDB.
328. *Subsection (3)* enables the Department to provide in regulations for any claims from trainees to be treated as claims for industrial injuries benefits. It is intended that such regulations will result in all claims being made, decided and appealed under the same rules that apply to IIDB.

***Clause 68: Restriction on new claims for industrial death benefit***

329. *Clause 68* means that no claims can be made for Industrial Death Benefit (IDB) from the commencement date.
330. At present IDB is paid to widows or widowers in respect of industrial deaths occurring before 10 April 1988. Claims in respect of deaths in general after this date are paid under the Bereavement Benefit (BB) provisions. From the commencement date this clause means claims for deaths due to industrial causes before 10 April 1988 will be considered under the BB legislation.
331. It is many years since any such claims have been made for IDB. New claims are now extremely unlikely as the death would have had to occur before 1988 – over 20 years ago.

***Clause 69: Determinations***

332. *Clause 69* abolishes the right to request an accident declaration. At present people are able to apply for a declaration that an industrial accident has occurred separately from making a claim for benefit and consequently may apply for IIDB many years after the accident occurred, relying on the accident declaration as evidence that a work-related accident occurred.
333. *Subsection (1)* repeals Article 29(2) of the SSO 1998. This provides that people can apply for an accident declaration, confirming and recording an accident has occurred, even though they do not wish to claim IIDB at the time. *Subsection (2)* repeals the subsequent references to Article 29(2).

334. The repeals mean that all accident declarations made prior to commencement remain final and that no further requests for an accident declaration can be made. If an accident causes disability at a later date, the status of the accident as an industrial accident will be investigated and decided in the usual manner by the decision-maker at the same time as the claim and the assessment of disability.

***Clause 70: Housing benefit: determination of appropriate maximum***

335. *Clause 70* amends section 129A of the SSCBA 1992. Section 129A provides for the appropriate maximum housing benefit (AMHB) to be determined in accordance with regulations, including by reference to Executive determinations. It is necessary to know the AMHB in a person's case in order to determine whether they are entitled to housing benefit, and how much they are entitled to.
336. The amendments made by *clause 70* generalise section 129A to reflect the Department's intention to exercise the powers in that section to provide for AMHB to be determined by methods other than by reference to Executive determinations.
337. Housing benefit regulations provide for the AMHB to be determined by reference to a claimant's eligible rent. Calculating a claimant's eligible rent can involve treating the claimant's liability to pay rent as something other than it actually is. The amendments made by *clause 70* generalise section 129A(4) and (5) to reflect the intention that regulations will provide for a claimant's liability to pay rent to be treated as an amount other than the actual amount of the liability (whether that deemed amount is determined by reference to an Executive determination or otherwise).
338. Using these powers the Department will bring forward regulations that will:
- set out that eligible rent may be determined by reference to either Executive determinations or the rate of Consumer Price Index (CPI). Currently local housing allowance (LHA) determinations are made by the Housing Executive. The amendments made by *clause 70* will ensure the Department has the power to set LHA rates from April 2013, by reference to the lower of either the CPI or the bottom 30th percentile of private sector rents.
  - introduce size criteria into the calculation of housing benefit for working age tenants in the social rented sector. The Department will prescribe the amount by which the claimant's actual rent liability is to be reduced to reflect the additional bedrooms within the property; the claimant's eligible rent will be restricted if their dwelling is larger than they need. A percentage reduction which will be prescribed in

secondary legislation will be made based on the number of extra bedrooms.

339. The first regulations under section 129A(4) and (5) will be subject to the confirmatory resolution procedure.

***Clause 71: Ending of discretionary payments***

340. *Clause 71(1)* repeals section 134(1)(b) of the SSCBA 1992, which provides for payments of crisis loans, community care grants and budgeting loans from the discretionary social fund. Community care grants and crisis loans other than those currently available to applicants pending payment of benefit (“alignment loans”) will cease. The Social Security Agency has commissioned a two phased research study to inform decisions about a replacement scheme for future discretionary support services in Northern Ireland.
341. The Social Fund Commissioner heads the Office of the Social Fund Commissioner (OSFC) whose inspectors carry out independent reviews of decisions on applications for discretionary social fund payments. The Commissioner and the OSFC will no longer have this role when section 134(1)(b) is repealed and *subsection (2)* makes provision for the abolition of the office of the Commissioner. *Subsections (6) and (7)* enable the Department to make provision by order for the transfer of property, rights and liabilities from the Social Fund Commissioner.
342. *Subsections (3) to (5)* make provision for the transfer of monies from the social fund into the Consolidated Fund as the social fund is wound down. The Department will be able to transfer unused social fund monies into the Consolidated Fund, as well as monies received into the social fund as repayments of loans or repayment of overpayments of social fund payments. Under *subsection (5)* the Department will continue to be able to re-allocate for crisis loans, community care grants or budgeting loans purposes any amounts which had previously been allocated for other payments under section 134(1)(b).
343. *Subsection (8)* introduces *Schedule 8* which makes consequential amendments resulting from the repeal of section 134(1)(b), including in *paragraph 3* providing for recovery of Great Britain payments to continue by deduction from benefits. *Paragraph 4* makes consequential amendments as a result of the abolition of discretionary social fund payments and the ending of the OSFC to ensure that the Social Fund Commissioner and other former officers remain subject to the penalty for disclosure despite the office having ceased to exist.

***Clause 72 Purposes of discretionary payments***

344. Section 134 of the SSCBA 1992 makes provision for social fund payments. Subsection (1)(a) provides for payments of prescribed amounts in respect of maternity and funeral expenses, while subsection (1)(b) allows the award of discretionary payments by way of community care grants, crisis loans or budgeting loans to meet other needs, which suggests that needs covered by payments under section 134(1)(a) may not be met by discretionary payments. Pending abolition of the discretionary social fund this clause makes an amendment to section 134 (and *clause 72* makes amendments to section 136). *Clause 72* amends section 134(1)(b) to enable payment of budgeting loans for maternity and funeral expenses. Thus a person who applies for a maternity or funeral payment under the prescribed scheme may be able to apply for a budgeting loan to meet costs also covered by the prescribed payment.

***Clause 73: Determination of amount or value of budgeting loan***

345. Section 136(1A) of the SSCBA 1992 sets out the factors to which decision makers are to have regard when considering applications for payments by way of social fund budgeting loans. Section 136(2) provides that the decision maker shall determine questions in accordance with the directions issued by the Department. For budgeting loans, the decision maker is required by section 136(1A)(b) to have regard, subject to directions and guidance under subsection (2), to any relevant allocation made by the Department under section 147 of the SSAA 1992. Using this allocation, the Department sets a national loans budget, and issues directions and guidance to decision makers who are required to apply a baseline figure when calculating the amount of a budgeting loan.
346. *Clause 73(2)* amends section 136 to state in subsection (4) that the amount of a budgeting loan may be restricted to a maximum sum as specified in a direction made by the Department and *subsection (3)* inserts new subsection (4ZA) to provide that directions may require the maximum sum to be arrived at by reference to the baseline figure which is described in new subsection (4ZB).

***Clause 74: Community Care Grants***

347. Provision was made in the WRA 2010 for loans to be made by external lenders in place of loans from the social fund and for awards of community care grants to be of items covered by contracts entered into by the Department. These provisions have not been commenced and the Department does not intend to use them, given its intention to abolish the discretionary social fund (see *clause 70*). *Clause 74* therefore repeals sections 15 to 17 of the WRA 2010. Budgeting loans and those crisis loans called “alignment loans” (which are available pending payment of benefit) will be replaced by payments on

account (see *clause 100*). It is intended that when community care grants and those crisis loans which are not alignment loans cease to exist, assistance will instead be administered locally. The Assembly will determine the most appropriate arrangements for Northern Ireland.

***Clause 75: State pension credit: carers***

348. *Clause 75* amends SPCA 2002 to change the entitlement conditions for the additional amount of the guarantee credit in respect of caring responsibilities, to remove the explicit link to carer's allowance in that Act.
349. Currently a claimant is entitled to the additional amount if the claimant or their partner is entitled to carer's allowance. *Subsection (2)* amends section 2(8) of SPCA 2002 so that a claimant is entitled to the additional amount if they or their partner have regular and substantial caring responsibilities. *Subsection (3)* amends section 17 of the SPCA 2002 to provide that the Department will prescribe what is meant by regular and substantial caring responsibilities in regulations. The intention is that this definition will cover, but not be limited to, people entitled to carer's allowance.

***Clause 76: State pension credit: capital limit***

350. When housing benefit is abolished, housing support for claimants above the qualifying age for state pension credit will be provided through the housing credit, by virtue of *clause 35*. While there is currently no capital limit for entitlement to state pension credit a claimant may only be entitled to housing benefit if they have capital below a certain level. *Clause 76* allows for a capital limit to be applied to state pension credit. Section 19 of SPCA 2002 is amended to provide that the first regulations made under the new subsection 1(2)(d) inserted into SPCA 2002 will be subject to the confirmatory resolution procedure.

**Part 4: Personal independence payment**

351. In line with the Department for Work and Pensions, the Department for Social Development proposes to replace disability living allowance with a new cash benefit called personal independence payment. The purpose of the benefit is to contribute to the extra costs of overcoming the barriers faced by long-term disabled people to leading full and active lives.
352. Personal independence payment will consist of two components – the daily living component and the mobility component. For each component there will be two rates – standard and enhanced. Entitlement to either of the components (and the applicable rate) will be determined with reference to a new objective assessment, the details of which will be set out in secondary legislation.

353. The new assessment will consider the ability of an individual to perform specified activities and will take into account the impact of physical, sensory, mental, intellectual and cognitive impairments on the individual in undertaking those activities.
354. Personal independence payment is to be a non-contributory benefit and is neither taxable nor means-tested.

***Clause 77: Personal independence payment***

355. *Clause 77* sets out the basic structure and certain conditions of entitlement to personal independence payment. Entitlement to personal independence payment may be an entitlement to either, or both, the daily living and mobility components of the benefit. *Subsection (3)* provides that a person is not entitled to personal independence payment unless they satisfy prescribed conditions of residence and presence in Northern Ireland.

***Clause 78: Pilot scheme***

356. *Clause 78* enables the Department to undertake at least one pilot scheme to test the effectiveness of arrangements for Personal Independence Payment and outcomes for claimants.

***Clause 79: Daily living component***

357. *Clause 79* sets out the entitlement conditions to the different rates of the daily living component.
358. *Subsection (1)* provides that a person is entitled to the standard rate of the daily living component if their ability to carry out daily living activities is limited by their physical or mental condition. If a person's ability is severely limited by their physical or mental condition *subsection (2)* provides for that person to be entitled to the enhanced rate. Whether an individual has limited ability or severely limited ability will be determined by an assessment set out in regulations made under *clause 81*. Sensory, intellectual and cognitive impairments may be relevant to a person's physical or mental condition and therefore to the question of whether the person's ability to carry out daily living activities is limited or severely limited.
359. *Subsections (1)(b)* and *(2)(b)* provide that to be entitled to either the standard or enhanced rate of the daily living component, the person must also meet the required period condition. This is outlined in the notes relating to *clause 82*. The required period condition also applies where personal independence



payment is subject to review, subject to certain exceptions which will be set out in regulations under powers in *clause 80*.

