
STATUTORY INSTRUMENTS

2008 No. 1554

The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008

PART 5

Miscellaneous Amendments

CHAPTER 1

Statutory Payments

Amendment of the Social Security Contributions and Benefits Act 1992

44. After paragraph 2(d) ^{M1} of Schedule 11 to the Social Security Contributions and Benefits Act 1992 (circumstances in which periods of entitlement to statutory sick pay do not arise) insert—

“(dd) in the period of 85 days ending immediately before the relevant date the employee had at least one day on which he was entitled to an employment and support allowance (or would have been so entitled had he satisfied the requirements in section 1(2) of the Welfare Reform Act 2007.”.

Marginal Citations

M1 1992 c. 4. Paragraph (2) was amended by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#) and the relevant amending Instruments are [S.I. 2002/2034](#) and [2006/1031](#).

Amendment of the Statutory Sick Pay (General) Regulations 1982

45.—(1) In regulation 3 of the Statutory Sick Pay (General) Regulations 1982 ^{M2} (period of entitlement ending or not arising) after paragraph (2B) insert—

“(2C) A period of entitlement in respect of an employee who was entitled to employment and support allowance shall not arise in relation to any day within a period of limited capability for work beginning with the first day on which paragraph 2(dd) of Schedule 11 to the Contributions and Benefits Act ceases to have effect where the employee in question is a person to whom regulation 148 of the Employment and Support Allowance Regulations 2008 (work and training beneficiaries) applies.”.

Marginal Citations

M2 [S.I. 1982/894](#). Paragraph (2B) was inserted by [S.I. 2007/825](#).

Amendment of the Statutory Maternity Pay (General) Regulations 1986

46. In regulation 25A(1) of the Statutory Maternity Pay (General) Regulations 1986^{M3} (provision of information relating to claims for certain other benefits) for “or incapacity benefit”, substitute “, incapacity benefit or an employment and support allowance”.

Marginal Citations

M3 [S.I. 1986/1960](#). Regulation 25A was inserted by [S.I. 1990/622](#) and amended by [S.I. 1995/829](#) and [2002/2690](#).

CHAPTER 2

National Insurance

Amendment of the Social Security Contributions and Benefits Act 1992

47.—(1) Section 44A^{M4} of the Social Security Contributions and Benefits Act 1992 (deemed earnings factors) is amended as follows.

(2) In subsection (2)(d)—

- (a) after “incapacity benefit” insert “ or qualifying employment and support allowance ”; and
- (b) in sub-paragraph (i) after “Schedule 3” add “ or, as the case may be, paragraph 1 of Schedule 1 to the Welfare Reform Act ”.

(3) After subsection (6) add—

“(7) In subsection (2)(d) “qualifying employment and support allowance” means contributory employment and support allowance where—

- (a) that allowance was payable for a continuous period of 52 weeks;
- (b) that allowance included the support component under section 2(2) of the Welfare Reform Act; or
- (c) in the case of—

(i) a man born between 6th April 1944 and 5th April 1947; or

(ii) a woman born between 6th April 1949 and 5th April 1951,

that allowance was payable for a continuous period of 13 weeks immediately following a period throughout which statutory sick pay was payable.”.

Marginal Citations

M4 [Section 44A](#) was inserted by section 30(3) of the [Child Support, Pensions and Social Security Act 2000](#) (c. 19).

Amendment of the Social Security (Credits) Regulations 1975

48.—(1) The Social Security (Credits) Regulations 1975^{M5} are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “benefit”^{M6} after “income-based jobseeker's allowance” insert “ and includes a contributory employment and support allowance but not an income-related employment and support allowance ”;

- (b) after the definition of “contribution-based jobseeker's allowance”^{M7} insert—
““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
- (c) after the definition of “income-based jobseeker's allowance” insert—
““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
- (d) in the definition of “reckonable year”^{M8}—
 - (i) after sub-paragraph (a) omit “or”; and
 - (ii) after sub-paragraph (b) add—
“or
 - (c) in relation to a contributory employment and support allowance, the condition specified in paragraph 2(1) of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance).”;
- (e) in the definition of “relevant benefit year”^{M9}—
 - (i) after sub-paragraph (a) omit “and”; and
 - (ii) after sub-paragraph (b) add—
“and
 - (c) in relation to a contributory employment and support allowance, in paragraph 3(1)(f) of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance);”;
- (f) after the definition of “relevant past year”^{M10} insert—
““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 3(1) ^{M11} (general provisions relating to the crediting of contributions and earnings)—
 - (a) after sub-paragraph (a) omit “or”; and
 - (b) after sub-paragraph (b) add—
“or
 - (c) in relation to a contributory employment and support allowance, the condition specified in paragraph 2(1) of Schedule 1 to the Welfare Reform Act.”.
- (4) In regulation 8(1) ^{M12} (credits on termination of full-time education, training or apprenticeship) for “or short-term incapacity benefit” substitute “, short-term incapacity benefit or a contributory employment and support allowance ”.
- (5) In regulation 8A(2)(c) ^{M13} (credits for unemployment) after “incapable of work” insert “ or had limited capability for work ”.
- (6) In regulation 8B ^{M14} (credits for incapacity for work)—
 - (a) in the heading, after “incapacity for work” insert “ or limited capability for work ”; and
 - (b) in paragraph (2) after sub-paragraph (a) omit “or” and substitute—
“(aa) a week in which, in relation to the person concerned, each of the days—
 - (i) was a day of limited capability for work for the purposes of Part 1 of the Welfare Reform Act (limited capability for work) or would have been such a day had that person been entitled to an employment and support allowance by virtue of section 1 of the Welfare Reform Act; or

- (ii) would have been such a day had the person concerned claimed an employment and support allowance or maternity allowance within the prescribed time; or”.
- (7) In regulation 8C(1) ^{M15} (credits on termination of bereavement benefits)—
- (a) after sub-paragraph (a) omit “or”; and
 - (b) after sub-paragraph (b) add—
 - (c) after sub-paragraph (b) add—

“or

 - (c) paragraph 2(1) of Schedule 1 to the Welfare Reform Act in relation to a contributory employment and support allowance.”.

