

Changes to legislation: There are currently no known outstanding effects for the *The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010, PART 4.* (See end of Document for details)

SCHEDULE 2

Modification of statutory provisions: after the conversion phase

PART 4

MODIFICATION OF OTHER SUBORDINATE LEGISLATION

The Social Security (Claims and Payments) Regulations

5. The Claims and Payments Regulations are to be read as if—

- (a) in regulation 2(1) after the definition of “employment officer”(1) there were inserted—
“the Existing Awards Regulations” means the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010;”;
- (b) in regulation 3 (claims not required for entitlement to benefit in certain cases) after paragraph (j)(2) there were added—
 - “(k) the beneficiary—
 - (i) has made and is pursuing an appeal against a conversion decision made by virtue of the Existing Awards Regulations which embodies a determination that the beneficiary does not have limited capability for work; or
 - (ii) was entitled to an employment and support allowance by virtue of the Existing Awards Regulations and has made and is pursuing an appeal against a later decision which embodies a determination that the beneficiary does not have limited capability for work;
- (l) in the case of an employment and support allowance where the beneficiary is entitled to an existing award which is subject to conversion under the Existing Awards Regulations.”;
- (c) in regulation 26C(3) (employment and support allowance) any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under the Existing Awards Regulations;
- (d) in regulation 32(1B)(4) (information to be given and changes to be notified)—
 - (i) the word “or” at the end of sub-paragraph (a) were omitted, and
 - (ii) after that sub-paragraph, there were inserted—
“(ab) the amount of any transitional addition to which the beneficiary is entitled under the Existing Awards Regulations; or”;
- (e) in Schedule 8A(5) (deductions from benefits and direct payment to third parties) in paragraph 1 (interpretation)—
 - (i) in sub-paragraph (1) in the definition of “applicable amount”(6), after “Employment and Support Allowance Regulations;” there were inserted “in the case of an income-related employment and support allowance by virtue of the Existing Awards Regulations it means the aggregate of the amounts for the family as determined under regulation 67(1)(a), (b) and (d) or 68(1)(a) to (c) and (e) of the Employment and

(1) The definition of “employment officer” was inserted by regulation 2(2)(a) of [S.R. 2000 No. 365](#)

(2) Paragraph (j) was substituted by regulation 3 of [S.R. 2010 No. 200](#)

(3) Regulation 26C was inserted by regulation 13(13) of [S.R. 2008 No. 286](#)

(4) Paragraph (1B) was inserted by regulation 2 of [S.R. 2003 No. 224](#) and substituted by regulation 2 of [S.R. 2003 No. 527](#)

(5) Schedule 8A was inserted by regulation 2(3) of [S.R. 1988 No. 67](#)

(6) The definition of “applicable amount” was amended by regulation 2(26)(a)(i) of [S.R. 1996 No. 354](#) and regulation 13(18)(a)(i) of [S.R. 2008 No. 286](#)

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Support Allowance Regulations as modified by paragraph 4(f) and (g) of Schedule 2 to the Existing Awards Regulations and”,

- (ii) in sub-paragraph (2)(7) after ““employment and support allowance” means”, there were inserted “(subject to sub-paragraph (3))”, and
- (iii) after sub-paragraph (2) there were added—

“(3) In the application of sub-paragraph (2) to a beneficiary whose award of an employment and support allowance is by virtue of the Existing Awards Regulations, any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under those Regulations.

(4) Where a specified benefit awarded to a beneficiary is subject to conversion under the Existing Awards Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the beneficiary, any deduction is being made in accordance with this Schedule from sums payable to the beneficiary by way of the specified benefit; and
- (b) with effect from that date, the award of specified benefit is converted into an award of an employment and support allowance under the Existing Awards Regulations,

any deduction falling within head (a) shall have effect as a deduction from the employment and support allowance to which the beneficiary is entitled.”;

- (f) in Schedule 8C(8) (deductions from benefit in respect of child support maintenance and payment to persons with care)—

- (i) in paragraph 1 (interpretation), the existing provision becomes sub-paragraph (1), and
- (ii) after that sub-paragraph there were added—

“(2) In the application of this Schedule to a beneficiary whose award of an employment and support allowance is by virtue of the Existing Awards Regulations, any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under those Regulations.