360. *Subsection (3)* provides that the standard and enhanced rates are weekly rates which are to be specified in regulations.

361. *Subsection (4)* provides for the activities relating to the daily living component – “daily living activities” - to be prescribed in regulations. Although not in the face of the Bill, these will include:

- Preparing food and drink
- Taking nutrition
- Managing therapy or monitoring a health condition
- Bathing and grooming
- Managing toilet needs or incontinence
- Dressing and undressing
- Communicating
- Engaging socially
- Making financial decisions.

362. The first regulations under this subsection will be subject to the confirmatory resolution procedure.

363. *Subsection (5)* refers to *clauses 81* and *82* which set out how a person’s ability to carry out daily living activities is to be assessed and how the required period condition operates.

364. *Subsection (6)* provides that this clause is subject to other provisions of Part 4, or to regulations under it, for example in circumstances when the person is terminally ill (see *clause 83*).

***Clause 80: Mobility component***

365. *Clause 80* sets out basic entitlement conditions to the different rates of the mobility component of personal independence payment.

366. *Subsection (1)* provides that a person is entitled to the standard rate of the mobility component if they are of or over an age prescribed in regulations and if their ability to carry out mobility activities is limited by their physical or mental condition. If a person's ability is severely limited by their physical or mental condition and they are over an age prescribed in regulations *subsection (2)* provides that the person is entitled to the enhanced rate. Whether an individual has limited ability or severely limited ability will be determined by an assessment set out in regulations under *clause 80*. Sensory, intellectual and cognitive impairments may be relevant to a person's physical or mental condition and therefore to the question of whether their ability to carry out mobility activities is limited or severely limited
367. *Subsections (1)(c)* and *(2)(c)* provide that to be entitled to either the standard or enhanced rate of the mobility component, the person must also meet the required period condition This is outlined in the notes relating to *clause 82*. The required period condition also applies where personal independence payment is subject to review, subject to certain exceptions which will be set out in regulations made under powers in *clause 82*.
368. *Subsection (3)* provides that the standard and enhanced rates are weekly rates which are to be specified in regulations.
369. *Subsection (4)* provides for the activities relating to the mobility component – “mobility activities” - to be prescribed in regulations. The activities include:
- Planning and following a journey
  - Moving around
370. The first regulations under this subsection will be subject to the confirmatory resolution procedure.
371. *Subsection (5)* refers to *clauses 81* and *82* which set out how a person's ability to carry out mobility activities is to be assessed and how the required period condition operates.
372. *Subsection (6)* makes clear that this clause is subject to other provisions of Part 4, or to regulations under it. For example if a person is over pensionable age, it is not normally the case that they would be entitled to the mobility component.
373. *Subsection (7)* provides that regulations may specify when a person is not entitled to the mobility component for a period, despite fulfilling the eligibility requirements. For example, while a person in a coma or vegetative state

clearly has severely limited mobility they would not be in a position to benefit from mobility assistance.

***Clause 81: Ability to carry out daily living activities or mobility activities***

374. The clause provides for the making of regulations to determine the main conditions of entitlement to the two components of personal independence payment. *Subsection (1)* provides for the questions whether an individual's ability to carry out daily living activities or mobility activities is limited or severely limited by their physical or mental condition to be determined in accordance with regulations. This then determines which of the components a person is entitled to, and whether they are entitled to the standard or enhanced rate for each component. Under *subsection (2)* regulations must also make provision for determining whether a person meets the required period condition. Further details on the required period condition can be found in *clause 82*.
375. *Subsection (3)* provides for regulations to be made about what is considered during the assessment process to determine entitlement to each component and rate, and how the assessment is to be carried out. This will involve considering and weighting a person's ability to perform prescribed activities. Prescribed thresholds will determine entitlement to each component and rate. The activities, how they will be measured, their weightings and the component thresholds will all be prescribed in regulations. Regulations provide that relevant medical evidence must be taken account of. Regulations may also provide for the assessment process not to be applied in prescribed circumstances.
376. As information and evidence will be required and sought at various stages in a claim, *subsection (4)* allows regulations to specify which sources of information are appropriate (for example, evidence or information from the individual themselves; the individual's General Practitioner, supporting healthcare professionals, social workers etc.), along with details as to how and when information or evidence is to be provided. Most individuals will be asked to attend a face-to-face consultation with a trained independent assessor, such as a healthcare professional.
377. Under *subsection (5)* regulations can provide for the consequences of failure without good reason to comply with a requirement imposed under *subsection (5)* e.g. a failure to provide information or evidence or to participate in a face-to-face consultation. In the event of such a failure, a negative determination can be applied to an individual's claim if there is no good reason for the failure. Regulations will provide for what is considered to be good reason.

378. *Subsection (6)* defines the term “negative determination” used in subsection (5)(a).

***Clause 82: Required period condition: further provision***

379. *Clause 82* makes further provision about the making of regulations to determine whether a person meets the required period condition. The required period condition will generally be that it is likely that the individual would have met the condition of limited or severely limited ability to carry out daily living activities or (as the case may be) mobility activities during the three months before the date they would become entitled (the qualifying period) and that there is an expectation that they will meet that condition for a further nine months following that date (the prospective test). The qualifying period can include a period before the claim is made.
380. It is intended that the required period condition must be met both when a claim is made and at any review; this will be set out in regulations.
381. *Subsection (4)* allows for the required period condition to be altered in certain cases, for instance to allow the qualifying period to be disapplied where there has been a short break in entitlement.

***Clause 83: Terminal illness***

382. *Clause 83* makes provision about entitlement for people who are terminally ill (as defined in *subsection (4)*) who make a claim to personal independence payment expressly on the grounds that they are terminally ill.
383. *Subsection (2)* automatically entitles a terminally ill person to the enhanced rate of the daily living component, as defined in *clause 79*, and accordingly removes the requirement for them to undergo an assessment or to meet the required period condition. *Subsection (3)* disapplies the required period condition for the mobility component. However a terminally ill person is not automatically entitled to the mobility component and will have to satisfy the other conditions of entitlement for that component.
384. *Subsection (4)* defines a person as being terminally ill for the purposes of this clause if the person can reasonably be expected to die from a progressive disease within the next 6 months.
385. *Subsection (5)* provides that where a claim is made on behalf of a terminally ill person, the terminally ill person is regarded as making the claim, notwithstanding that the claim is made without their knowledge or authority.

The intention is to allow terminally ill people to be able to benefit from personal independence payment whether or not they know their prognosis.

***Clause 84: Persons of pensionable age***

386. *Clause 84* concerns entitlement to the daily living or mobility components for persons of pensionable age. *Subsection (1)* provides that a person is not entitled to either the daily living component or the mobility component after they reach the relevant age. *Subsection (2)* defines the relevant age as the age of 65 or pensionable age (as defined in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995), whichever is higher.
387. *Subsection (3)* provides that regulations may specify exceptions to this. For example, regulations may provide that if a person is in receipt of personal independence payment before reaching the relevant age, they may continue to receive it.

***Clause 85: No entitlement to daily living component where UK is not competent state***

388. *Clause 85* provides that entitlement to the daily living component is limited to people for whom the United Kingdom is the competent state for payment of cash sickness benefits under either of the European Union Regulations mentioned in *subsection (2)*.
389. This provision is intended to prevent a person who comes to Northern Ireland from another Member State of the European Economic Area or Switzerland, and for whom another Member State is the competent State for payment of sickness benefits (because the person is insured for sickness benefits there), being entitled to the daily living component of personal independence payment (irrespective of whether they meet the domestic entitlement conditions under the Bill). This is primarily to prevent a person receiving double provision of benefits.

***Clause 86: Care Home Residents***

390. *Clause 86* relates to the payability of personal independence payment when a person is a resident of a care home (which includes certain residential schools and colleges).
391. *Subsections (1)* and *(2)* provide that if a person is a resident in a care home, and receives “qualifying services” (as defined in *subsection (4)*) which are paid for to any extent out of public funds, regulations may provide that no amount of the daily living component of personal independence payment is payable to

the person for the period in question. However, persons will retain an underlying entitlement to the benefit and payment can be reinstated when they leave the care home, providing they continue to satisfy the entitlement conditions.

392. Payment of the care component only ceases where the funding (in part or in full) comes from public funds. For example it does not apply to people who pay all of the cost of their care and accommodation themselves or to those whose care costs are met by relatives or charities.
393. It is intended that the regulations will provide that generally for the first 28 days after a claimant becomes a resident in a care home, they will continue to receive the existing daily living component to cover continuing costs. This approach also avoids interference with a claimant's award during short periods of respite care in a care home. Payment of any mobility component will continue as normal.

***Clause 87: Hospital in-patients***

394. *Clause 87* relates to the payability of personal independence payment when a person is an in-patient of a hospital or similar institution.
395. Subsections (1) and (2) provide that if a person is receiving treatment as an in-patient in a hospital or similar institution and any costs of treatment or accommodation or related costs are borne out of public funds, regulations may provide that no amount of the daily living or mobility components of personal independence payment is payable to the person for the period in question. However, persons will retain an underlying entitlement to the benefit and payment can be reinstated when they leave the hospital or similar institution, providing they continue to satisfy the entitlement conditions.
396. Payment of the respective components only ceases where the funding (in part or in full) comes from public funds. For example it does not apply to people who are private patients, or to those whose costs are met by relatives or charities.
397. It is intended that the regulations will provide that generally for the first 28 days after the claimant becomes an in-patient of a hospital or similar institution, they will continue to receive the existing benefit to cover continuing costs. This approach also avoids interference with a claimant's award during short periods of hospitalisation.

***Clause 88: Prisoners***

398. With a view to avoiding duplication of funding, *clause 88* provides that personal independence payment ceases to be payable to those imprisoned or detained in legal custody. Regulations may make exceptions to this general rule in certain circumstances.

***Clause 89: Claims, awards and information***

399. *Subsection (1)* of *clause 89* sets out that a person cannot establish entitlement to personal independence payment for a period before they make or are treated as making a claim.
400. *Subsections (2) and (3)* set out that an award of personal independence payment will normally be for a fixed period except where the person making the award considers that a fixed term award would be inappropriate (in which case an award would be made for an indefinite period). The person making the award is required to have regard to guidance issued by the Department in deciding on the appropriateness or otherwise of a fixed term award. A fixed or indefinite period award applies to the benefit as a whole rather than to either component of it.
401. *Subsection (4)* ensures that all information supplied for the purposes of personal independence payment is social security information for the purposes of data-sharing. This subsection covers, for example, medical information relating to a claimant.

***Clause 90: Report to the Assembly***

402. *Clause 90* provides that the operation of assessments for personal independence payment (see *clause 81*) will be the subject of two biennial independent reports prepared by a person appointed by the Department. The Department is required to lay the first report within two years of the regulations under *clause 81* coming into operation, and the second within four years.