Marginal Citations

- M5** [S.I. 1975/556](#).
- M6** Definition inserted by [S.I. 1996/2367](#) and amended by [S.I. 2000/1483](#).
- M7** Definition inserted by [S.I. 1996/2367](#).
- M8** Definition was substituted by [S.I. 1996/2367](#) and amended by [S.I. 2007/1749](#).
- M9** Definition was substituted by [S.I. 1996/2367](#).
- M10** Definition was amended by [S.I. 1988/1545](#).
- M11** [Paragraph 1](#) was substituted by [S.I. 1996/2367](#) and amended by [S.I. 2000/1483](#).
- M12** [Paragraph 1](#) was substituted by [S.I. 1989/1627](#) and amended by [S.I. 1991/387](#), [1995/829](#) and [1996/2367](#).
- M13** [Regulation 8A](#) was inserted by [S.I. 1996/2367](#) and paragraph 2 was amended by [S.I. 2002/490](#).
- M14** [Regulation 8B](#) was inserted by [S.I. 1996/2367](#) and amended by [S.I. 2003/521](#), [2007/1749](#).
- M15** [Regulation 8C](#) was inserted by [S.I. 2000/1483](#).

Amendment of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001

49.—(1) The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 ^{M16} are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation)—
- (a) in the definition of “contributory benefit” after “income-based jobseeker's allowance” insert “ and includes a contributory employment and support allowance but not an income-related employment and support allowance ”;
 - (b) after the definition of “contributory benefit” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (c) after the definition of “earnings factor” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (d) in the definition of “relevant benefit year” after sub-paragraph (b) add—
 - (c) paragraph 3(1)(f) of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance), in relation to a contributory employment and support allowance.”; and
 - (e) after the definition of “relevant time” insert—

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

(3) In regulation 4 (treatment for the purpose of any contributory benefit of late paid contributions)—

(a) in paragraph (8) for “or short-term incapacity benefit” substitute “ , short-term incapacity benefit or a contributory employment and support allowance ”; and

(b) after paragraph (9)(b) insert—

“(c) a contributory employment and support allowance is a reference to the condition specified in paragraph 2(1) of Schedule 1 to the Welfare Reform Act”.

(4) In regulation 5^{M17} (treatment... of late paid primary Class 1 contributions etc.)—

(a) in paragraph (1)(b)—

(i) after paragraph (i) omit “or”; and

(ii) after paragraph (ii) add—

“or

(iii) a contributory employment and support allowance, is not paid before the beginning of the relevant benefit year;”;

(b) in paragraph (2)(a) for “or short-term incapacity benefit” substitute “ , short-term incapacity benefit or a contributory employment and support allowance ”; and

(c) in paragraph (3)(a)^{M18} after (ii) add—

“(iii) a contributory employment and support allowance is a reference to the condition specified in paragraph 1(1) of Schedule 1 to the Welfare Reform Act;”.

(5) In regulation 5A(a)^{M19} (treatment for the purpose of any contributory benefit of duly paid primary Class 1 contributions in respect of retrospective earnings) for “or short-term incapacity benefit” substitute “ , short-term incapacity benefit or a contributory employment and support allowance ” .

Marginal Citations

M16 [S.I. 2001/769](#).

M17 [Regulation 5](#) was amended by [S.I. 2002/2366](#).

M18 Paragraph (3)(a) was modified by [S.I. 1996/207](#) and paragraph 2(2) of Schedule 3 to the Act was amended by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).

M19 [Regulation 5A](#) was inserted by [S.I. 2007/1154](#).

CHAPTER 3

Adjustments and Deductions

Amendment of the Social Security (Recovery of Benefits) Act 1997

50.—(1) The Social Security (Recovery of Benefits) Act 1997^{M20} is amended as follows.

(2) In section 29^{M21} (general interpretation) in the definition of “benefit” after “a jobseeker's allowance” insert “ , an employment and support allowance ”.

(3) In Schedule 2^{M22} (calculation of compensation payment) in column (2) (benefit) after the entry “Disablement pension payable under section 103 of the 1992 Act” insert the entry “ Employment and support allowance ”.

Marginal Citations

M20 1997 c. 27.

M21 Section 29 was amended by the [Social Security Act 1998 \(c.14\)](#).

M22 Schedule 2 was amended by the [Tax Credits Act 1999 \(c. 10\)](#).

Amendment of the Social Security (Overlapping Benefits) Regulations 1979

51.—(1) The Social Security (Overlapping Benefits) Regulations 1979 ^{M23} are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “contributory benefit”^{M24} for “ and a contribution-based jobseeker's allowance” substitute “ a contribution-based jobseeker's allowance and a contributory employment and support allowance ”;
- (b) in the definition of “personal benefit”^{M25} after “includes” insert “ a contributory employment and support allowance but not an income-related employment and support allowance and includes ”; and
- (c) after the definition of “1914-1918 War Injuries Scheme” insert—
““the Welfare Reform Act” means the Welfare Reform Act 2007.”.

