

**Changes to legislation:** There are currently no known outstanding effects for the *The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010*. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2

Modification of enactments: after the conversion phase

#### PART 4

#### MODIFICATION OF OTHER SECONDARY LEGISLATION

##### *Social Security (Claims and Payments) Regulations 1987*

[<sup>F1</sup>17]. The Social Security (Claims and Payments) Regulations 1987 <sup>M1</sup> are to be read subject to the modifications set out in paragraphs [<sup>F2</sup>18 to 22] of this Schedule.

- F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**
- F2** Words in Sch. 2 para. 17 substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(8)**

##### **Marginal Citations**

- M1** [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](#).

[<sup>F1</sup>18]. 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) <sup>M2</sup>, there were inserted—

<sup>F3c</sup> ...

[<sup>F4</sup>(k) the beneficiary—

- (i) 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
- (ii) 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 [<sup>F5</sup>(k)], there were added—

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[<sup>F6cc</sup>(1)] 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.”.

- F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**
- F3** Word in Sch. 2 para. 18(a) omitted (1.11.2010) by virtue of [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(9)(a)(i)**
- F4** Words in Sch. 2 para. 18(a) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(9)(a)(ii)**
- F5** Word in Sch. 2 para. 18(b) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(9)(b)(i)**
- F6** Word in Sch. 2 para. 18(b) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(9)(b)(ii)**

#### Marginal Citations

**M2** Paragraph (j) was substituted by regulation 2 of [S.I. 2010/840](#).

[<sup>F1</sup>19]. In regulation 26C <sup>M3</sup> (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.

- F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

#### Marginal Citations

**M3** Regulation 26C was inserted by [S.I. 2008/1554](#), **regulation 21**.

[<sup>F1</sup>20]. 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—

“(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”.

- F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

[<sup>F1</sup>21]. Schedule 9 (deductions from benefit and direct payments to third parties) is to be read as if—

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(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 [F712 and 13] 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.”.

**F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

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- F7** Words in Sch. 2 para. 21(b)(ii) substituted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(10)**

[<sup>F122</sup>]. Schedule 9B (deductions from benefit in respect of child support maintenance and payment to persons with care) <sup>M4</sup> 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.”.

- F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

#### Marginal Citations

- M4** Schedule 9B was inserted by [S.I. 2001/18](#), **regulation 2**. It has been amended but not in a way material to these Regulations.

#### <sup>F8</sup> *Community Charges (Deductions from Income Support) (Scotland) Regulations 1989*

- F8** Sch. 2 para. 22A inserted (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **17(11)**

**22A.** Regulation 1 of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989 (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to a debtor whose entitlement to 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 debtor is entitled under those Regulations.

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(2B) Where a debtor's award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the debtor, any deduction is being made under these Regulations from sums payable to the debtor by way of income support; and
- (b) with effect from that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

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

*Community Charges (Deductions from Income Support) (No. 2) Regulations 1990*

[<sup>F1</sup>23]. Regulation 1 of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990 <sup>M5</sup> (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to a debtor whose entitlement to 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 debtor is entitled under those Regulations.

(2B) Where a debtor's award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the debtor, any deduction is being made under these Regulations from sums payable to the debtor by way of income support; and
- (b) with effect from that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

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

**F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

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**M5** [S.I. 1990/545](#). These Regulations lapsed on the repeal of the enabling authority, as from 1st April 1993, except in relation to any community charge in respect of a day falling before that date or in relation to any financial year beginning before that date.

*Fines (Deductions from Income Support) Regulations 1992*

[<sup>F1</sup>24]. Regulation 1 of the Fines (Deductions from Income Support) Regulations 1992 <sup>M6</sup> (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to an offender whose entitlement to 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

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support allowance includes any transitional addition to which the offender is entitled under those Regulations.

(2B) Where an offender's award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the offender, any deduction is being made under these Regulations from sums payable to the offender by way of income support; and
- (b) with effect from that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

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

**F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

#### Marginal Citations

**M6** [S.I. 1992/2182](#). [S.I. 2008/1554](#) added an employment and support allowance to the benefits from which deductions may be made, inserted definitions of “contributory employment and support allowance”, “income related employment and support allowance” and made other relevant amendments.

#### *Council Tax (Deductions from Income Support) Regulations 1993*

<sup>F1</sup>**25**. Regulation 1 of the Council Tax (Deductions from Income Support) Regulations 1993<sup>M7</sup> (citation, commencement and interpretation) is to be read as if, after paragraph (2), there were inserted—

“(2A) In the application of these Regulations to a debtor whose entitlement to 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 debtor is entitled under those Regulations.

(2B) Where a debtor's award of income support is subject to conversion under the 2010 Regulations and—

- (a) immediately before the effective date of the conversion decision made in relation to the debtor, any deduction is being made under these Regulations from sums payable to the debtor by way of income support; and
- (b) on that date, the award of income support is converted into an award of an employment and support allowance under the 2010 Regulations,

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

**F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**



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#### Marginal Citations

- M7** S.I. 1993/494. S.I. 2008/1554 added an employment and support allowance to the benefits from which deductions may be made, inserted definitions of “contributory employment and support allowance”, “income related employment and support allowance” and made other relevant amendments.

#### *[F9] Social Security and Child Support (Decisions and Appeals) Regulations 1999*

- F9** Sch. 2 para. 25A inserted (1.11.2010) by *The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) (Amendment) Regulations 2010* (S.I. 2010/2430), regs. 1(2), **17(12)**

**25A.—**(1) Regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (revision of decisions) is to be read as if—

- (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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”), the words “within one month of the date of notification of the original decision” in paragraph (1) (a) were omitted;
- (b) in the case of a conversion decision where there has been a change of circumstances to which regulation 12(4) of the 2010 Regulations (calculation of transitional addition) applies, paragraph (9)(a) were omitted; and
- (c) 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 2010 Regulations”.

(2) Regulation 6(2)(a)(i) of those Regulations (supersession of decisions) is to be read as if 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 2010 Regulations”.]

#### *Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001*

**[F126].** Regulation 5A of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001 <sup>M8</sup> (earnings factor credits eligibility for pensioners to whom employment and support allowance was payable) is to be read as if—

- (a) the word “or” at the end of paragraph (2)(b) were omitted; and
- (b) after that paragraph (2)(b), 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, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and either—

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- (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”.

**F1** Sch. 2 paras. 1-26: Sch. 2 para. 41-66 renumbered as Sch. 2 para. 1-26 (1.11.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) \(Amendment\) Regulations 2010 \(S.I. 2010/2430\)](#), regs. 1(2), **15(1)(b)**

#### Marginal Citations

**M8** [S.I. 2001/1323](#). Regulation 5A was inserted by [S.I. 2009/2206](#).

[<sup>F10</sup>Social Security (Habitual Residence) Amendment Regulations 2004

**F10** Sch. 2 para. 27 inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(b)**

**27.** Regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) ( No. 2) Regulations 2010, 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 Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) ( No. 2) Regulations 2010 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—

“(za) “conversion decision” and “effective date” have the same meanings as in regulation 2(1) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) ( No. 2) Regulations 2010; ”.]



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**F10** Sch. 2 para. 27 inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **27(4)(b)**

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There are currently no known outstanding effects for the The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.