SCHEDULE 3

MODIFICATIONS OF THE 2010 TRANSITIONAL REGULATIONS

21.—(1) The following amendments to Schedule 2 (modification of enactments: after the conversion phase).

(2) In paragraph 1—

(a) in sub-paragraph (b)(i) in the modified section 1(2)—

(i) in paragraph (a), for "or awards into a single award of employment and support allowance" substitute "into an award of an employment and support allowance; and";

(ii) at the end of paragraph (b), for "; and" substitute ",";

(iii) omit paragraph (c);

(iv) in sub-paragraph (b)(ii) in the modified section 1(7)—

(aa) for the definition of "contributory allowance" substitute—

""employment and support allowance" means an employment and support allowance to which a person is entitled by virtue of the Existing Awards Regulations which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled."

(bb) omit the definition of "income-related allowance";

(v) in sub-paragraph (ba)—

(aa) in sub-paragraph (i), omit "contributory"; and

(bb) in sub-paragraph (ii) in the substituted section 1A—

(cc) in paragraphs (1) and (3) to (5), for "a contributory allowance" substitute "an employment and support allowance"; and

(dd) in paragraph (3), omit "Part 1 of";

(vi) in sub-paragraph (c)(ii), for "regulation 147A of the Employment and Support Allowance Regulations" substitute "regulation 87 of the Employment and Support Allowance Regulations 2016";

(vii) omit sub-paragraphs (d) and (f).

(3) In the heading to Part 2, after "Regulations" insert "2016";

(4) In paragraph 4—

(a) after "Regulations" insert "2016";

(b) in sub-paragraph (b), for "regulation 147A of those Regulations" substitute "regulation 87 of those Regulations";

(c) in sub-paragraph (c), for "regulation 30" substitute "regulation 26";

(d) for sub-paragraph (e) substitute—

"(e) regulation 39 (exempt work) is to be read as if, in the definition of "work period" in paragraph (6), after "referred to in paragraph (1)(c)", in both places where it occurs, there were inserted ", or any work done in accordance with regulation 17(4) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**1**)";";

(e) for sub-paragraph (f) substitute—

(**1**) Regulation 17(4) was amended by regulation 6(4)(a) of S.R. 2011 No. 135 and regulation 2(a) of S.R. 2017 No. 50.

"(f) Regulation 67 (prescribed amounts) is to be read as if, in paragraph (1), for sub-paragraphs (a) and (b) there were substituted—

(a) (i) where the claimant satisfies the conditions set out in section 2(2) or (3) of the Act, £73.10; or

(ii) where the claimant does not satisfy the conditions set out in section 2(2) or (3) of the Act—

(aa) where the claimant is aged not less than 25, £73.10; or

(bb) where the claimant is aged less than 25, £57.90; and

(b) the amount of any transitional addition to which the person is entitled under regulation 10 of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010.";

(f) omit sub-paragraph (g);

(g) in sub-paragraph (h), for "regulation 75" substitute "regulation 68";

(h) in sub-paragraph (i)—

(i) in the introductory words, for "regulation 147A" substitute "regulation 87";

(ii) in the inserted regulation—

(aa) in the description of the number of the regulation, for "147A.—" substitute "87.—";

(bb) in paragraph (2), for "regulation 19" substitute "regulation 15";

(cc) in paragraph (4)(a), for "regulation 22 or 23" substitute "regulation 18 or 19";

(dd) for "regulation 30", in all places where it occurs, substitute "regulation 26";

(ee) in paragraph (5)(c), for the words from ", struck out" to "(making of appeals and application)" substitute "or struck out";

(ff) in paragraph (6), for "either—" and sub-paragraphs (a) and (b) substitute "receives the Appeal Tribunal's notification that the appeal is dismissed, withdrawn or struck out.";

(i) omit sub-paragraph (j).

(5) In paragraph 5—

(a) in the introductory words, after "Regulations" insert "2016";

(b) for sub-paragraph (b) substitute—

"(b) Regulation 6 (claims not required for entitlement to an employment and support allowance in certain areas) is to read as if after paragraph (1) there were inserted—

"(1A) It is also not to be a condition of entitlement to an employment and support allowance that a claim be made for it where any of the following conditions are met—

(a) the claimant—

(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 claimant does not have limited capability for work; or

(b) the claimant is entitled to an existing award which is subject to conversion under the Existing Award Regulations.”.”.

(c) in sub-paragraph (c), for “regulation 26C” substitute “regulation 46”;

(d) in sub-paragraph (d)—

(i) for “regulation 32(1B)” substitute “regulation 37(4)”;

(ii) in paragraph (i), for the words “sub-paragraph (a)” substitute “sub-paragraph (b)”;

(iii) in paragraph (ii), for “(ab)” substitute (bb);

(e) omit sub-paragraph (e);

(f) in sub-paragraph (f), for “Schedule 8C” substitute “Schedule 6”.