(3) In regulation 4(1)(a) ^{M26} (adjustment of personal benefit etc.) after “industrial injuries benefits” insert “ , Part 1 of the Welfare Reform Act ”.

(4) In regulation 10(1) ^{M27} (adjustment of dependency benefit where certain personal benefit is payable) after sub-paragraph (j) add—

“(k) a contributory employment and support allowance.”.

(5) In regulation 16 ^{M28} (persons to be treated as entitled to benefit for certain purposes)—

- (a) after “the Act” the first time it occurs insert “ , Part 1 of the Welfare Reform Act ”; and
- (b) after “under it,” the first time it occurs insert “ Part 1 of the Welfare Reform Act and regulations made under it ”.

(6) In regulation 17 ^{M29} (prevention of double adjustments) for “or under the Jobseekers Act” each time it occurs substitute “ , the Jobseekers Act or Part 1 of the Welfare Reform Act ”.

(7) In Schedule 1 ^{M30} (personal benefits which are required to be adjusted etc.) in column (1) (personal benefit under the Act) in paragraph 4, after “severe disablement allowance” insert “ , contributory employment and support allowance ”.

Marginal Citations

M23 [S.I. 1979/597](#).

M24 Definition was inserted by [S.I. 1996/1345](#).

M25 Definition was amended by [S.I. 2005/1551](#).

M26 Paragraph (1) was substituted by [S.I. 1992/3194](#) and amended by [S.I. 1996/1345](#).

M27 Paragraph (1) was amended by [S.I. 1980/1927](#), [1982/1173](#), [1983/186](#), [1991/387](#), [1992/3194](#), [1996/1345](#) and by virtue of the [Employment Act 1998 \(c. 38\)](#).

M28 [Regulation 16](#) was amended by [S.I. 1996/1345](#).

M29 [Regulation 17](#) was amended by [S.I. 1996/1345](#)

M30 Schedule 1 was amended by S.I. 1983/186, 1984/1303, 1995/829, 1996/1345, 2000/1483 and 2005/2877.

Amendment of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988

52.—(1) The Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988^{M31} are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation)—
 - (a) in the definition of “benefit”^{M32} after “state pension credit” insert “ , an employment and support allowance ”;
 - (b) after the definition of “disabled person's tax credit”^{M33} insert—
““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”; and
 - (c) after the definition of “tax credit” insert—
““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 2(4)(i)^{M34} (making of interim payments) after “income support” insert “ or income-related employment and support allowance ”.
- (4) In regulation 4(3)(c)^{M35} (recovery of overpaid interim payments) after “income support” insert “ or income-related employment and support allowance ”.
- (5) In regulation 5(3)^{M36} (offsetting prior payment against subsequent award) after “income-based jobseeker's allowance” insert “ or an income-related employment and support allowance ”.
- (6) In regulation 7 (duplication and prescribed income)—
 - (a) in paragraph (1)(a)^{M37} after “Part III of the State Pension Credit Regulations” insert “ or Part 10 of the Employment and Support Allowance Regulations ”; and
 - (b) in paragraph (1)(b) after “(child support maintenance)” insert “ or Chapter 9 of Part 10 to the Employment and Support Allowance Regulations (child support) ”.
- (7) In regulation 8 (duplication and prescribed payments)—
 - (a) in paragraph (1)^{M38}, after sub-paragraph (k) add—
“(l) a contributory employment and support allowance.”; and
 - (b) in paragraph (2)^{M39} after “income-based jobseekers allowance” add “ or income-related employment and support allowance ”.
- (8) In regulation 13(1)(b)^{M40} (sums to be deducted in calculating recoverable amounts) after “income-based jobseeker's allowance” insert “ or income-related employment and support allowance ”.
- (9) In regulation 14^{M41} (quarterly diminution of capital) after “or an income-based jobseeker's allowance” each time it occurs insert “ , or income-related employment and support allowance ”.
- (10) In regulation 15(2)(d)^{M42} (recovery by deduction from prescribed benefits) after “income support,” insert “ an employment and support allowance, ”.
- (11) In regulation 16 (limitations on deductions from prescribed benefits)—
 - (a) in paragraph (4A)^{M43} after sub-paragraph (d) add—
“(e) an income-related employment and support allowance;

- (f) where, if there was no entitlement to a contributory employment and support allowance, there would be entitlement to an income-related employment and support allowance at the same rate, a contributory employment and support allowance.”;
- (b) in paragraph (6) ^{M44} after sub-paragraph (c) add—
- “or
- (d) in the calculation of the income of a person to whom income-related employment and support allowance is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraph 7 of Schedule 7 to the Employment and Support Allowance Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 16 and 17 of Schedule 8 to those Regulations (sums to be disregarded in the calculation of income other than earnings),”; and
- (c) in paragraph (8) ^{M45}—
- (i) in the definition of “personal allowance for a single claimant aged not less than 25” for “either” substitute “ an employment and support allowance, ”; and
- (ii) in the definition of “specified benefit”—
- (aa) after paragraph (d) omit “and”; and
- (bb) after paragraph (e) add—
- “and
- (f) an employment and support allowance,”.
- (12) In regulation 17 ^{M46} (recovery from couples) after “income-based jobseeker's allowance” each time it occurs insert “ or income-related employment and support allowance ”.