***Clause 91: Abolition of disability living allowance***

403. *Clause 91* provides for the repeal of sections 71 to 76 of SSCBA 1992, which are the key provisions relating to disability living allowance. It does not provide for the immediate abolition of disability living allowance and the provision will be brought into operation on such day as the Department may appoint in accordance with *clause 132(2)*. There is no time period in which the

disability living allowance provisions must be repealed, it will be done as and when the entire caseload moves over to personal independence payment.

***Clause 92: Amendments***

404. *Clause 92* gives effect to Schedule 9 which contains amendments relating to Part 4.

***Schedule 9: Amendments relating to Part 4***

*Child Support (Northern Ireland) Order 1991 (NI 23)*

405. Article 10 of the Child Support (Northern Ireland) Order 1991 makes an exception to the limitations on courts making maintenance orders in relation to a child who receives disability living allowance. Paragraph 1 adds someone in receipt of personal independence payment to that exception.

*Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

406. *Paragraph 2* amends section 30B in relation to the benefit rate for incapacity benefit. This currently provides that those who are terminally ill or in receipt of the highest rate of the care component of disability living allowance are entitled to a particular rate of incapacity benefit. The amendment extends this provision to include personal independence payment at a rate to be designated by regulations.
407. *Paragraph 3* amends section 64 to provide that entitlement to attendance allowance is not permitted where a person is entitled to personal independence payment so that a person does not become entitled to both benefits.
408. Disability living allowance is a qualifying benefit for the purpose of eligibility for a Christmas bonus. *Paragraph 4* amends section 146 so as to make personal independence payment a qualifying benefit for that purpose.

*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

409. Section 1 of SSAA 1992 provides that entitlement to benefits is dependent upon a person making a claim in such manner and at such time as the Department may prescribe. *Paragraph 5* extends the scope of the benefits that are subject to this provision to include personal independence payment.
410. Section 5 of SSAA 1992 provides that specified benefits are subject to regulations in relation to claims, payments and the provision of information.



*Paragraph 6* extends the scope of the benefits that are subject to this provision to include personal independence payment.

411. Section 69 of SSAA 1992 provides that where a specified benefit has been subject to an overpayment through a misrepresentation or a failure to disclose information that overpayment may be recoverable by the Department. *Paragraph 7* extends the scope of the benefits that are subject to this provision to include personal independence payment.
412. Section 71 of SSAA 1992 provides that benefit payment can be adjusted where another benefit is payable to a person or where a person is in hospital. Disability living allowance is such a benefit; *paragraph 8* adds personal independence payment but excludes it from the provisions applying to hospitals as powers have already been taken at *clause 87* to adjust benefit in these circumstances.
413. Section 115CA of SSAA 1992 sets out the provisions that fall within the definition of “the relevant social security legislation” in Part 6 of the Act, which relates to enforcement. The provisions relating to disability living allowance fall within that definition; *paragraph 9* extends the definition to include Part 4 of the Bill.
414. Sections 116B and 116C of SSAA 1992 apply to the supply of Government information for various purposes including the prevention of fraud, the purpose of verification and the administration of benefits. Information supplied under those sections is, by virtue of the amendments made by *paragraphs 10 and 11*, to be capable of being further disclosed for the purposes of any civil or criminal proceedings relating to Part 4 of the Bill.
415. Sections 118 of the SSAA 1992 relates to registrations of notifications of deaths where evidence of such an event is necessary for the purpose of benefit administration. The provisions relating to disability living allowance fall within section 118. *Paragraph 12* extends that section to include Part 4 of the Bill.
416. Section 139 of SSAA 1992 provides that if there is an alteration in the figures which affect a person’s income for the purposes of income support, then any resultant change in the amount of income support which is payable takes effect automatically without the need for a decision by the Department. Disability living allowance is relevant by virtue of the definition of “benefit income”; *paragraph 13* adds personal independence payment to that definition.
417. Section 140 of SSAA 1992 extends the process begun by section 139 of taking routine adjustments in the amount of income support out of the ordinary

- mechanism for review. *Paragraph 17* extends the scope to personal independence payment.
418. Sections 139A and 140A of SSAA 1992 have the same effect as sections 139 and 140 but relate to jobseeker's allowance. *Paragraphs 14 and 18* extend the scope of these provisions to personal independence payment.
419. Section 139B of SSAA 1992 has the same effect as section 139 but relates to state pension credit. *Paragraph 15* extends the definition of "benefit income" to include personal independence payment.
420. Sections 139C and 140B of SSAA 1992 have the same effect as section 139 and 140 but relate to employment and support allowance. *Paragraphs 16 and 19* extend the scope of these provisions to include personal independence payment
421. Section 145 of SSAA 1992 makes provision for adjustments between the National Insurance Fund and the Consolidated Fund. *Paragraph 20* amends section 145(1)(a)(iii) so that it applies to personal independence payment.
422. Section 149 of SSAA 1992 relates to matters which should be referred to the Social Security Advisory Committee. *Paragraph 21* inserts a paragraph (5)(al) to refer to Part 4 of this Act.
423. Section 155 of SSAA 1992 provides a power to make orders to modify or adapt legislation in its application to cases affected by agreements with the government of a country outside the United Kingdom in matters set out under that section. The modifications that may be made include those relating to disability living allowance; *paragraph 22* makes an amendment to include the subject matter of personal independence payment.
424. Section 156 of SSAA 1992 enables the Department to pay travelling expenses in connection with requirements for claimants to attend interviews in connection with benefits. *Paragraph 23* provides that personal independence payment will be relevant for this purpose.
425. Section 158B of SSAA 1992 provides that the Department or the Secretary of State may require the Post Office to provide details relating to the redirection of post to the Department or the Secretary of State for use in the prevention, detection, investigation or prosecution of offences relating to social security, or for use in checking the accuracy of information relating to benefits, contributions or any other matter relating to social security and amending or supplementing such information. Subsection (5) prohibits that information from being supplied to anyone else unless it could either be supplied under subsection (1) or (2) of that section, or where it is supplied for the purpose of

civil or criminal proceedings relating to a range of legislation including SSCBA 1992 which includes provisions relating to disability living allowance. *Paragraph 24* adds Part 4 of this Bill to the list of legislation.

426. Section 160 of SSAA 1992 enables regulations to be made requiring persons to be examined periodically and to furnish information required for the purposes of such examination, in connection with suspension from or suitability for employment in an occupation where a person has been found to suffer from or to be at risk of pneumoconiosis. It also enables regulations to be made disqualifying a person from benefit if they fail without good cause to comply with such requirements. *Paragraph 25* amends section 160(1)(c) to include personal independence payment as a benefit that can be subject to disqualification under this section.
427. A person is prevented from assigning or charging benefit to a trustee or other person acting on behalf of the beneficiary's creditors under section 163 of SSAA 1992. *Paragraph 26* makes provision for personal independence payment to be included.
428. *Paragraph 27* extends the definition of "benefit" in section 167 of the SSAA 1992, to include personal independence payment.
429. Part 1 of Schedule 5 to SSAA 1992 lists regulations which do not require prior reference to the Social Security Advisory Committee. The weekly rates of disability living allowance are set out in regulations which do not need to be referred to the Committee; *paragraph 28* adds a similar provision for the regulations which will set out the weekly rates of the components of personal independence payment.

*The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

430. *Paragraph 29* makes an amendment to Article 25 (payments in respect of applicants for exemption from wearing seat belts) to include those in receipt of personal independence payment.

*Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (NI 12)*

431. The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 provides for the recovery of benefits paid to those who are injured or made ill from those who cause personal injury or disease. *Paragraph 30* applies these provisions to personal independence payment.

432. Schedule 2 to the Order makes provision for how benefits should be taken into account for different heads of compensation. *Paragraph 31* amends that Schedule to include references to personal independence payment.

*Social Security (Northern Ireland) Order 1998 (NI 10)*

433. Article 4 of SSO 1998 provides that decisions, determinations and assessments in relation to specified benefits may be issued by someone acting on behalf of the Department or by a computer that they are responsible for. *Paragraph 32* extends the scope of the benefits that are subject to this provision to include personal independence payment.
434. Article 9 of SSO 1998 provides that decisions on any claim to a specified benefit or under a specified enactment are to be made by the Department. *Paragraph 33* extends the scope of the benefits that are subject to these provisions to include personal independence payment. As a result of this amendment, provisions in relation to changing a decision (by way of revision or supersession) and rights of appeal are also extended to include personal independence payment.
435. Article 12 of SSO 1998 allows for provision to be made in regulations with respect to decisions made by the Department in relation to specified legislation. *Paragraph 34* extends the scope of the legislation to include Part 4 of the Bill.
436. Article 27 and 28 of SSO 1998 allow for restrictions on entitlement to benefit made under specified enactments in circumstances relating to cases of error following an appeal to the Upper Tribunal or to the courts and correcting accidental errors or setting aside decisions where it appears justifiable to do so. *Paragraphs 35 and 36* extend the scope of the legislation to include personal independence payment and the legislation under which it is created.
437. Schedule 3 to SSO 1998 makes clear that decisions on payability of the care component of disability living allowance when someone is in a care home are subject to rights of appeal. *Paragraph 37* ensures that similar decisions for the purposes of personal independence payment under clause 84 are also subject to rights of appeal.

*The Immigration and Asylum Act 1999 (c.33)*

438. Section 115 of the Immigration and Asylum Act 1999 excludes certain people subject to immigration control from receiving certain benefits. One of these is disability living allowance and the amendment in *paragraph 38* extends the exclusion to personal independence payment under Part 4 of this Bill.

*Social Security Fraud Act (Northern Ireland) 2001 (c.17)*

439. SSFA 2001 makes provision in relation to obtaining and disclosing information, restricting payment of social security benefits in the case of persons convicted of offences relating to such benefits and for related purposes. These provisions currently apply to disability living allowance; *paragraphs 39 and 40* provide that the same provisions will apply to personal independence payment so that it is included in the definitions of “disqualifying benefit”, and “social security benefit” for the purposes of particular provisions of that Act.

***Clause 93: Power to make supplementary and consequential provisions***

440. *Clause 93* enables regulations to make consequential, supplementary or incidental provision relating to Part 4 of the Bill.
441. Regulations under this clause may amend, repeal or otherwise modify any statutory provision, and will be subject to negative resolution.

***Clause 94: Transitional***

442. *Clause 94* provides for transitional arrangements for the coming into operation of Part 4 of the Bill.
443. *Subsection (1)* provides a general power allowing the Department to make transitional arrangements through regulations such as it considers necessary or expedient. *Subsection (2)* gives effect to *Schedule 10* (transitional provision for introduction of personal independence payment).

