
STATUTORY INSTRUMENTS

2008 No. 1082

The Employment and Support Allowance (Consequential Provisions) Regulations 2008

PART 2

Common provisions

Amendment of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006

2. In paragraph 5(2) of Schedule 3 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 ^{M1} (transitional and savings provisions), in the paragraph inserted as paragraph (4) of regulation 13 of both the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 after sub-paragraph (c) insert—

- “(ca) has limited capability for work [^{F1}within the meaning of section 1(4)] of the Welfare Reform Act 2007; or
- (cb) is treated as not having limited capability for work in accordance with regulations made under paragraph 1(a) of Schedule 2 to that Act (employment and support allowance: supplementary provisions); or”.

F1 Words in reg. 2 substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), 25

Marginal Citations

M1 [S.I. 2006/217](#). Paragraph 5(2) was amended by SI. 2007/2870 and 2008/1042.

[^{F2}Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

3.—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “relevant decision” add—

““the Welfare Reform Act” means the Welfare Reform Act 2007.”.

(3) In regulation 7(2) (decisions superseding earlier decisions)—

(a) in sub-paragraph (i) at the beginning insert “except where sub-paragraph (o) applies,”; and

(b) after sub-paragraph (n) add—

“(o) where—

- (i) the claimant has been awarded entitlement to housing benefit or council tax benefit;
- (ii) the claimant or the claimant's partner has made a claim for employment and support allowance;
- (iii) subsequent to the first day of the period to which entitlement to housing benefit or council tax benefit relates, the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act; and
- (iv) either—
 - (aa) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (bb) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.”.

(4) In regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (14C) insert—

“(14D) Where the decision is superseded in accordance with regulation 7(2)(o), the decision shall take effect from—

- (a) the first day of entitlement to an amount in consequence of the decision of the Secretary of State referred to in regulation 7(2)(o)(iii); or
- (b) the first day that there would have been such entitlement had the claimant or the claimant's partner been entitled to an employment and support allowance by virtue of section 1 of the Welfare Reform Act,

if that day is the first day of the benefit week but, if it is not, from the next following such day.”].

<p>F2 Reg. 3 substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/2428), regs. 1(2), 26</p>
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Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Consequential Provisions) Regulations 2008, PART 2.