Marginal Citations

- M31** [S.I. 1988/664](#).
- M32** Definition was amended by [S.I. 1988/1725](#), 1989/136, 1995/829, 1996/1345 and 2002/3019.
- M33** Definition was substituted by [S.I. 1999/2571](#).
- M34** [Regulation 2](#) was amended by [S.I. 1991/2742](#), 1993/650, 1996/30, 1999/3178 and 2005/337.
- M35** Paragraph (3) was amended by [S.I. 1996/650](#).
- M36** [Regulation 5](#) was amended by [S.I. 1996/1345](#), 1999/2571 and 1999/3178, 2000/3120, 2002/3019, 2005/1551 and 2006/516.
- M37** Paragraph (1) was amended by [S.I. 1993/650](#), 1996/1345 and 2002/3019.
- M38** Paragraph (1) was amended by [S.I. 1991/387](#) and 1999/2571, 2742 and 3178, 2000/1483, 2005/337 and 3476 and by virtue of the Employment Act 1988.
- M39** Paragraph (2) was amended by [S.I. 1996/1345](#), 1999/3178 and 2002/3019.
- M40** Paragraph (1) was amended by [S.I. 1996/1345](#), 1999/2571 and 2002/3019.
- M41** [Regulation 14](#) was amended by [S.I. 1996/1345](#) and 1996/2519, 1999/2571 and 2002/3019.
- M42** Sub-paragraph (2)(d) was amended by [S.I. 1996/2519](#) and 2002/3019.
- M43** Paragraph (4A) was inserted by [S.I. 1996/2519](#) and amended by [S.I. 2002/3019](#).
- M44** Paragraph (6) was amended by [S.I. 1996/1345](#) and 2002/3019.
- M45** Paragraph (8) was amended by [S.I. 2000/2336](#) and 2002/3019.
- M46** [Regulation 17](#) was amended by [S.I. 1996/1345](#), 1999/2571, 2002/3019, 2003/492 and 2005/2877.

Amendment of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990

53.—(1) The Community Charges (Deductions from Income Support) (No. 2) Regulations 1990^{M47} are amended as follows.

- (2) In regulation 2 (applications for deductions etc.)—
 - (a) in the heading for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”;
 - (b) in paragraph (1) for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”; and
 - (c) in paragraph (2)(e) for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”.
- (3) In regulation 3—
 - (a) in the heading for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”; and
 - (b) in paragraph (1) for “or income-based jobseeker's allowance” substitute “ , income-based jobseeker's allowance or income-related employment and support allowance ”.
- (4) In regulation 4 (circumstances, time of making and termination of deductions) for “or jobseeker's allowance” substitute “ , jobseeker's allowance or employment and support allowance ”.

Marginal Citations

M47 [S.I. 1990/545](#).

Amendment of the Fines (Deductions from Income Support) Regulations 1992

54.—(1) The Fines (Deductions from Income Support) Regulations 1992^{M48} are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation)—
 - (a) in the definition of “benefit week”^{M49} after “1996” add “ or regulation 2(1) of the Employment and Support Allowance Regulations ”;
 - (b) after the definition of “contribution-based jobseeker's allowance”^{M50} insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”;
 - (c) after the definition of “court” insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;
 - (d) after the definition of “income-based jobseeker's allowance”^{M51} insert—

““income-related employment and support allowance” means—

 - (a) an income-related allowance under Part 1 of the Welfare Reform Act; and
 - (b) in a case where, if there was no entitlement to contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate, contributory employment and support allowance;”;
 - (e) in the definition of “personal allowance for a single claimant aged not less than 25”, after sub-paragraph (b), insert—

- “(c) in the case of a person who is entitled to an income-related employment and support allowance, the amount specified for the time being in paragraph 1(1)(b) of column 2 of schedule 4 to the Employment and Support Allowance Regulations;”;
- (f) in the definition of “social security office”^{M52} for “or a jobseeker's allowance” substitute “ , a jobseekers allowance or an employment and support allowance ”; and
- (g) after the definition of “tribunal”^{M53} insert —
 ““the Welfare Reform Act” means the Welfare Reform Act 2007;”.
- (3) In regulation 2^{M54} (application for deductions) for “jobseeker's allowance” each time it occurs substitute “ , jobseeker's allowance or employment and support allowance ”.
- (4) In regulation 2A(2)^{M55} (information that the court or fines officer may require) for “or a jobseeker's allowance” substitute “ , a jobseeker's allowance or an employment and support allowance ”.
- (5) In regulation 4^{M56} (deductions from offender's income support etc.) —
- (a) in paragraph (1)(a) for “or income-based jobseeker's allowance” substitute “ , income-based jobseeker's allowance or income-related employment and support allowance ”;
- (b) in paragraph (2)—
- (i) in sub-paragraph (a) after “jobseeker's allowance” insert “ or contributory employment and support allowance ”; and
- (ii) for sub paragraph (b) substitute—
- “(b) the amount payable, before any deductions under this paragraph, of—
- (i) contribution-based jobseeker's allowance is equal to or more than one-third of the age related amount applicable to the offender under section 4 (1) (a) of the Jobseekers Act; or
- (ii) contributory employment and support allowance is equal to or more than one third of the amount applicable to the offender under section 2(1)(a) of the Welfare Reform Act,
- as the case may be,”; and
- (iii) after “Jobseekers Act” the second time it occurs insert “ or under section 2 (1)(a) of the Welfare Reform Act ”.
- (6) In regulation 7^{M57} (circumstances, time of making and making of deductions) for “or jobseeker's allowance” each time it occurs substitute “ , jobseeker's allowance or employment and support allowance ”.