***Schedule 10: Personal independence payment: transitional***

444. *Schedule 10* makes more detailed provision as to how the general regulation-making power in *clause 94* may be exercised.
445. *Paragraph 1* allows regulations to make provision relating to the replacement of disability living allowance with personal independence payment. The “appointed day” means the date that *clause 77* comes into operation.
446. *Paragraph 2* contains provisions relating to claims made before the personal independence payment provisions come into effect. *Sub-paragraph (1)(a)* enables a claim for personal independence payment to be made before the appointed day.

447. *Sub-paragraph (1)(b)* allows a claim for personal independence payment made before the appointed day to be treated as a claim for disability living allowance. This might be used if the person making the claim fell into a group which had yet to begin the transition process. *Sub-paragraph (1)(c)* allows for a claim for disability living allowance made before the appointed day to be treated as a claim for personal independence payment, which could be used if an individual submits a claim for disability living allowance shortly before the introduction of personal independence payment.
448. *Sub-paragraph (2)* allows for an award of personal independence payment to be made in respect of a period before the appointed day. This might be used if a person made a claim to disability living allowance shortly before the appointed day, and their claim was treated as a claim to personal independence payment and an award was made in respect of that period.
449. *Paragraph 3* contains provisions relating to claims made after the appointed day. It allows for a phased transition from disability living allowance to personal independence payment.
450. Claimants may not be able to move voluntarily from disability living allowance to personal independence payment. *Sub-paragraph (1)(a)* provides that regulations may exclude temporarily or permanently anyone receiving disability living allowance from making a claim for personal independence payment. The power to exclude a person permanently could be used, for example, where a claimant is approaching state pension age and so will soon not meet the conditions of entitlement for personal independence payment.
451. *Sub-paragraph (1)(b)* allows for a temporary delay before a person can make a claim for personal independence payment. *Sub-paragraph (1)(c)* allows for a person to be excluded from entitlement temporarily or for a particular period.
452. *Sub-paragraphs (1)(d)* and *(1)(e)* allow for a claim for personal independence payment to be treated as a claim for disability living allowance and for a claim for disability living allowance to be treated as a claim for personal independence payment during the transitional period. This may apply particularly in cases where the claimant is excluded from claiming personal independence payment under *sub-paragraph (1)(a)*.
453. *Sub-paragraph (2)* allows for an award of personal independence payment to be made in respect of a period before the appointed day. This follows the provision in *paragraph 2(2)* with the same effect for claims during the transitional period. It enables provision to be made on the conditions of entitlement to, and the amount of, an award, in such a situation.

454. *Paragraph 4* enables regulations to make provision relating to ongoing awards of disability living allowance and the making of awards for personal independence payment.
455. *Sub-paragraph (1)* allows for the termination of an award of disability living allowance and the making of an award of personal independence payment in its place. An award of personal independence payment may be made with or without the claimant having to apply.
456. Under *sub-paragraph (2)(a)* and *(b)* regulations may require claimants to follow a certain procedure, provide information or undergo an assessment before a new award of personal independence payment begins, and may set out the consequences if a person fails to do so.
457. *Sub-paragraph (2)(c)* allows for regulations to alter temporarily or permanently the conditions of entitlement for people moving onto personal independence payment. This means that some people who are entitled to disability living allowance but would not otherwise meet the conditions of entitlement for personal independence payment could be treated as entitled to personal independence payment.
458. The sub-paragraph also allows for regulations temporarily or permanently to alter the conditions of entitlement for the assessment set out in *subsections (1) and (2) of clause 81*.
459. *Sub-paragraph (2)(d)* enables regulations to make provision for the amount of an award of personal independence payment made by virtue of this paragraph.
460. *Paragraph 5* enables regulations to disregard any gap in entitlement to disability living allowance in cases where the exercise of the power to make transitional regulations would otherwise be prevented. *Paragraph 5* also enables provision to be made modifying the operation of the “required period condition” in transitional cases.

***Clause 95: Regulations***

461. Regulations may make different provision for incidental or consequential provisions. *Subsection (2)* provides that regulations under Part 4 are to be subject to the negative resolution procedure. The exceptions to this are set out in *subsections (4) and (5)*.

***Clause 96: Interpretation of Part 4***

462. *Clause 96* defines certain expressions for the purposes of Part 4.

## **Part 5: Social Security: General**

### ***Clause 97: Benefit Cap***

463. *Clause 97* provides for the amount of welfare benefits a claimant or a couple receives to be capped by reference to the average earnings of working households in Great Britain.
464. *Subsections (1) to (3)* allow for regulations to apply a cap to the total amount of welfare benefits an individual or couple receives. Where total entitlement is higher than the level of the cap, entitlement to benefits may be reduced by up to the excess.
465. *Subsection (4)* illustrates the way in which the power can be used. In particular, it enables regulations to specify how a person's total entitlement to welfare benefits is to be calculated and how the amount of any reduction should be determined. Regulations may prescribe the benefits from which a reduction can be made, make provisions for the period over which it will be determined, provide for circumstances in which the cap will not apply and make provision for its relationship with any other reductions of benefit.
466. The level of the cap will be set in regulations under *subsection (5)*, and must (as a result of *subsection (6)*) be determined by reference to the estimated average earnings of working households.
467. *Subsection (7)* allows regulations to prescribe which benefits, allowances, payments or credits may be considered welfare benefits for the purposes of calculating and applying the cap, and defines other terms for the purposes of this section. *Subsection (8)* ensures that this list of welfare benefits may not include state pension credit or state retirement pensions.

### ***Clause 98: Benefit cap: supplementary***

468. *Clause 98* makes supplementary provision relating to the cap on welfare benefits.
469. *Subsection (1)* provides that any regulations under *clause 97*, apart from the first regulations, will be subject to the negative resolution procedure in the Assembly. *Subsection (2)* provides that the first regulations under *clause 97* will be subject to the confirmatory procedure.
470. *Subsection (3)* inserts a new paragraph 8A into Schedule 2 of the SSO 1998 so that a decision that the benefit cap applies to a particular award of benefit may not be appealed. If the benefit cap is applied incorrectly, leading to an



incorrect award of benefit, then that will be appealable to the usual extent, but whether or not the benefit cap is to apply will be a matter of law.

***Clause 99: Claims and awards***

471. *Clause 99* amends section 5(1) of SSAA 1992, which makes common provision about claims for all relevant social security benefits dealt with under the Act.
472. *Subsection (2)* amends section 5(1)(d) of SSAA 1992. Section 5(1)(d) allows advance claims to benefit to be made. An advance claim may be made in a situation where a claimant does not presently, but soon will meet the conditions of entitlement for a benefit. This might be used, for example, in cases where a person is working out a notice period and is shortly to become unemployed.
473. This amendment ensures that the power at section 5(1)(d) includes the power to make an advance award of benefit, where a claimant would not be entitled to benefit at the point of claim, but would become entitled at a prescribed time after the award were made. This provides for situations where a person may become entitled to a higher amount of benefit at a certain point in a benefit award, which would mean that an award became payable only at that stage. For example, a person with income above a certain level may not be entitled to income-related ESA during the assessment phase until they have completed the work capability assessment and become entitled to either the work-related activity or support components.
474. The effect of subsection (2) is that the power under section 5(1)(d) allows for a claim to be made and an award to arise at a future date where a claimant meets the conditions of entitlement at a prescribed time after the making of the award, or where other prescribed conditions are met.
475. *Subsection (3)* allows for an advance award to be reviewed if these conditions are not met. It is consequential upon the amendment made by subsection (2).
476. *Subsection (4)* amends section 5(1)(g) to allow regulations to provide for one member of a couple to make a claim for benefit on the behalf of both members jointly.
477. *Subsection (5)* amends section 5(1)(k) of SSAA 1992 to allow the Department to prescribe in regulations changes of circumstances that must be reported by claimants and others.

***Clause 100: Powers to require information relating to claims and awards***

478. *Clause 100* amends SSAA 1992 to enable regulations to require prescribed people to supply information that is or could be relevant to potential or current claims and awards of relevant benefits. New section 5(1A) of SSAA 1992 will ensure that the Department can make regulations to obtain information.

Examples of how this might be used are:

- using information from other departments to enable the Department to undertake campaigns to ensure people are aware that they could receive particular benefits;
- using information held by other departments, agencies and service providers that could be used to determine entitlement to, and maintain accurate assessment of a social security benefit;
- to assist in the transition from existing benefits to universal credit;

479. *Subsections (2), (4) and (5)* make consequential amendments resulting from these changes and repeal legislation replaced by the new section 5(1A). *Part 9 of Schedule 12* contains consequential repeals.

***Clause 101: Payments to joint claimants***

480. *Clause 101* amends section 5 of SSAA 1992. The amendment will apply in respect of the payment of all relevant social security benefits dealt with under the Act.

481. The clause inserts a new subsection (2B) into section 5 allowing regulations to set out the person to whom a benefit is paid where the benefit is awarded to a couple jointly. Subsection (2B) provides that the Department may determine that the couple should nominate a lead individual to receive payment of the benefit. Alternatively the Department may determine to which member of the couple the payment will be made.

***Clause 102: Payments on account***

482. *Clause 102* substitutes section 5(1)(s) of the SSAA 1992, which makes provision for payments on account of benefit.

483. In its current form, section 5(1)(s) allows the Department to make payments on account on a discretionary basis in cases where a claim cannot be made or determined immediately (because further information is needed, for example);

where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application on it to be determined immediately; or where an award has been made but it cannot be paid immediately (when a national or local emergency prevents claims being handled normally, for example). New section 5(1)(s)(i) maintains this position. Payments on account are recovered from ongoing payments of benefit, or where this is not possible, directly from the claimant.

484. The substitution will allow for a payment on account to be made in additional circumstances. New section 5(1)(s)(ii) provides for a payment to be made where a claimant is in need – examples of how it might be applied include where benefit has been claimed, but the first payday has not yet been reached, or where a claimant is receiving benefit, but encounters difficulty in budgeting between benefit payments for example, where there is a change in their award. Regulations will make provision for the test of need.
485. New section 5(1)(s)(iii) will enable the Department to make a payment on account where, subject to criteria set out in regulations, it can reasonably be expected to be recovered. These recoverable payments are intended to help towards meeting expenses which are difficult to budget for out of normal benefit income (such as a fridge or cooker breaking down and needing fixing or replacing), or for which the claimant has been unable to save, or to deal with fluctuations in expenditure throughout the year, for example where children in the household who would normally have free school meals are on summer holidays. Such payments will replace the existing social fund budgeting loans – see *clause 71*.
486. Section 18 of the WRA 2010 has not been commenced. Had it been, it would have extended the range of situations in which a payment on account could be made beyond existing section 5(1)(s) of the SSAA 1992. It would have extended making payments on account to situations similar to those that will be covered by new section 5(1)(s)(ii). As section 18 would not have provided for payments on account in those situations that will be covered by new section 5(1)(s)(iii), *subsection (2)* repeals it.

***Clause 103: Power to require consideration of revision before appeal***

487. Article 13 of SSO 1998 makes provision for a claimant (or any other prescribed person) to appeal to an Appeal Tribunal against a decision of the Department. Although the claimant (or other person) could ask initially for the decision to be reconsidered with a view to revision (under Article 10 of the Order), in practice many people do not do so and make an appeal from the outset.

