

SCHEDULES

SCHEDULE 2

Modification of enactments: after the conversion phase

PART 4

MODIFICATION OF OTHER SECONDARY LEGISLATION

Social Security (Claims and Payments) Regulations 1987

57. The Social Security (Claims and Payments) Regulations 1987(1) are to be read subject to the modifications set out in paragraphs 58 to 61 of this Schedule.

58. Regulation 3 (claims not required for entitlement to benefits in certain cases) is to be read as if—

(a) after the words “was made” in paragraph (j)(ii)(2), there were inserted—

“; or

(iii) the beneficiary has made and is pursuing an appeal against a conversion decision made by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which embodies a determination that the beneficiary does not have limited capability for work; or

(iv) the beneficiary was entitled to an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 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”; and

(b) after paragraph (j), there were added—

“(k) 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”.

59. 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.

60. Regulation 32(1B) (information to be given and changes to be notified) is to be read as if—

(a) the word “or” at the end of sub-paragraph (a) were omitted; and

(b) after that sub-paragraph, there were inserted—

(1) S.I. 1987/1968. Regulation 3(j) was inserted by S.I. 2008/1554. Regulation 32(1B) was inserted by S.I. 2003/1050 and amended by S.I. 2003/3209. Paragraphs 1(3) and 8(4)(a)(iv) of Schedule 9 were inserted by S.I. 2008/1554.

(2) Paragraph (j) was substituted by regulation 2 of S.I. 2010/840.

(3) Regulation 26C was inserted by S.I. 2008/1554, regulation 21.

Status: This is the original version (as it was originally made).

“(ab) the amount of any transitional addition to which the beneficiary is entitled under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; or”.

61. Schedule 9 (deductions from benefit and direct payments to third parties) is to be read as if—

(a) in paragraph 1 (interpretation)—

(i) in sub-paragraph (3), after the words ““employment and support allowance” means”, there were inserted “(subject to sub-paragraph (4))”, and

(ii) after sub-paragraph (3), there were added—

“(4) In the application of sub-paragraph (3) to a beneficiary whose award of an employment and support allowance is by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), any reference to an employment and support allowance includes any transitional addition to which the beneficiary is entitled under those Regulations.

(5) Where a specified benefit awarded to a beneficiary is subject to conversion under the 2010 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 2010 Regulations,

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

(b) in paragraph 8—

(i) in sub-paragraph (4), for paragraph (a)(iv), there were substituted—

“(iv) in the case of an employment and support allowance, the applicable amount for the family as is awarded under the provisions specified in sub-paragraph (5); or”, and

(ii) after sub-paragraph (4) there were added—

“(5) The specified provisions are—

(a) where the person is entitled to an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”)—

(i) paragraph (1)(a), (b) and (d) of regulation 67 (prescribed amounts); or

(ii) paragraph (1)(a), (b), (c) and (e) of regulation 68 (polygamous marriages),

of the Employment and Support Allowance Regulations (as modified by paragraphs 52 and 53 of Schedule 2 to the 2010 Regulations); and

(b) in any other case, paragraph (1)(a) and (b) of regulation 67 or paragraph (1) (a) to (c) of regulation 68 of the Employment and Support Allowance Regulations.”.

62. Schedule 9B (deductions from benefit in respect of child support maintenance and payment to persons with care)(4) is to be read as if—

- (a) in paragraph (1) (interpretation), the existing provision becomes sub-paragraph (1); and
- (b) 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 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 2010 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 2010 Regulations, any deduction falling within paragraph (a) shall have effect as a deduction from the employment and support allowance to which the beneficiary is entitled.”.

(4) Schedule 9B was inserted by [S.I. 2001/18](#), regulation 2. It has been amended but not in a way material to these Regulations.