Marginal Citations

M48 [S.I. 1992/2182](#).

M49 Definition was amended by [S.I. 1996/2344](#) and 2002/3019.

M50 Definition inserted by [S.I. 1996/563](#).

M51 Definition inserted by [S.I. 1996/563](#).

M52 Definition was amended by [S.I. 2002/1397](#).

M53 Definition substituted by [S.I. 1999/3178](#).

M54 Regulation was amended by [S.I. 1996/2344](#), 2002/3019.

M55 Regulation was inserted in relation to England and Wales by [S.I. 2004/2889](#).

M56 Regulation was substituted by [S.I. 1999/3178](#) and amended by [S.I. 2002/3019](#) and 2004/2889.

M57 Regulation was amended by [S.I. 1996/2344](#), 1999/3178 and 2002/3019.

Amendment of the Council Tax (Deductions from Income Support) Regulations 1993

55.—(1) The Council Tax (Deductions from Income Support) Regulations 1993^{M58} are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation) —
 - (a) in the definition of “benefit week” after “State Pension Credit Regulations 2002” insert “, regulation 2(1) of the Employment and Support Allowance Regulations 2008 ”;
 - (b) after the definition of “contribution-based jobseeker's allowance” insert—
““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);”;
 - (c) after the definition of “income-based jobseeker's allowance” insert—
““income-related employment and support allowance” means—
 - (a) an income-related allowance under Part 1 of the Welfare Reform Act; and
 - (b) in a case where, if there was no entitlement to contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate, contributory employment and support allowance;”;
 - (d) in the definition of “personal allowance for a single claimant aged not less than 25”—
 - (i) after sub-paragraph (a) omit “or”;
 - (ii) after sub-paragraph (b) add—
“or
 - (c) in the case of a person who is entitled to income-related employment and support allowance, the amount specified for the time being in paragraph 1 of column 2 of Schedule 4 to the Employment and Support Allowance Regulations 2008;”;
 - (e) in the definition of “social security office” for “or a jobseeker's allowance” substitute “, a jobseeker's allowance or an employment and support allowance ”;
 - (f) after the definition of “tribunal” insert—
““the Welfare Reform Act” means the Welfare Reform Act 2007.”.
- (3) In regulation 2 (application for deductions... England and Wales)—
 - (a) in the heading for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”; and
 - (b) for “or jobseeker's allowance” each time it occurs substitute “, a jobseeker's allowance or an employment and support allowance ”;
- (4) In regulation 3 (application for deductions... Scotland)—
 - (a) in the heading for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”;
 - (b) for “or jobseeker's allowance” each time it occurs substitute “, a jobseeker's allowance or an employment and support allowance ”.
- (5) In regulation 4(1)(f) (contents of application) for “or jobseeker's allowance” substitute “, a jobseeker's allowance or an employment and support allowance ”.
- (6) In regulation 5 (deductions from debtor's income support etc.)—
 - (a) in the heading for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”;

- (b) in paragraph (1)(a) for “or income-based jobseeker's allowance” substitute “, an income-based jobseeker's allowance or an income-related employment and support allowance ”; and
 - (c) in paragraph (2)—
 - (i) in sub-paragraph (a) after “allowance” insert “ or contributory employment and support allowance ”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the amount payable, before any deductions under this paragraph, of—
 - (i) contribution-based jobseeker's allowance is equal to or more than one-third of the age-related amount applicable to the debtor under section 4(1)(a) of the Jobseekers Act; or
 - (ii) contributory employment and support allowance is equal to or more than one-third of the amount applicable to the debtor under section 2(1)(a) of the Welfare Reform Act,
 as the case may be,”; and
 - (iii) after “Jobseekers Act” the second time it occurs insert “ or under section 2(1)(a) of the Welfare Reform Act ”.
- (7) In regulation 8 (circumstances, time of making and termination of deductions)—
- (a) in paragraph (1)—
 - (i) for “ or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”;
 - (ii) for “regulation 7 or 7A” substitute “ regulation 5 ”; and
 - (iii) in sub-paragraph (a) for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”;
 - (b) in paragraph (2) for “or jobseeker's allowance” each time it occurs substitute “, jobseeker's allowance or employment and support allowance ”;
 - (c) in paragraph (3) for “or jobseeker's allowance” each time it occurs substitute “, jobseeker's allowance or employment and support allowance ”; and
 - (d) in paragraph (5) for “or jobseeker's allowance” substitute “, jobseeker's allowance or employment and support allowance ”.

Marginal Citations

M58 [S.I. 1993/494](#).

Amendment of the Social Security (Loss of Benefit) Regulations 2001

- 56.**—(1) The Social Security (Loss of Benefit) Regulations 2001 ^{M59} are amended as follows.
- (2) In regulation 2 (disqualification period)—
- (a) in paragraph (1) ^{M60}—
 - (i) in sub-paragraph (a)(iii) after “state pension credit” insert “, employment and support allowance ”; and
 - (ii) in sub-paragraph (b)(iii) for “or state pension credit” substitute “, state pension credit or employment and support allowance ”; and

- (b) in paragraph (3)(c) ^{M61} after “state pension credit” insert “ , employment and support allowance ”.
- (3) In regulation 3 (reduction of income support)—
 - (a) in the heading after “income support” add “ and income-related employment and support allowance ”;
 - (b) in paragraph (1) after “income support” the first time it occurs insert “ or an income-related employment and support allowance ”;
 - (c) in paragraph (4) after “income support” each time it occurs insert “ or an income-related employment and support allowance ”;
 - (d) in paragraph (5) after “income support” insert “ or an income-related employment and support allowance ”; and
 - (e) in paragraph (6) after “Regulations” add “ or, as the case may be, regulation 2(1) of the Employment and Support Allowance Regulations 2008 ”.