488. In order to resolve more disputes with claimants through the internal reconsideration process before an appeal to the tribunal is made, *subsections (2) and (3) of clause 103* amend Article 13 to enable the Department to make regulations setting out the cases or circumstances in which an appeal can be made only when the Department has considered whether to revise the decision.
489. New Article 13(3B), which is inserted by *subsection (3)*, contains examples of how the new power might be used. In particular, regulations may provide that there is to be a right of appeal only where the Department has considered whether to revise the decision as a result of an application having been made for that purpose.
490. In certain cases, the regulation-making powers under Article 13 of SSO 1998 are exercisable by a person other than the Department (for example, functions relating to child benefit and guardians allowance are exercisable by HMRC). New paragraph (3C), which is also inserted by *subsection (3)*, makes it clear that in any particular case the new powers in Article 13(3A) are to be exercisable by the person responsible for making regulations under Article 13 in that case.
491. Where there is no right of appeal as a result of regulations made under the new provisions, *subsection (4)* enables provision to be made in regulations for treating any purported appeal as an application for revision.
492. *Subsection (5)* provides that regulations to be made under new Article 13(3A) will be subject to the confirmatory procedure.
493. *Subsection (6)* introduces *Schedule 11* which makes equivalent provision in the case of certain other appeals. These relate to child support, the recovery of benefits, housing benefit and payments in respect of mesothelioma.
494. *Clause 135(3)(c)* enables regulations made under the new provisions to be brought into operation in different areas at different times, which enables a phased implementation. The new regulations under Article 13(3A) may need to be accompanied by changes to other regulations relating to decisions and appeals. But such other regulations cannot normally be made so as to apply only to a limited area.
495. *Subsections (7) to (9) of clause 103* therefore, enable other provisions in legislation relating to decisions and appeals, if made in connection with regulations requiring consideration of revision before appeal, to apply only in relation to a limited area.

***Clause 104: Electronic communications***

496. *Clause 104* applies where regulations under SSAA 1992 or SSO 1998 require or authorise the use of electronic communications. Examples could be regulations which make provision about the manner in which a claim for benefit must be made or relevant information or evidence must be provided. Section 165(5) of SSAA 1992 and Article 74(5) of SSO 1998 ensure that regulations made under that Act/Order may include incidental and supplementary provision.
497. This clause makes it clear that these powers include, in the case of regulations to which this clause applies, provision of a kind set out in sections 1(4), (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001. These cover, for example, provision as to:
- the form which electronic communications must take;
  - the conditions under which electronic communications are allowed the use of intermediaries in the transmission or authentication of electronic communications; and
  - the method of determining (and proving in legal proceedings) whether, when, where, and by whom an electronic communication was made.
498. The clause also enables conditions or requirements concerning the use of electronic communications to be framed with reference to directions given by the Department.

***Clause 105: Recovery of benefit payments***

499. *Clause 105(1)* sets out provisions concerning the recovery of overpaid universal credit, JSA, ESA and the housing credit element of state pension credit (housing credit) that are inserted into the SSAA 1992.
500. *New section 69ZB* sets out the general provisions about the recovery of overpaid universal credit, JSA, ESA and the housing credit element of state pension credit.
501. *Subsection (1)* gives the Department the power to recover any amount of universal credit, JSA and ESA, which has been paid in excess of entitlement. It also gives the Department the power to recover any amount of the housing credit, which has been paid in excess of entitlement, except in circumstances that will be prescribed in regulations.

502. *Subsection (2) to (4)* make further provision about the deductions from benefits which can be made where an amount recoverable from a person under section 69ZB was paid to that person on behalf of another (for example where an amount is recoverable from a landlord).
503. *Subsection (5)* means that where another income or benefit that would affect the award of universal credit is paid late, any amount of universal credit which would not have been paid had the other income or benefit been paid on time, is treated as an overpayment and is recoverable from the universal credit recipient.
504. *Subsection (6)* allows for an amount paid to one member of an award which is made to persons jointly to be recovered from the other by any method (as listed in *subsection (7)*).
505. *Subsection (7)* provides that overpayments may be recovered by deducting from benefit, by deduction from earnings, through the courts, or by adjustment of subsequent payments of benefit.
506. New section 69ZC relates to recovery of overpayments under new section 69ZB by the method of deduction from benefit.
507. *Subsection (1)* provides that overpayments of universal credit, JSA, ESA and the housing credit can be recovered by making deductions from payments of prescribed benefits.
508. *Subsection (2)* provides that where universal credit, JSA, ESA or the housing credit is paid to a third party (for example a landlord) on the benefit claimant's behalf, overpayments of those benefits may be recovered from:
- prescribed benefits to which the third party is entitled;
  - ongoing payments of prescribed benefits to the third party being made on the benefit claimant's behalf; or
  - ongoing payments of prescribed benefits paid to the third party on other benefit claimants' behalf (for example, if a landlord has other tenants who are in receipt of universal credit or housing credit).
509. *Subsection (3)* provides that in circumstances to be prescribed in regulations, where deductions are made from payments of prescribed benefits to the third party on the claimant's behalf, the claimant's obligations to the third party will be discharged, for example the landlord would not be able to put the claimant into arrears with their rent.

510. *Subsection (4)* provides that in all cases where deductions are made from payments of prescribed benefits to the third party on other benefit claimants' behalf, the other claimants' obligations to the third party will be discharged, for example the landlord would not be able to put the other claimants into arrears with their rent.
511. New section 69ZD relates to the recovery of overpayments under new section 69ZB by deduction from earnings.
512. *Subsection (1)* allows the Department to make regulations so as to allow amounts recoverable under new section 69ZB to be recovered by deduction from earnings.
513. *Subsection (2)* allows the Department to prescribe in regulations the definition of 'earnings' for the purpose of this clause.
- Subsection (3)* describes the related issues for which the Department may prescribe in regulations under *subsection (1)*. These include preventing an employer from making deductions from earnings where they would take earnings below a specified level, allowing for an employer to deduct a prescribed sum from earnings in respect of the employer's administration costs, providing for a criminal offence for non-compliance with certain of the obligations under those regulations and legislating as to priorities of deductions from earnings made under these powers as against those made under other legislation.
514. New section 69ZE relates to recovery of overpayments under new section 69ZB through the courts.
515. *Subsection (1)* provides that an amount recoverable under section 69ZB is, if the county court so orders, recoverable as if it were payable under an order of that court.
516. It is standard practice for the Department to seek to recover court costs when there is a court judgment in its favour. There is no mechanism at present however for the Department to recover any costs associated with civil recovery of overpayments in the same way as if they formed part of the overpayment debt, by deduction from benefits, or by adjustment of subsequent payments of benefit. *Subsection (2)* allows the Department to recover costs by the same method as the overpayment is recovered.
517. New section 69ZF relates to recovery of overpayments under new section 69ZB using the method of adjustment of subsequent payments of benefit.
518. It provides that the Department may prescribe in regulations that in certain circumstances, amounts paid but subsequently determined as not payable, can

- be treated as properly paid and be set against future payments of benefit or against certain payments to third parties.
519. New section 69ZG makes provision enabling the Department to recover any amount paid by way of payments on account.
520. Section 69ZG(2) provides that the payment on account is recoverable from the person to whom it was paid, or another prescribed person. This includes the benefit claimant and also the benefit claimant's partner or an appointee who appropriates excess benefit for their own use.
521. *Subsection (3)* allows regulations to calculate or estimate, where appropriate, the amount of a payment on account to be recovered.
522. *Subsection (4)* allows for an amount paid to one member of an award which is made to persons jointly to be regarded as paid to the other. This will ensure that the payment on account can be recovered from either of them.
523. *Subsection (5)* enables the methods of recovery set out in new sections 69ZC to 69ZE of the SSAA 1992 to be applied to recover payments on account in the same way as they allow for the recovery of overpayments of benefit. While the Department may choose, in many cases, to recover payments on account from ongoing payments of benefit, there will be circumstances where other methods of recovery are necessary, for example, where a payment on account is made at the beginning of a benefit claim but the claimant ceases to receive benefit before the payment has been fully repaid to the Department.
524. New section 69ZH relates to the recovery of payments made to people in or facing hardship.
525. *Subsection (1)* of that section sets out which hardship payments and certain other payments are recoverable. This may include payments made under *clause 28* of this Bill to universal credit claimants who are subject to a sanction or under the equivalent provisions for JSA in Article 21C of the JSO 1995, inserted by *clause 47* of this Bill. It may also apply to payments made to JSA claimants in cases where they are entitled to a prescribed rate of benefit despite not meeting the jobseeking conditions, or where their claim is yet to be determined. Any hardship payments made to claimants subject to a sanction for fraud under the listed sections of SSFA 2001 may also be covered by these provisions.
526. The amount recoverable may be determined in regulations, and may be recovered from the person the payment was made to or any other person specified in regulations. *Subsection (4)* provides that for the purposes of



universal credit or joint-claim JSA a hardship payment paid to one member of a couple may be considered as paid to the other.

527. *Subsection (5)* enables the methods of recovery set out in sections 69ZC to 69ZF to be applied to hardship payments in the same way as overpayments of universal credit, JSA, ESA or the housing credit.
528. As overpayments of the housing credit will be recoverable in accordance with section 69ZB instead of section 69, *clause 105(2)* makes the required consequential amendment to section 69.
529. *Clause 105(3) and (4)* respectively make consequential amendments to sections 109A and 109B of the SSAA 1992 to ensure that the provisions relating to civil penalties apply where sums are recoverable under new section 69ZB.
530. Paragraph 9 of Schedule 1 to the JSO 1995 provides that regulations may provide for an income-based JSA to be payable at a prescribed rate and for a prescribed period in relation to cases where regulations under paragraph 8 provide for entitlement to JSA despite a claimant not meeting all of the jobseeking conditions, or regulations under paragraph 8A provide for a joint-claim couple to be entitled to a joint-claim JSA without both members of the couple meeting all of the conditions of entitlement in Article 3(2B) of that Order, or in some circumstances without both members having to have made the claim. *Clause 105(5)* amends paragraph 9 to allow the regulations to provide for the whole or part of such payments of JSA to be recoverable in prescribed circumstances.
531. *Clause 105(6) and (7)* amend the SSO 1998 in two respects. Firstly, to ensure that any person from whom it is determined that an overpayment is recoverable under new sections 69ZB, 69ZG or 69ZH, has the same right of appeal against that determination as a claimant. Secondly, to provide that in respect of overpayments under section 69ZB (other than overpayments of the housing credit) of that Act and amounts recoverable under sections 69ZG and 69ZH of that Act appeals lie only in relation to decisions as to the amount of the payment recoverable under those sections. In respect of overpayments of the housing credit, the amendments provide that appeals lie both in respect of the decision on whether the overpayment is recoverable and the amount recoverable.