(3) Where a specified benefit awarded to a beneficiary is subject to conversion under the Existing Awards Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the beneficiary, any deduction is being made in accordance with this Schedule from sums payable to the beneficiary by way of the specified benefit; and
- (b) with effect from that date, the award of specified benefit is converted into an award of an employment and support allowance under the Existing Awards Regulations,

any deduction falling within head (a) shall have effect as a deduction from the employment and support allowance to which the beneficiary is entitled.”.

Commencement Information

II Sch. 2 para. 5 in operation at 1.10.2010, see [reg. 1](#)

(7) Sub-paragraph (2) was added by regulation 7(a)(ii) of [S.R. 2008 No. 413](#)

(8) Schedule 8C was inserted by regulation 2(3) of [S.R. 2001 No. 22](#)

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[^{F1}The Social Security and Child Support (Decisions and Appeals) Regulations

Textual Amendments

- F1** Sch. 2 para. 5A inserted with cross heading (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), **2(14)(d)**

5A. The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 are to be read as if—

- (a) in regulation 1(2) (interpretation), after the definition of “the Employment and Support Allowance Regulations” there were inserted—

““the Existing Awards Regulations” means the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010;”;

- (b) in regulation 3 (revision of decisions)—

(i) in paragraph (1)(a), in the case of a revision of a decision to award jobseeker’s allowance made following the reinstatement of an existing award in accordance with regulation 15(5) of the Existing Awards Regulations (conversion decision that existing award does not qualify for conversion), the words “within one month of the date of notification of the original decision” were omitted,

(ii) in paragraph (9), in the case of a conversion decision where there has been a change of circumstances to which regulation 12(4) of the Existing Awards Regulations (regulations 10 and 11: supplementary) applies, sub-paragraph (a) were omitted, and

(iii) in paragraph (9)(a) for “in the case of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations” there were substituted “in the cases of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or a conversion decision within the meaning of regulation 5(2)(a) of the Existing Awards Regulations”;

- (c) in regulation 6(2)(a)(i) (supersession of decisions) for “in the case of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or regulation 146 of the Employment and Support Allowance Regulations” there were substituted “in the cases of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations or regulation 146 of the Employment and Support Allowance Regulations or a conversion decision within the meaning of regulation 5(2)(a) of the Existing Awards Regulations”.]

Textual Amendments

- F1** Sch. 2 para. 5A inserted with cross heading (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/347\)](#), regs. 1(2), **2(14)(d)**

The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations

6. Regulation 5A(2) of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations (Northern Ireland) 2001(⁹) (earnings factor credits

(⁹) [S.R. 2001 No. 440](#); regulation 5A was inserted by regulation 4(5) of [S.R. 2010 No. 56](#)

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eligibility for pensioners to whom employment and support allowance was payable) is to be read as if—

- (a) the word “or” after sub-paragraph (b) were omitted; and
- (b) after that sub-paragraph there were inserted—
 - “(ba) that allowance was an employment and support allowance to which the pensioner was entitled by virtue of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 and either—
 - (i) long-term incapacity benefit or severe disablement allowance was payable to the pensioner immediately before its conversion into an employment and support allowance in accordance with those Regulations; or
 - (ii) the condition in sub-paragraph (b) was satisfied; or”.

Commencement Information

I2 Sch. 2 para. 6 in operation at 1.10.2010, see [reg. 1](#)

[F2] Social Security (Habitual Residence) Amendment Regulation

Textual Amendments

F2 [Sch. 2 para. 7](#) and cross-heading added (31.10.2011) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/357\)](#), regs. 1(1), **25(4)(b)**

7. Regulation 6 of the Social Security (Habitual Residence) Amendment Regulations (Northern Ireland) 2004 (transitional arrangements and savings) is to be read as if—

- (a) in paragraph (1)—
 - (i) sub-paragraphs (a), (b) and (d) were omitted; and
 - (ii) for sub-paragraph (c) there were substituted—
 - “(c) is entitled to an employment and support allowance by virtue of—
 - (i) the Existing Awards Regulations, or
 - (ii) regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) in the circumstances where the person has made and is pursuing an appeal against a conversion decision made under the Existing Awards Regulations which embodies a determination that the person does not have limited capability for work,
- and immediately before the effective date of the conversion decision made in respect of that person, was entitled to a specified benefit in respect of a period which was continuous with a period of entitlement to the same or another specified benefit which included 30th April 2004;” and
- (b) in paragraph (4), before sub-paragraph (a) there were inserted—

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“(za) “conversion decision” and “effective date” have the same meanings as in regulation 2(1) of the Employment and Support Allowance (Transitional Provisions, and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010;”.]

Changes to legislation:

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