Marginal Citations

M59 [S.I. 2001/4022](#).

M60 Paragraph (1) was amended by [S.I. 2002/486](#) and 1792.

M61 Paragraph (3) was amended by [S.I. 2002/1792](#).

CHAPTER 4

Child Support

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations 1992

57.—(1) The Child Support (Maintenance Assessment Procedure) Regulations 1992 ^{M62} are amended as follows.

- (2) In regulation 1(2) (citation, commencement and interpretation)—
 - (a) in the definition of “benefit week” after “Jobseeker's Allowance Regulations,” insert “ in relation to employment and support allowance has the same meaning as in the Employment and Support Allowance Regulations 2008, ”;
 - (b) after the definition of “family credit” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007;”;

and
 - (c) in the definition of “relevant benefit” after “income-based jobseeker's allowance,” insert “ income-related employment and support allowance ”.
- (3) In paragraph (3)(c) for “or income-based jobseeker's allowance” substitute “ , income-based jobseeker's allowance or income-related employment and support allowance ”.
- (4) In regulation 8D(8) ^{M63} (miscellaneous provisions in relation to interim maintenance assessments) “income support” each time it occurs insert “ , an income-related employment and support allowance ”.
- (5) In regulation 30A(5) ^{M64} (effective dates of new maintenance assessments in particular cases) for “or an income-based jobseeker's allowance” each time it occurs substitute “ , an income-based jobseeker's allowance or an income-related employment and support allowance ”.

Marginal Citations

- M62** [S.I. 1992/1813](#) which was revoked with savings by [S.I. 2000/157](#).
- M63** [Regulation 8D](#) was inserted by [S.I. 1995/3261](#) and paragraph (8) was amended by [S.I. 1996/3196](#) and [2003/2779](#).
- M64** [Regulation 30A](#) was inserted by [S.I. 1995/3261](#) and paragraph (5) was inserted by [S.I. 1996/3196](#) and amended by [S.I. 1996/3196](#), [1999/1047](#) and [2003/2779](#).

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

58.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations 1992^{M65} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “weekly council tax” insert—

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

(3) In regulation 7(1)(b) (net income: calculation or estimation of N) for “or the Jobseekers Act” substitute “ , the Jobseekers Act or the Welfare Reform Act ”.

(4) In regulation 28(1) (amount payable where absent parent is in receipt of income support or other prescribed benefit) after “income-based jobseeker's allowance” insert “ , income-related employment and support allowance under Part 1 of the Welfare Reform Act, ”.

(5) In Schedule 1 (calculation of N and M) in paragraph 6(2) of Part II (benefit payments) for “or the Jobseekers Act” substitute “ , the Jobseekers Act or the Welfare Reform Act ”.

Marginal Citations

- M65** [S.I. 1992/1815](#) which is revoked with savings by [S.I. 2001/155](#).

Amendment of the Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996

59.—(1) The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996^{M66} are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation) after the definition of “the Act” insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”.

(3) In regulation 2(c) (interpretation for the purposes of section 74A of the Act) after (ii) add—
“or

(iii) any income which is taken into account under Part 10 of the Employment and Support Allowance Regulations for the purposes of calculating the amount of employment and support allowance to which the claimant is entitled.”.

(4) In regulation 3 (persons of a prescribed description) after sub-paragraph (b) add—
“or

(c) is referred to as a “young person” in the Employment and Support Allowance Regulations by virtue of regulation 2(1) of those Regulations.”;

(5) In regulation 5 (circumstances in which persons are to be treated as being members of the same household)—

- (a) omit “either”; and
- (b) after “Jobseeker's Allowance Regulations” insert “ or regulation 156 of the Employment and Support Allowance Regulations ”.

Marginal Citations

M66 [S.I. 1996/940](#).

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations 1996

60.—(1) The Child Support Departure Direction and Consequential Amendments Regulations 1996 ^{M67} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “effective date” insert—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

(3) In regulation 9 ^{M68} (departure directions and persons in receipt of income support, state pension credit, income-based jobseeker's allowance, or working tax credit)—

- (a) in the heading after “state pension credit ” insert “ , income-related employment and support allowance, ”; and
- (b) after “state pension credit” each time it occurs insert “ , income-related employment and support allowance ”.

(4) In regulation 12 (meaning of “benefit” for the purposes of section 28E of the Act) after “income-based jobseeker's allowance” insert “ , income-related employment and support allowance, ”.

Marginal Citations

M67 [S.I. 1996/2907](#) which is revoked with savings by [S.I. 2001/156](#)..

M68 [Regulation 9](#) was substituted by [S.I. 1998/58](#).