***Clause 106: Deductions from earnings: other cases***

532. *Clause 106* amends sections 69, 69ZA, 73 and 74 of the SSAA 1992 to provide for the recovery of social security debt not covered by the equivalent provisions in *clause 105* to be recovered by deductions from earnings.

**Section 69 of the SSAA 1992**

533. *New subsection (9A)* allows regulations to provide that amounts recoverable under section 69(8) (i.e. overpayments of benefits not covered by section 69ZB) may be recovered by deduction from earnings.
534. *New subsection (9B)* allows the Department to prescribe in regulations the definition of ‘earnings’ for the purpose of this section.
535. *New subsection (9C)* describes the related issues for which the Department may prescribe in regulations under *subsection (9A)*. These include preventing an employer from making deductions from earnings where they would take earnings below a specified level, allowing for an employer to deduct a prescribed sum from earnings in respect of the employer’s administration costs, providing for a criminal offence for non-compliance with certain of the obligations under those regulations and legislating as to priorities of deductions from earnings made under these powers as against those made under other legislation.

**Section 69ZA of the SSAA 1992**

536. *New subsection (2A)* is inserted into *section 69ZA* to allow for the recovery of overpaid discretionary social fund payments which are recoverable by virtue of that section to be recovered by deductions from earnings.

**Section 73 of the SSAA 1992**

537. *New subsection (8)* allows regulations to provide that overpaid housing benefit recoverable by virtue of section 73(4) may be recovered by deductions from earnings.
538. *New subsection (9)* allows the Department to prescribe in regulations the definition of ‘earnings’ for the purpose of this section.
539. *New subsection (10)* describes the related issues for which the Department may prescribe in regulations under *subsection (8)*. These include preventing an employer from making deductions from earnings where they would take earnings below a specified level, allowing for an employer to deduct a prescribed sum from earnings in respect of the employer’s administration costs, providing for a criminal offence for non-compliance with certain of the obligations under those regulations and legislating as to priorities of deductions from earnings made under these powers as against those made under other legislation.

**Section 74 of the SSAA 1992**

- 540. *New subsection (3B)* allows regulations to provide that repayable social fund awards may be repaid by deductions from earnings.
- 541. *New subsection (3C)* allows the Department to prescribe in regulations the definition of ‘earnings’ for the purpose of this section.
- 542. *New subsection (3D)* provides for the same related issues for which the Department may prescribe in regulations under section 69(9C) to apply to those social fund amounts recoverable under section 74(3B).

***Clause 107: Application of The Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339) (N.I.11)***

- 543. Article 4 of the Limitation (Northern Ireland) Order 1989 (“the 1989 Order”) imposes a time limit of six years on any “action” to recover a sum recoverable by virtue of an enactment. *Clause 107* amends Article 2 of the 1989 Order (interpretation) for the avoidance of doubt; references in that Order to “action” do not include recovery under social security and tax credits legislation by means other than proceedings in a court of law.
- 544. *Clause 107(2) and (3)* puts beyond doubt that the Department may recover social security overpayments and social security debt (including social fund debts) under the SSAA 1992 or the SSCBA 1992, by means other than court action. Accordingly it secures that the time limits do not apply, for example, to recovery by deduction from benefit.
- 545. *Subsection (4)* provides that this amendment is to be regarded as always having formed part of the 1989 Order but this does not apply in respect of proceedings brought before the commencement of this provision.

***Clause 108: Powers to require information relating to investigations***

- 546. Section 103B (power to require information) of the SSAA 1992 specifies from whom the Department can require information when investigating whether benefit is properly payable.
- 547. *Clause 108* inserts new subsection (2)(ia) into existing section 103B(2) to add a regulation making power to prescribe persons from whom an authorised officer under existing section 103B(1) can require information. An example of how this might be used would be to require information from those who presently are asked to provide information for tax credits (for example persons providing child care).

548. *Clause 108(b)* amends existing section 103B(2)(j) to include new subsection (2)(ia). Existing section 103B(2)(j) states that the persons from whom the Department may require information under section 103B(2)(a) to (i) includes their servants and agents. The amendment allows it to extend to new subsection (2)(ia).

***Clause 109: Time limits for legal proceedings***

549. *Clause 109* amends section 110(2) of the SSAA 1992 (legal proceedings). Section 110(2) permits the Department to issue a certificate allowing proceedings for a summary only offence to be commenced later than 12 months from the date an offence was committed if it is within the period of 3 months from the date on which evidence comes to the Department's knowledge, and this evidence is, in his opinion, adequate to justify a prosecution for the offence.
550. The Department will now be able to issue a certificate to extend the period when proceedings may be commenced where: a claimant is to be prosecuted for a housing benefit offence; that benefit is administered by the Housing Executive and the Department of Finance and Personnel; and although the 12 month period after the offence was committed has expired, the date is within 3 months of the date on which evidence came to the Department's knowledge that is, in his opinion, adequate to justify a prosecution.

***Clause 110: Prosecution powers of the Housing Executive***

551. *Clause 110* inserts a new section 110ZA (Housing Executive powers to prosecute housing benefit fraud) into the SSAA 1992 to restrict Housing Executive powers to bring proceedings relating to housing benefit offences. New section 110ZA(1) provides that the Housing Executive may not bring a prosecution for suspected benefit offences unless certain circumstances apply.
552. Under new section 110ZA(1)(a), where the Housing Executive has already started an investigation in relation to a suspected fraud of housing benefit, the Executive may prosecute that offence.
553. Section 110ZA(1) also includes a regulation-making power under section 110ZA(1)(b) to prescribe circumstances in which the Housing Executive can bring proceedings for housing benefit fraud. This is subject to the power of the Department at new subsection (2) to direct that the Housing Executive may not bring proceedings, even if an investigation has already started.
554. Where the Department has given specific authorisation, *new section 110ZA(1)(c)* provides that the Housing Executive will be allowed to prosecute fraud concerning housing benefit where the Department has authorised such

proceedings. *New section 110ZA(3)* allows the Department to specify particular proceedings or any description of proceedings in a direction under new *subsection (1)(c) or (2)*.

555. *New section 110ZA(4)* provides that where, for the purposes of this section, the Department prescribes conditions to be fulfilled in order for the Housing Executive to bring proceedings, the Housing Executive may only bring proceedings if those conditions are satisfied. *New section 110ZA(5)* makes equivalent provision to that in section 110A(4) which provides that the Department may, in prescribed circumstances take over proceedings the Housing Executive has commenced in relation to an alleged benefit offence. This also gives the Department a power to discontinue proceedings in prescribed circumstances, including where it withdraws its authorisation that the Housing Executive can commence proceedings.
556. *New section 110ZA(6)* provides that the Housing Executive must adhere to the code of practice for prosecutors published by the Director of Public Prosecutions for Northern Ireland under section 37 of the Justice (Northern Ireland) Act 2002.
557. *New section 110ZA(7)* provides a regulation making power to define, for the purposes of *section 110ZA* what would constitute “an investigation in respect of a benefit offence” so as to trigger subsections (1)(a) of new *section 110ZA*.
558. *Subsections (3) to (6)* amend section 110A (Housing Executive powers to prosecute benefit fraud) of the SSAA 1992. Section 110A applies in the case of the Housing Executive prosecuting benefit fraud other than housing benefit fraud. *Subsection (4)* inserts the word “other” after “prosecute” to clarify that the section applies to benefit fraud other than that addressed by new section 110ZA. *Subsection (5)(a) and (b)* makes clear that the Housing Executive may bring proceedings for benefit offences other than housing benefit fraud, only if the Department provides for this in regulations or where the Department has directed that the Housing Executive may bring those proceedings. *Subsection (6)* substitutes the word “withdraws” for “gives” in section 110A(4)(b) so language is consistent given the changes made to section 110A so that it applies to limit all benefit prosecutions by the Housing Executive unless the Department prescribes or directs they may be brought.

***Clause 111 Penalty in respect of benefit fraud not resulting in overpayment***

559. *Clause 111* amends section 109A of the SSAA 1992 (penalty as alternative to prosecution).
560. Existing subsection (1) of section 109A of the SSAA 1992 provides for a penalty as an alternative to prosecution, in cases where the Department

considers there is sufficient evidence to prosecute for benefit fraud. At present, the financial penalty may only apply if an overpayment of benefit has actually been obtained. *Subsection (2)* of this clause inserts a new section (1A) to cover cases where a person has claimed benefit falsely but has not obtained a benefit overpayment.

561. This allows for a minimum financial penalty in all cases of false claims for benefit including where they are detected before any payment is made and therefore do not result in an overpayment of benefit.
562. *Subsections (3) to (8)* make consequential amendments in the remainder of Section 109A and in the loss of benefit provisions in the SSFA 2001.

***Clause 112: Amount of penalty***

563. *Clause 112* replaces subsection (3) of section 109A of the SSAA 1992 (penalty as alternative to prosecution). The purpose is to provide for a minimum financial penalty to apply to all cases of benefit fraud where a claimant is offered the penalty to avoid prosecution.
564. *New subsection (3)* provides that in the event of a fraud resulting in an overpayment, the penalty will be £350 or 50% of the amount overpaid whichever is greater up to a maximum of £2000. *Subsection (3A)* provides that, in cases where there is no overpayment, the penalty will be fixed at £350.
565. *New subsection (3B)* gives the Department the power to amend, by order, either the percentage of the amount of overpayment, or the minimum and maximum amounts that can be offered as a penalty.

***Clause 113: Benefit offences: period of sanction***

566. *Clause 113* amends the SSFA 2001. It changes the benefit payment disqualification period for the purposes of section 5B (loss of benefit in case of conviction, penalty or caution for benefit offence) of the SSFA 2001.
567. *Subsection (3)* amends the definition of “the disqualifying period” in section 5B(11) changing the length of the disqualifying period from “the period of four weeks” to “the relevant period”. *Subsection (4)* inserts a new subsection (11A) into section 5B to define what the relevant period is.
568. New subsection (11A)(a) introduces a new 3 year loss of benefit sanction where the benefit offence is a relevant offence, defined at new subsection (14). Relevant offences will include serious organised fraud and serious identity fraud relating to social security.

569. New subsection (11A)(b) introduces a 13 week loss of benefit sanction for claimants who are convicted of a first benefit offence (presently a 4 week loss of benefit sanction).
570. New subsection 11A(c) retains the existing 4 week loss of benefit sanction for claimants who accept the offer of an alternative penalty rather than prosecution or are cautioned.
571. *Subsection (5)* inserts new subsection (14) into section 5B to provide a definition of ‘relevant offence’ which determines whether an offence falls into this category.
572. *Subsection (6)* gives the Department the power to amend, by order, the periods and amounts that are in new subsections 11A(a) to (c) and new subsections 14(b)(i) to (iii).
573. *Subsection (7)* inserts a new subsection (1A) into section 6 of the SSFA 2001 to ensure that convictions for relevant offences will always be dealt with under section 5B of that Act (attracting the 3 year loss of benefit sanction). This includes second and subsequent convictions which would otherwise be dealt with under section 6 of the SSFA 2001.

