

**AMENDMENT TO THE NORTHERN IRELAND
RECIPROCAL ARRANGEMENTS REGULATIONS IN
RESPECT OF BEREAVEMENT SUPPORT PAYMENT
(BSP), ESA(CONT) AND JSA(IB)**

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INTRODUCTION

1. This memo provides guidance to DMs on the changes made by the SS (NI Reciprocal Arrangements) (Amendment) Regulations 2016 (S.I. 2016 / 1050). The changes take effect on 27.11.16 for JSA (IB) and ESA(Cont)¹, and on 06.4.17 for BSP².

1 SS (NI Reciprocal Arrangements) (Amendment) Regs 2016, reg 1((2)a); 2 reg 1(2)(b)

JSA(IB) AND BSP

2. From 6 April 2016, under the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 2016, JSA(Cont) continued to be included within the scope of the reciprocal arrangements with Northern Ireland. However, JSA(IB) remained excluded. From date at para 1. above JSA(IB)¹ will also be included in the reciprocal arrangements.

1 SS (NI Reciprocal Arrangements) Regs, Sch, Article 1(1) definition of "legislation" sub-paras (a)(iii) & (b)(iii)

3. From the date at para 1. above, BSP¹ will also be included in the reciprocal arrangements, this being the date BSP will be introduced.

ESA(CONT)

4. Prior to April 2016, there was no reciprocal arrangement in place between GB and NI in respect of ESA. This meant that ESA claimants who moved between the two territories were required to make a new claim for ESA regardless of their entitlement in the other territory. As a consequence of this, there were claimants who had been entitled to ESA(Cont) in the territory that they departed, but who were not entitled to ESA(Cont) in the new territory, because they were unable to rely on the same national insurance contributions. To mitigate for this, these claimants have been made extra-statutory payments, equivalent to the amount of ESA(Cont) they would have received if there had been a reciprocal arrangement in place..
5. Under the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 2016¹, ESA was brought into the reciprocal arrangements. However, this only benefited claimants who moved between the two territories on or after 6 April 2016; people who moved before this date have continued to receive extra-statutory payments, where appropriate. The Amendment Regulations place these payments on a statutory footing.

¹SS (NI Reciprocal Arrangements) Regs, Sch, Article 1(1) definition of "legislation" sub-paras (a)(vi) & (b)(vi)

6. Paragraph 7 below applies to a claimant¹ who
 1. was entitled to an award of ESA(Cont) **and**
 2. moved between NI and GB or GB and NI **and**
 3. lost their entitlement as a consequence of the move, because (due to a lack of reciprocal arrangements between GB and NI before April 2016) they had to make a new claim and couldn't rely on the same National Insurance contributions as before **and**
 4. does not satisfy the conditions² where they have moved to **and**
 5. on 27.11.16 satisfies the basic conditions of entitlement to ESA³ **and**
 6. up to 26.11.16 has been paid a weekly sum equivalent to their previous entitlement to ESA(Cont) on an extra-statutory basis.

¹ SS (NI Reciprocal Arrangements) Regs, Sch, Art 2A; ² Welfare Reform Act 2007, Sch 1, Part 1, Welfare Reform Act 2007(NI), Sch 1, Part 1; ³ Welfare Reform Act 2007, s1(3), Welfare Reform Act 2007 (NI), s1(3)

7. A claimant to whom para 6 above applies is, for the purposes of entitlement to ESA

1. treated as having made a claim for ESA on 27.11.16 **and**

2. treated as satisfying the contribution conditions

and the period of LCW in respect of the award referred to in para 6.1 and the period of LCW in relation to the claim is treated as one continuous period of LCW¹.

1 SS (NI Reciprocal Arrangements) Regs, Sch, Art 2B

Example

John was awarded ESA(Cont) in Belfast in 2008. Following the WCA, he is placed in the work-related activity group. He moves to GB in 2010. Due to the absence of a reciprocal arrangement in respect of ESA between Great Britain and Northern Ireland, his entitlement to ESA(Cont) ceases because he cannot satisfy the contribution conditions. He is paid by the Secretary of State on an extra-statutory basis an amount equal to his previous weekly entitlement to ESA(Cont). Payments continue up to and including 26.11.2016. Assuming that John still satisfies the basic conditions for entitlement to benefit on 27.11.16 a DM treats John as having made a new claim to ESA(Cont). The DM determines that the contribution conditions are treated as being satisfied and also that John should be placed in the work-related activity group. Applying the 365 day time limit on entitlement, an award of ESA(Cont) is made to John for the fixed period 27.11.16 – 26.11.17. John's award will include the WRAC and he will not have to serve waiting days or the assessment phase.

ANNOTATIONS

Please annotate the number of this memo (1/17) against the following DMG paragraph:

70530 and 73793

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 23/16](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: January 2017