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000

61.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations 2000 ^{M69} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “war widower's pension”^{M70} insert—

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

(3) In regulation 4 (flat rate)—

- (a) in paragraph (1) ^{M71}—
 - (i) after sub-paragraph (f) omit “and”; and
 - (ii) after sub-paragraph (g) add—

“and

(h) contributory employment and support allowance under section 2 of the Welfare Reform Act.”;

(b) in paragraph (2) ^{M72} after sub paragraph (c) add—

“and

(d) income-related employment and support allowance under section 4 of the Welfare Reform Act.”.

(4) In regulation 5(d) ^{M73} (nil rate) for “or income-based jobseeker's allowance” each time it occurs substitute “, income-based jobseeker's allowance or income-related employment and support allowance ”.

Marginal Citations

M69 [S.I. 2001/155](#).

M70 Definition was inserted by [S.I. 2003/2779](#) and amended by [S.I. 2005/2877](#).

M71 Paragraph (1) was amended by [S.I. 2002/2497](#), [2003/2779](#), [2005/785](#) and [2005/2877](#).

M72 Paragraph (2) was amended by [S.I. 2002/3019](#).

M73 [Regulation 5\(d\)](#) was amended by [S.I. 2002/3019](#), [2003/1195](#), [2003/2779](#), [2004/2415](#) and [2005/785](#).

Amendment of the Child Support (Variations) Regulations 2000

62. In regulation 32 of the Child Support (Variations) Regulations 2000 ^{M74} (meaning of “benefit” for the purposes of section 28E ^{M75} of the Act) after “income-based jobseeker's allowance,” insert “ income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007 ”.

Marginal Citations

M74 [S.I. 2001/156](#).

M75 [Section 28E](#) of the Child Support Act 1991 was substituted by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#).

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations 2000

63. In Schedule 1 (meaning of “child” for the purposes of the Act) in paragraph 1(3)(b) (persons of 16 or 17 years of age who are not in full-time non-advanced education) of the Child Support (Maintenance Calculation Procedure) Regulations 2000 ^{M76} for “or an income-based jobseeker's allowance” substitute “, an income-based jobseeker's allowance or income-related employment and support allowance ” .

Marginal Citations

M76 [S.I. 2001/157](#).

CHAPTER 5

Miscellaneous Amendments

Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974

64.—(1) The Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 ^{M77} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the Industrial Injuries Act” insert—

““the Welfare Reform Act” means the Welfare Reform Act 2007;” and

(b) after the definition of “appropriate weekly rate” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”.

(3) In regulation 3 ^{M78} (modifications, etc.)—

(a) in the heading after “short-term incapacity benefit” insert “ , contributory employment and support allowance ”;

(b) in paragraph (1)—

(i) in sub-paragraph (a) after “the Act” add “ or, in relation to contributory employment and support allowance, she shall be deemed to have satisfied the first condition referred to in paragraph 1(1) of Schedule 1 to the Welfare Reform Act ”; and

(ii) in sub-paragraph (b) after “the Act” insert “ or, in relation to contributory employment and support allowance, she shall be deemed to have satisfied the second condition referred to in paragraph 2(1) of Schedule 1 to the Welfare Reform Act ”; and

(c) in paragraph (5) after “short-term incapacity benefit” each time it appears insert “ , contributory employment and support allowance ”.

Marginal Citations

M77 [S.I. 1974/2010](#).

M78 [Regulation 3](#) was amended by [S.I. 1978/508](#), 1989/893, 1995/829 and 1996/1345.

Amendment of the Social Security (Airmen's Benefits) Regulations 1975

65.—(1) The Social Security (Airmen's Benefits) Regulations 1975 ^{M79} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “the Act” insert—

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

(3) In regulation 2 ^{M80} (removal of disqualification etc.)

(a) in paragraph (1)—

(i) after “of the Act” insert “ or section 18(1) of the Welfare Reform Act ”; and

(ii) after “incapacity benefit” insert “ , employment and support allowance ”.

(b) in paragraph (2)—

(i) after “incapacity benefit” insert “ , employment and support allowance ”; and

(ii) after “incapable of work” insert “ or to have limited capability for work as defined in section 1(4) of the Welfare Reform Act ”.

(4) In regulation 3^{M81} (application of the Act and regulations) after “thereunder” the second time it occurs insert “ and Part 1 of the Welfare Reform Act and regulations made under it ”.

Marginal Citations

M79 [S.I. 1975/494](#).

M80 [Regulation 2](#) was amended by [S.I. 1984/1303](#) and 1995/829.

M81 [Regulation 3](#) was amended by [S.I. 1996/1345](#).

Amendment of the Social Security (Benefit) (Members of the Forces) Regulations 1975

66. In regulation 2 (unemployment etc.) of the Social Security (Benefit) (Members of the Forces) Regulations 1975^{M82} after “jobseeker's allowance” insert “ , an employment and support allowance ”.

Marginal Citations

M82 [S.I. 1975/493](#). Regulation 2 was amended by [S.I. 1984/1303](#) and 1996/1345.

Amendment of the Social Security (Mariners' Benefits) Regulations 1975

67.—(1) The Social Security (Mariners' Benefits) Regulations 1975^{M83} are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “Contributions Regulations” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;”;

(b) after the definition of “on-shore share fisherman” insert—

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

(3) In regulation 4 (removal of disqualification etc.)—

(a) after “of the Act” insert “ or section 18(1) of the Welfare Reform Act 2007, ”; and

(b) after “incapacity benefit” each time it occurs insert “ , contributory employment and support allowance ”;

(4) In regulation 5 (evidence of unemployment or incapacity)—

(a) in the heading for “or incapacity” substitute “ , incapacity for work or limited capability for work ”; and

(b) after “incapacity benefit” insert “ , contributory employment and support allowance ”.