***Clause 114: Benefit offences: sanctions for repeated benefit fraud***

574. *Clause 114* amends section 6 (loss of benefit for second or subsequent conviction of benefit offence) of the SSFA 2001 to increase the periods of benefit payment disqualification following repeated benefit fraud. The benefit payment disqualifications will escalate according to the number of offences that have been committed, rather than according to the number of convictions. This means where there is a conviction, earlier offences counting toward escalation of the benefit payment disqualification would include offences dealt with by an agreement to pay a penalty under section 109A of SSAA 1992 as an alternative to prosecution or dealt with by a caution.
575. *Subsection (5)* lists the conditions which must be satisfied for a payment disqualification for repeated benefit fraud to apply.
576. *Subsection (7)* inserts a new subsection (6A) into section 6 to define the “relevant period” of benefit payment disqualification for section 6, which will differ according to the number of repeated benefit offences committed.
577. New subsection (6A)(a) introduces a three year loss of benefit sanction for claimants convicted of a benefit offence preceded by two previous offences (disqualifying events). It only applies where the earliest offence occurs within

five years of the second offence (which must have occurred within five years of the current offence). New subsection (6A)(b) introduces a 26 week period, to apply in all other cases, meaning cases where a claimant is convicted of a benefit offence preceded by one disqualifying event within five years of the current offence.

578. *Subsection (8)* inserts new subsection (7A) and (7B) which provide for payments and adjustments where the agreement of a person to pay a penalty under section 109A of the SSAA 1992 is taken into account for the purposes of section 6, but at a later date the agreement is withdrawn, or it is decided that the overpayment to which the notice relates is not recoverable or due, or the amount of the overpayment to which the penalty relates is revised and there is no new agreement in relation to the revised overpayment.
579. New subsection (8A) inserted by *subsection (10)*, provides that where a person is convicted of more than one offence in a set of proceedings, those offences are only counted once as a disqualifying event for the purposes of section 6.
580. *Subsection (11)* inserts new subsections (11) and (12) so that the Department has the power, by order, to amend the period of the benefit payment disqualification and to provide for different periods of payment disqualification to apply according to the type of earlier disqualifying events.

***Clause 115: Cautions***

581. *Clause 115* removes references to accepting a caution as a ground for imposing a sanction under both existing section 5B of the SSFA 2001 which is to be enacted by this Bill. Cautions for benefit offences will no longer be offered. Instead, they will be replaced by either a more severe administrative penalty or a prosecution.

***Clause 116: Information-sharing in relation to provision of overnight care etc***

582. *Clause 116* allows information to be used and supplied for the purpose of ensuring the correct amount of housing benefit is awarded in relation to people who are entitled to overnight care in their own homes; and for the purpose of assessing awards of benefit when a person is admitted to or discharged from hospital or residential care.
583. Claimants of certain social security benefits have their benefit awards reassessed when they go into or are discharged from hospital or residential care. Claimants are already required to report such changes. This provision will allow a relevant body to use that information themselves, or supply the information to the Department, the Housing Executive or the Department of Finance and Personnel (Land and Property Services), for purposes relating to



the payment of benefits. Relevant bodies will therefore be able to inform the Department or the Housing Executive or Land and Property Services (which deal with housing benefit) when a person has been, or is likely to be, admitted to or discharged from residential care or hospital. This will allow reassessment of benefit awards that are affected by these changes. *Subsection (2)(c)* also permits regulations to prescribe other information relevant bodies can supply to the Department relating to the funding regime covering a person's residential care or hospital stay as this can affect for example, their rate of personal independence payment.

584. People who are disabled and require an overnight carer will also be able to qualify for a higher rate of housing benefit if they have an extra room which is used by a non-resident carer or team of carers. This provision will also allow Housing Executive housing benefit teams to use information from social services teams to confirm whether a person does or may require an overnight carer; if social services are providing the carer; and confirmation that the care has been provided.
585. *Subsection (8)* defines the term "relevant body" for the purposes of *clauses 116 and 117* as a Health and Social Care trust or the Regional Health and Social Care Board.

***Clause 117: Information-sharing in relation to welfare services etc.***

586. *Clause 117* replaces the information sharing gateway in section 39 of the Welfare Reform Act (Northern Ireland) 2007 and broadens the scope of data sharing that is provided for under the existing section 39. It allows 'relevant information' to be shared between the Department, relevant bodies, the Housing Executive and Land and Property Services. Information can be shared in relation to the provision of a welfare service and for certain rates or housing benefit purposes.
587. Welfare services are defined in *subsection (8)*. Health and Social Care Trusts provide a range of welfare services to claimants in their area, and many of these are in part dependent on a means test either to determine eligibility or to assess a person's ability to contribute towards the cost of the service. Health and Social Care trusts require details of a person's income and capital to complete the means test. Often the customer is unable to provide all details and, Land and Property Services or the Housing Executive will be approached for information about any social security benefit in payment.
588. Legislation allows data to be shared in Northern Ireland for the purpose of deciding whether a person is entitled to free or subsidised help under the Supporting People scheme. Supporting People is a scheme that is part funded by a grant from central government and administered by the Housing

Executive. Legislation does not allow data to be shared in relation to other welfare services which are not grant funded.

589. *Subsection (1)* will allow the Department or a person providing services to it, to supply relevant information to the persons or bodies listed in *subsection (7)* for certain purposes relating to a welfare service or rates.
590. *Subsection (2)* allows a qualifying person providing welfare services (and others such as service providers) to supply relevant information to the Department (or the Department's service providers) in certain circumstances. This information can only be supplied for a prescribed purpose. This subsection may be used, for example, to allow the Housing Executive administering Supporting People to let the Department know if a person is considered vulnerable and requires housing costs to be paid direct to the landlord
591. Relevant information is defined in *subsection (8)* as information relating to any relevant social security benefit, as well as welfare services
592. *Subsection (3)* replaces and extends the regulation-making power in section 39(2). The power may be used to enable qualifying persons (the persons listed in subsection (7)) to use information held for one purpose for other purposes, subject to those purposes being purposes relating to welfare services rates or housing benefit. The power may also be used to enable information to be supplied to another such person for use in the same or another circumstance relating to housing benefit rates or welfare services. This will be used to allow the types of information exchange that take place between Housing Executive Supporting People teams and Housing Benefit teams. These teams may use the information to help them decide if a person is entitled to free help from Supporting People, or when making certain decisions relating to a person's housing benefit

***Clause 118: Unlawful disclosure of information***

593. Section 40 of the WRA 2007 made it an offence for a person to disclose without lawful authority information supplied by virtue of section 39 of the WRA 2007. *Clause 118* creates a similar unlawful disclosure provision in relation to information received by virtue of *clause 117*.
594. *Subsection (2)* sets out to whom this section applies. Relevant persons in the Department are not covered by this new section as there is an existing unlawful disclosure provision in section 117 of the SSAA 1992 which applies to them.

595. Unauthorised disclosure is an offence subject to a fine or imprisonment or both.

596. This section complements section 117 of the SSAA 1992.

***Clause 119: Sections 116 and 118: supplementary***

597. *Clause 119* enables regulations under *clause 116* (information-sharing in relation to provision of overnight care etc) and *clause 117* (information-sharing in relation to welfare services etc) to make consequential, supplementary incidental, transitional or saving provision. *Subsection (3)* provides that all regulations under *clauses 116 and 117* will be subject to the negative resolution procedure.

***Clause 120: Information-sharing for social security or employment purposes etc***

598. *Clause 120* amends Article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999. This Article, as amended by section 28 of the WRA 2010, enables the Department to make regulations allowing certain persons, including the Department for Social Development, to share social security and employment and training information with other Government Departments and their service providers, and with persons designated by an order. Regulations can also make provisions about the use of such information and its supply by such persons.

599. The words “(specifically or by description)” are inserted into Article 69(2)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 so that it now expressly provides for a department by order to designate by *description* as well as retaining the ability to specify individual organisations. Organisations such as those delivering skills, employment and training services to Jobs and Benefits Offices are continuously changing. The express power to designate by description makes it absolutely clear the Department does not have to continually update the designation order.

***Clause 121: Reports by Department***

600. *Clause 121* amends Article 76 of the SSO 1998 to provide for an annual report to be produced and laid before the Assembly to report information on sanctions and on the standards of advice and assistance given under this Act. The current annual report on standards of decision making within the Social Security Agency will be expanded to include information on sanctions and standards of advice and assistance.

## **Part 6: Miscellaneous**

### ***Clause 122: Supporting maintenance agreements***

601. Article 11 of the Child Support (Northern Ireland) Order 1991 makes clear that parents may make agreements for child maintenance outside the statutory scheme, but if they have done so, none of the parties to that agreement are then prevented from applying to the statutory scheme. The Department's intention is to ask parents whether they could reach their own collaborative arrangements and to support them in doing so.
602. *Clause 122(1)* inserts a new paragraph (2A) into Article 11 which allows the Department to take appropriate steps to encourage the making and keeping of family-based maintenance agreements. This includes the Department inviting an applicant to consider with them whether it is possible to make such an agreement, before the Department accepts an application. This will apply to applications from persons with care and non-resident parents.
603. *Subsection (2)* amends paragraph 3 of Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 which deals with the transfer of cases in the existing child support schemes to the new scheme, which is due to start for new customers in late 2012. Where an individual decides that they wish to apply to the new scheme the amendment will ensure that they will also be invited to consider along with the Department whether it is possible to make a family-based arrangement first.

### ***Clause 123: Collection of child support maintenance***

604. Article 7 of the Child Support (Northern Ireland) Order 1991 provides that a person with care or a non-resident parent may apply for a maintenance calculation under that Order. Article 7(2) provides that once a calculation has been made, it is open to either the person with care or the non-resident parent to ask the Department to arrange for the collection of the maintenance payable.
605. *Clause 123(2)* repeals some of the wording in Article 7(2), and inserts a new paragraph (2A). Taken together, the changes mean that if a person with care asks the Department to collect the maintenance payable, the Department will only do so if the non-resident parent agrees, or where it is satisfied that the non-resident parent is unlikely to make payments.

### ***Clause 124: Indicative maintenance calculations***

606. To support the making of maintenance agreements outside the statutory scheme, the Department will provide a service which will give parents an

indication of the amount of maintenance which would be payable under the statutory child maintenance scheme if an application were to be made. *Clause 124* therefore inserts new Article 11A into the Child Support (Northern Ireland) Order 1991 making provision for such a service. The provision will enable an application for an indicative maintenance calculation to be made to the Department by a person with care or a non-resident parent.

607. An indicative calculation will be made on exactly the same basis as a maintenance calculation, were an application made to the statutory scheme, but will not create any liability to pay maintenance. Where parentage of the child or children is denied, Article 11A(5) will prevent the Department from providing an indicative maintenance calculation, unless the person who denies parentage has been shown, through a DNA test, to be the parent of that child or children. Instead the applicant will be advised to make a full application to the statutory scheme.