(5) In regulation 6 (special provisions etc.)—

(a) in the heading for “or incapacity for work” substitute “ , incapacity for work or limited capability for work ”;

(b) in paragraph (2)—

(i) after “incapacity benefit” insert “ , contributory employment and support allowance ”; and

(ii) after “incapable of work” insert “ or as having limited capability for work as defined in section 1(4) of the Welfare Reform Act ”.

Marginal Citations

M83 S.I. 1975/529.

Amendment of the Social Security (Medical Evidence) Regulations 1976

68.—(1) The Social Security (Medical Evidence) Regulations 1976^{M84} are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation) after the definition of “the Contributions and Benefits Act”^{M85} insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;

“limited capability for work” has the meaning given in section 1(4) of the Welfare Reform Act 2007;

“limited capability for work assessment” means the assessment of whether a person has limited capability for work as set out in regulation 19(2) of, and in Schedule 2 to, the Employment and Support Allowance Regulations;”.

(3) In regulation 2 (evidence of incapacity for work and confinement)—

(a) in the heading, after “incapacity for work” insert “ , limited capability for work ”;

(b) in paragraph (1)^{M86}—

(i) after “incapable of work” insert “ or having limited capability for work ”;

(ii) after “personal capability assessment” each time it occurs insert “ or the limited capability for work assessment ”;

(iii) after “evidence of such incapacity” insert “ or limited capability for work ”; and

(iv) in sub-paragraph (c) after “incapable of work” insert “ or whether a person has or does not have limited capability for work ”; and

(c) in paragraph (2)^{M87} after “personal capability assessment” insert “ or the limited capability for work assessment ”.

(4) In regulation 5^{M88} (self-certificate for first 7 days of a spell of incapacity for work)—

(a) in the heading after “incapacity for work” insert “ or limited capability for work ”;

(b) in paragraph (1)—

(i) after “incapacity” insert “ or limited capability for work ”;

(ii) after sub-paragraph (a) omit “or”;

(iii) after sub-paragraph (b) insert—

“(c) for a period of limited capability for work which lasts less than 8 days; or

(d) in respect of any of the first 7 days of a longer period of limited capability for work;”;

(c) in paragraph (2) for the definition of “self-certificate” substitute—

““self-certificate” means either—

(i) a declaration made by the claimant in writing, on a form approved for the purpose by the Secretary of State; or

- (ii) where the claimant has made a claim for employment and support allowance in accordance with regulation 4G of the Social Security (Claims and Payments) Regulations 1987, an oral declaration by the claimant, that the claimant has been unfit for work from a date or for a period specified in the declaration and may include a statement that the claimant expects to continue to be unfit for work on days subsequent to the date on which it is made;”.

Marginal Citations

M84 S.I. 1976/615.

M85 Definition was inserted by S.I. 1994/2975.

M86 Paragraph (1) was amended by S.I. 1982/699, 1992/247, 1994/2975, 1995/987 and 2000/590.

M87 Paragraph (2) was amended by S.I. 1994/2975 and 1999/3190.

M88 Regulation 5 was inserted by S.I. 1982/699 and amended by S.I. 1994/2975.

Amendment of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000

69.—(1) The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 ^{M89} are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation)—

(a) after the definition of “the Disability Living Allowance Regulations” insert—

““the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;”;

(b) after the definition of “the Severe Disablement Allowance Regulations” add—

““income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).”

(3) In regulation 2 (persons not excluded from specified benefits under section 115 of the Immigration and Asylum Act 1999 ^{M90})—

(a) in paragraph (1) after “Benefits Acts” insert “ income-related employment and support allowance, ”;

(b) in paragraph (4)(a) after “Benefits Act,” insert “ or income-related employment and support allowance, ”; and

(c) in paragraph (5) after “Jobseeker's Allowance Regulations (urgent cases) insert “ , to employment and support allowance by virtue of regulation 162 of the Employment and Support Allowance Regulations (urgent cases) ”;

(4) In regulation 12 (transitional arrangements and savings) in paragraph (3) after “Income Support Regulations” insert “ , regulation 162 of the Employment and Support Allowance Regulations ”.

(5) In the heading to Part 1 of the Schedule (persons not excluded from certain benefits etc.) after “Income Support,” insert “ Income-Related Employment and Support Allowance, ”.

Marginal Citations

M89 S.I. 2000/636

M90 1999 C. 33.

Amendment of the Children (Leaving Care) Social Security Benefits Regulations 2001

70. In regulation 2(1) of the Children (Leaving Care) Social Security Benefits Regulations 2001 ^{M91} (entitlement to benefits) for “or income-based jobseeker's allowance” substitute “, income-based jobseeker's allowance or income-related employment and support allowance ”.

Marginal Citations

M91 [S.I. 2001/3074](#).

Amendment of the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003

71.—(1) In regulation 11(4) of the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 ^{M92} (failure to take part in an interview) after sub-paragraph (a) insert—

“(aa) an income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);”.

Marginal Citations

M92 [S.I. 2003/1886](#).

Amendment of the Age-Related Payments Regulations 2005

72. In regulation 2(3)(a) of the Age-Related Payments Regulations 2005 ^{M93} (entitlement: basic cases) for “or income support” substitute “, income support or income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007 ”.

Marginal Citations

M93 [S.I. 2005/1983](#).

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008, PART 5.