***Clause 125: Recovery of child support maintenance by deduction from benefit***

608. Currently Article 40 of the Child Support (Northern Ireland) Order 1991 makes provision for the recovery of child support maintenance by deduction from benefit. Paragraph (2) of that Article provides that the power of the Department to make regulations under section 5 of the Social Security Administration (Northern Ireland) Act 1992 includes power to secure payment of child support maintenance by a deduction from benefit.
609. *Clause 125* substitutes paragraphs (1) and (2) of Article 40 of the 1991 Order with two new paragraphs. The new paragraphs continue to allow for the recovery of child support maintenance by deduction from benefit (including the recovery of arrears). They also allow for the recovery by deduction from benefit of fees payable under section 3 of the Child Maintenance Act (Northern Ireland) 2008 (“the 2008 Act”) by the non-resident parent.

***Clause 126: Fees***

610. *Clause 126* amends section 3 of the 2008 Act to further illustrate and clarify the scope of the regulation-making power within subsection (1). It clarifies that the power under subsection (1) can be used to make provision for the apportionment of fees and waiver (and matters to be taken into account in determining any such apportionment and waiver).
611. *Subsection (3)* amends section 3 by inserting new subsections (3A) to (3D). These subsections require the Department to review the effect of the first regulations made under section 3(1) of the 2008 Act (regulations about the charging of fees by the Department in connection with its functions). The review must take place within 30 months from the date that those regulations

come into operation. They also require the Department to make and publish a report after the review. The report should contain the conclusions of the review and a statement as to what the Department proposes to do in view of those conclusions. The Department must lay the report before the Assembly.

***Clause 127: Exclusion from individual voluntary arrangements***

612. An individual voluntary arrangement (IVA) is a legally binding arrangement supervised by a Licensed Insolvency Practitioner, the purpose of which is to enable an individual, sole trader or partner to reach a compromise with his creditors and avoid the consequences of bankruptcy.
613. *Clause 127* amends Article 9 of the Insolvency (Northern Ireland) Order 1989 (“bankruptcy debt etc.”), to make it clear that a liability under the Child Support (Northern Ireland) Order 1991 to pay child support maintenance is not a debt or liability which can be included in an IVA. Thus a non-resident parent who owes arrears of child support maintenance will not be able to reduce his liability by means of an IVA.

***Clause 128: Use of jobcentres by sex industry***

614. *Clause 128* inserts a new section, section 1A, into the Employment and Training Act (Northern Ireland) 1950, removing the obligation for the Department for Employment and Learning, via the jobcentres, to advertise certain types of vacancies or opportunities in the sex industry.
615. Under the Employment and Training Act (Northern Ireland) 1950 the Department for Employment and Learning is obliged to help employers to fill vacancies and jobseekers to find jobs. *Subsection (1)* qualifies this obligation and states that the Department for Employment and Learning must not help employers to fill vacancies and jobseekers to find jobs in respect of employment for sexual purposes.
616. *Subsection (2)* sets out when a job would be considered as employment for sexual purposes. This includes vacancies which involve performing activities to sexually stimulate others, but would not cover, for example, jobs involved in the retail or manufacture of sexual products.
617. *Subsection (3)* states that regulations to specify exceptions to subsection (1) made under *subsection (3)* will be subject to the negative resolution procedure.

***Clause 129: Reduced fee for dog licences***

618. Provision in the Bill updates the Dogs (Northern Ireland) Order 1983 to include certain income-related benefits for the purposes of a “passport benefit” – reduced dog licence fees.

**Part 7: Final**

***Clause 130: Rate relief schemes: application of housing benefit law***

619. *Clause 130* amends Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief scheme in respect of dwellings) to allow a scheme under that Article to replace the rates element of Housing Benefit, when it ceases. . It also allows regulations for rates to correspond with Universal Credit statutory provisions in a similar way to the current provision in relation to Housing Benefit corresponds to income-related benefits.

***Clause 131: Discretionary support***

620. *Clause 131* provides the powers for the Department to introduce Discretionary Support assistance to replace those Social Fund components, which are to be abolished.
621. The proposed repeal of certain Social Fund services will mean the removal of community care grants and crisis loans for living expenses and household items from this system and has prompted the Department to develop new provision for Northern Ireland.
622. The objectives of the new provision are to:
- alleviate the most exceptional, extreme or crisis situations which present significant risk to the health, safety or well being of low income and vulnerable households through the provision of practical support.
  - ensure that those facing the most extreme hardship, as a result of the adjustment to the changes to the social security regime, are supported in their efforts towards self dependency where access to discretionary support would avoid or reduce major risk or life threatening circumstances;
  - maximise the effectiveness of discretionary support by ensuring that people in such circumstances have timely and appropriate access to, and support from, the range of Government funded general and specialist information and advice services in order to minimise the risk of re-

occurrence, support greater self reliance and independence and improve social and financial inclusion.

***Clause 132: Discretionary support Commissioner***

623. *Clause 132* defines the recruitment, role and responsibilities of the Discretionary Support Commissioner and their staff. An important aspect of the Discretionary Support Provision is the need for an independent review mechanism of decisions.

***Clause 133: Payments to persons suffering financial disadvantage***

624. *Clause 133* provides the powers for the Department to introduce schemes to make payments to people who suffer adverse impact as a result of the welfare changes in Northern Ireland.

625. *Subsection (2)* provides for the making of regulations which will set out the detail of the schemes. *Subsection (3)* contains provisions about determining whether a person has suffered financial disadvantage; prescribing the circumstances and conditions for when payments will be made and determining amounts and periods of payments. It allows the form and manner of which claims will be made and the cases in which payments can be made without a claim being made, or in which payments will cease. *Subsection (3)* also allows for conditions to be imposed on claimants in relation to the provision of information, for the disclosure of information relating to payments in prescribed circumstances or to prescribed persons; for the recovery of payments in prescribed circumstances and review of those decisions.

626. *Subsection (4)* provides for payments under the schemes not to be treated as social security benefits and for social security benefits to be modified in relation to taking account of payments under these schemes.

627. *Subsection (5)* requires the Department to report annually on expenditure under the schemes.

628. *Subsection (6)* requires the draft affirmative procedure of Assembly Control for regulations under this section.

***Clause 134: Duty to ensure availability of advice and assistance***

629. *Clause 134* creates a duty on the Department to ensure the availability of advice and assistance to anyone making a claim under this Act in connection with that claim.



***Clause 135: Duty to report on operation of this Act***

630. *Clause 135* creates a duty on the Department to publish a report on the operation of the Act within 3 years of Royal Assent and lay the report before the Assembly.

***Clause 136: Repeals***

631. *Clause 136* gives effect to *Schedule 12* which makes provision for repeals resulting from provisions in the Bill. The Schedule is divided into 12 Parts, as follows:

- Part 1 – Abolition of benefits superseded by universal credit
- Part 2 – Entitlement to jobseeker's allowance without seeking employment
- Part 3 – Jobseeker's allowance: responsibilities for interim period
- Part 4 – Jobseeker's allowance: responsibilities after introduction of universal credit
- Part 5 – Employment and support allowance: responsibilities after introduction of universal credit
- Part 6 – Industrial injuries arising before 5 July 1948
- Part 7 – Social fund: ending of discretionary payments
- Part 8 – Disability living allowance
- Part 9 – Powers to require information relating to claims and awards
- Part 10 – Recovery of benefit payments
- Part 11 – Loss of benefit
- Part 12 – Information-sharing

***Clause 137: General Interpretation***

***Clause 138: Commencement***

632. *Clause 138(1)* lists those provisions which will come into operation on the day after Royal Assent.

633. The remaining provisions will be brought into operation by means of commencement orders made by the Department as a result of *subsection (2)*. The orders may appoint different days for different areas in relation to provisions in Part 1 (universal credit), Part 1 of Schedule 12, clause 61 or 62 (entitlement to work: jobseeker's allowance and employment and support allowance) or clause 103 (consideration of revision before appeal); and make necessary or expedient transitory, transitional or savings provisions.

## **FINANCIAL EFFECTS OF THE BILL**

634. The Department estimates the main spending control measures on benefit expenditure will be as follows:

- No savings in the financial year 2014/15;
- savings of £30m in the financial year 2015/16;
- savings of £68m in the financial year 2016/17;
- savings of £120m in the financial year 2017/18.

635. These estimates are highly dependent on a number of variables including economic growth rates, labour market conditions, future inflation rates and customer behaviour. They are dependent on assumptions about the policy design, the timetable for implementation and rollout. These are in cash terms, so they represent the estimated amount of money expected in each year.

636. The estimated fiscal impacts of specific measures are set out in the table below. In general the numbers are broadly consistent with estimates produced to inform the submission for Autumn Statement 14.

<b>MEASURE</b>	<b>2014/15 £m</b>	<b>2015/16 £m</b>	<b>2016/17 £m</b>	<b>2017/18 £m</b>
Housing Benefit - size restrictions in social sector	-	16	18	17
DLA Reform	-	2	21	75
Benefit Cap	-	1	1	1
ESA Time-limiting	-	11	28	27
<b>Total</b>	-	30	68	120

637. As part of the Stormont House Agreement the NI Executive agreed to develop a range of measures for up to a 6 year period to accompany the implementation of Welfare Reform in Northern Ireland. The NI Executive has set aside £26.9m in its 2015-16 budget. An average of £94million per annum is to be made available in each of the remaining years.

#### **EFFECTS OF THE BILL ON PUBLIC SECTOR MANPOWER**

638. There is no specific change in public sector manpower forecasted at this time. Some of the provisions relating to universal credit, JSA and ESA will demand more interaction between DSD and DEL staff and recipients of benefit, so to that extent may have an impact on public sector manpower in the short term. But the aim of those measures is to secure that people return to work more quickly, thus reducing demands on public sector manpower in the long run.

#### **HUMAN RIGHTS ISSUES**

639. The provisions of the Bill are compatible with the provisions of the Human Rights Act 1998.

#### **EQUALITY IMPACT ASSESSMENT**

640. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted an Equality Impact Assessment. The consultation period ran from 5 September 2011 to 30 November 2011.
641. Copies of this Assessment have been laid in the Northern Ireland Assembly Business Office and placed in the Library of the Northern Ireland Assembly and can be accessed at [http://www.dsdni.gov.uk/index/publications/other\\_reports/equality/dsd-equality-impact-assessments/dsd-equality-impact-assessments-archive.htm](http://www.dsdni.gov.uk/index/publications/other_reports/equality/dsd-equality-impact-assessments/dsd-equality-impact-assessments-archive.htm).

#### **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

642. A Regulatory Impact Assessment is published alongside the Welfare Reform Bill. Copies are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA.
643. The main point made in the Regulatory Impact Assessment is that these proposals would not have any particular effect on small businesses, charities or the voluntary sector.

**LEGISLATIVE COMPETENCE**

644. The Minister for Social Development has made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view The Welfare Reform Bill would be within the legislative competence of the Northern Ireland Assembly.”*

**SECRETARY OF STATE CONSENT**

645. The Secretary of State had consented under section 8 of the Northern Ireland Act 1998 to the Assembly considering this Bill.